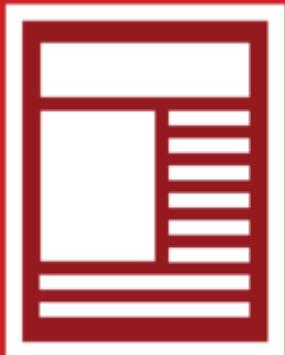


Progressive Discipline & Collective Agreements

written by Rory Lodge | February 24, 2014



QUESTION

Can I adopt a new progressive discipline policy for my union employees?

– Name withheld

ANSWER

Probably not, but with some qualifications.

EXPLANATION

Disciplinary policies aren't like other employment policies that you can unilaterally impose on the employees at your work site, especially if those employees are in a union. Discipline affects employees' rights typically covered in the collective agreement negotiated between the union and employer. More precisely, most collective agreements typically include express terms explaining how discipline is administered.

Result: A progressive discipline policy that you impose unilaterally is invalid to the extent it contradicts or is in any way inconsistent with the collective agreement.

Having said that, let me quickly add that there are 3 ways a unilaterally imposed progressive discipline *may be* valid notwithstanding the existence of the collective agreement:

1. The collective agreement does not specifically address progressive discipline;
2. The provisions of the progressive discipline policy are consistent with the progressive discipline terms contained in the collective agreement; or
3. The collective agreement gives the employer the right to unilaterally change the progressive discipline terms (or impose new ones).

Scenarios 1 and 3 are fairly unrealistic. But the imposition of progressive discipline policies consistent with collective agreements is not only not unusual but fairly common.

About the Expert

Glenn Demby is an attorney and award winning journalist specializing in many aspects of Canadian law. Glenn has a track record of developing plain English products that tell business professionals who aren't lawyers how to comply with the parts of the law that affect their day-to-day operations.