



Lunch and Learn Episode 2 Discrimination



Discrimination – A short introduction

- Your best sources for information
 - <https://www.chrc-ccdp.gc.ca/en/about-human-rights/what-discrimination>
 - <http://psacunion.ca/topics/discrimination>
- Let's get started!
 - What is discrimination?



Discrimination - Definitions

- **Merriam-Webster dictionary**
 - the practice of unfairly treating a person or group of people differently from other people or groups of people
- **PA, SV & TC collective agreements**
 - 19.01 There shall be no discrimination, interference, restriction, coercion, harassment, intimidation, or any disciplinary action exercised or practised with respect to an employee by reason of age, race, creed, colour, national or ethnic origin, religious affiliation, sex, sexual orientation, gender identity and expression, family status, marital status, mental or physical disability, membership or activity in the Alliance or a conviction for which a pardon has been granted.
- **Mint collective agreement**
 - The parties to this Agreement recognize that all employees should be treated fairly at the workplace, in an environment free of harassment, violence and discrimination. The parties agree that any behavior which denies the dignity and respect of an individual is unacceptable and will not be tolerated.



Discrimination - Grounds

What are grounds of discrimination?

Discrimination is an action or a decision that results in the unfair treatment of a person or a group because of certain reasons. These reasons, also called grounds, are protected under the Canadian Human Rights Act.

Only the grounds listed below are protected under the Act and the collective agreement

Race

National or Ethnic Origin

Colour

Religion

Age

Sex

Sexual Orientation

Gender Identity or Expression

Marital Status

Family Status

Disability

Genetic Characteristics

A conviction for which a pardon has been granted or a record suspended



Discrimination - Types

Discrimination comes in many types

- Direct discrimination

Direct discrimination happens when an employer treats an employee less favourably than someone else because of one of the above reasons. For example, it would be direct discrimination if a driving job was only open to male applicants.

There are limited circumstances in which an employer might be able to make a case for a *bona fide* occupational requirement for the job.

Relatively rare in 2021 with our employers



Discrimination - Types

- Indirect discrimination

Indirect discrimination is when a working condition or rule disadvantages one group of people more than another. For example, saying that applicants for a job must wear protective helmet put members of some religious groups at a disadvantage.

Indirect discrimination is unlawful, whether it is done on purpose or not. It is only allowed if it is necessary for the way the business works, and there is no other way of achieving it. For example, the condition that applicants must wear protective helmets was considered justified for workers travelling in the terminals of the Port of Montreal for health and safety reasons.

This is called a *bona fide* occupation requirement. This type of discrimination is more difficult to identify. Once the *bona fide* occupation requirement is identified, the employer must accommodate discriminated workers to the point of undue hardship.



Discrimination - Types

- Discriminatory harassment

You have the right not to be harassed or made fun of at work or in a work-related setting (for example, an office party).

Harassment means offensive or intimidating behaviour - sexist language or racial abuse, which aims to humiliate, undermine or injure its target or has that effect. For example, allowing displays or distribution of sexually explicit material or giving someone a potentially offensive nickname.

Discriminatory harassment must be based in part or in entirety on one of the prohibited grounds. Otherwise, it is personal harassment.



Discrimination - Recourses

What recourses are available?

- Is the reason for discrimination one of the grounds listed in the Act or the Collective agreement?
 - YES: Informal resolution, grievance & human rights complaint
 - NO: Information resolution, non-adjudicable grievance (Usually should not be filed other than trying to resolve the issue with higher management. If filed, **must** explain to member the process and where the grievance will end)
- Is there harassment allegations?
 - YES: Recourses above and violence in the workplace complaint



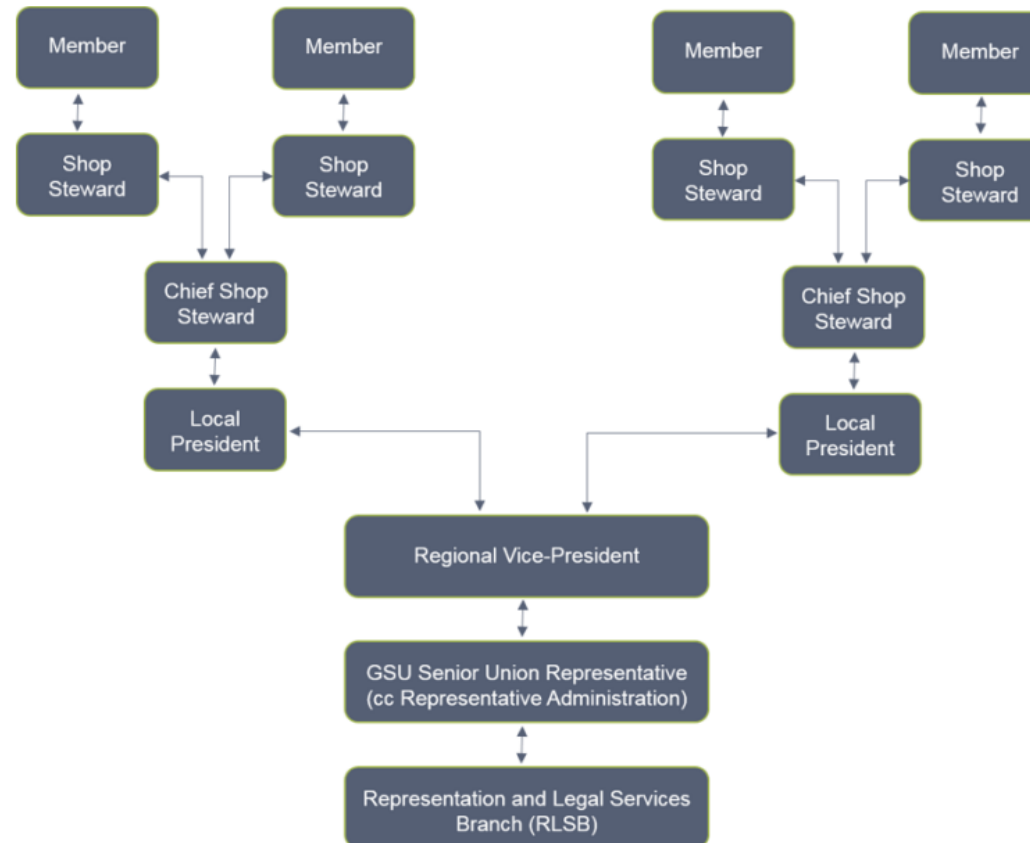
Discrimination - Remedies

- Be realistic!
- Discuss expectations and explain the process
 - Do not guarantee an outcome!
 - Explain that the grievance will be re-evaluated during the grievance process and may be withdrawn
- Possible corrective measures
 - Caution! You must tailor to the member's situation
 - That the Employer cease discriminating against me on the basis of _____ (insert grounds you are claiming);
 - That the Employer fulfill its duty to accommodate by accommodating my medical restrictions and limitations (if applicable);
 - That I be compensated for all losses, including pay and benefits, as well as any lost wages and any additional expenses that may result from this situation;
 - That the Employer cease the discriminatory practice and take measures to redress the practice and/or to prevent the same or similar practice from occurring in the future;
 - That the Employer make available to me the rights, opportunities and privileges that are being or were denied as a result of such practice. This includes, but is not limited to, the right to accommodation (if applicable);
 - That I be compensated \$20,000, or such other sum deemed appropriate, for pain and suffering experienced as a result of the discriminatory practice;
 - That I be \$20,000, or such other sum deemed appropriate, as compensation for my Employer's willful and reckless engagement in the discriminatory practice;
 - That the filing of this grievance will not prejudice me in any future dealings with my employer;
 - That any tax implications resulting from this grievance be the responsibility of the employer; and
 - That I be made whole.



Discrimination – Knowledge Tree

The knowledge tree



<https://bit.ly/3DbPyN6>



Your turn!
