CHAPTER FOUR

STEP MEETINGS AND PRE-ARBITRATION SETTLEMENT

Almost all collective bargaining agreements contain a procedure for settling grievances or advancing them to arbitration. When a dispute arises, the union, either through a grievant or business representative, may first be required to discuss the dispute with first line management such as a supervisor or foreman. This is known as a step hearing or meeting.

I. STEP MEETINGS

Provisions for step hearings appear in almost all collective bargaining agreements. Generally, at least two step hearings are conducted before an arbitration is to be held. The aim of a step hearing is to see if the grievance can be settled. It has been said, "A bad settlement is better than a good hearing." One reason for this is that with a settlement the parties know the benefits and burdens they undertake, while in an arbitration the outcome is uncertain.

Typically, the first step hearing is held with the

immediate supervisor (manager) of the grievant. The second meeting is with a higher level manager, frequently the head of labor relations. For the union, the representative at the first step hearing is frequently a shop steward. At the second step hearing, the union representative usually is a business representative or higher union official with some authority.

The discussion with the supervisor or foreman is aimed towards early resolution of the dispute. If that is not accomplished, then the dispute must be reduced to writing (if not already written) and given to the next level of agency management to be discussed and answered.

The parties at the step hearings should fully disclose their evidence. Some collective bargaining agreements require this by forbidding the use of evidence at an arbitration not disclosed at the step meeting. Holding back evidence defeats the step meeting's purpose.

If the dispute is not settled at this step, it goes to arbitration.

II. SETTLEMENT NEGOTIATIONS

Another consideration in writing a grievance is its settlement. A vague grievance and answer are more difficult to settle because there is no point around which the parties can agree. The parties cannot easily

settle a grievance that merely says that the "agency violated the collective bargaining agreement by the actions of the supervisor on . . ." Such a grievance gives no information to the parties that will lead to a settlement.

All settlements should be in writing. An oral settlement will inevitably lead to a dispute as to its meaning. Further, settlement agreements should be signed by the grievant and not just the union.

A discharge grievance is generally hard to settle, in that it tends to be an all-or-nothing situation. If possible, it should be settled on the basis of reinstatement without back pay or partial back pay. All parties should remember the phrase "the hazards of litigation." This means that almost no grievance is so clear cut that the outcome of an arbitration can be predicted with 100% accuracy. If a grievance hearing could be predicted with 100% accuracy, there would be no need for a hearing.

Grievances involving relatively minor matters should be settled where feasible. Matters of lesser importance may include letters of reprimand, short (3 days or less) disciplinary suspensions, or minor disputes over the meaning of contract terms. Compared to more serious issues, these take just as much time and money and are equally disruptive to relationships. In this context, an arbitration hearing is rarely worth the expense and time needed.

It is difficult to settle grievances that have far-

reaching implications for both the agency and union. For instance, when an agency institutes what is called a "no-fault" absentee program, a union may grieve, claiming that the plan is unfair or unreasonable. Usually the union wants the program to be cancelled or desires extensive changes that would render the program meaningless. In such a situation, about all that the agency can agree to is some slight changes in the plan. This may or may not be acceptable. Most importantly, each side should try to be objective when it evaluates its position. The union and the agency should keep emotion, ego, and partisanship as minimal as possible. Rather, reasonableness should remain at the forefront.

Sometimes an agency or union will support an indefensible position for what might be called political reasons. For example, the union might file a grievance simply because it wishes to placate a vocal employee, though his position is unsound. On the other hand, often an agency will not tell a manager that he is wrong, for fear that he will take offense at the perceived lack of support by upper level management. As a result, grievances sometimes go to a hearing that should be settled.

Years ago I heard a discharge grievance that illustrates a lack of reasonableness. The grievant was discharged as a probationary employee. The private sector collective bargaining agreement had a 30-day probationary period after employment. During that period, according to a specific provision of the collective bargaining agreement, an employee could