

### Another Union Arbitration Win!

MC was a cashier with Canada Safeway who had provided the Company with six (6) years of faithful, loyal service. MC was described by her Managers as being an excellent employee and had never been disciplined for anything in her entire career. **She was suspended for five (5) days for the first little mistake she made.** The Union grieved and won... again.

MC frequently worked behind the Customer Service desk in her Safeway store. Part of that role was selling cigarettes. The law in this Province is quite specific that cigarettes may not be sold to anyone under the age of eighteen (18) years. MC strongly supported this law and agreed with it one hundred (100%) percent. She had children of her own and indicated that she would have been furious if someone sold cigarettes to her teenage children.

One day MC was working behind the Customer Services desk and the store was unbelievably busy. She was rushing around trying to be many things to many people and the line up at the Customer Service desk was without end. It was at this time that the government sent a young man in to purchase cigarettes in a "sting" operation. MC clearly knew better and she clearly knew that the Company policy was that anybody who appeared to be under twenty-five (25) was to be I.D.'d. Unfortunately due to the time and the stress of the situation, she made a mistake. She sold cigarettes to the young man without requesting I.D. and in so doing, she violated the tobacco legislation and Company policy.

MC did not try to suggest that she had done nothing wrong and in fact was mortified upon finding out what she had done. She apologized and made clear that she would be more careful in the future. Notwithstanding all of this, the Employer suspended her for five (5) days and put her on notice that if a similar mistake occurred in the future, she would be fired.

The Union was very concerned about this case and filed a grievance, not because we felt MC did nothing wrong. We acknowledge that her actions were wrong and that a mistake was made. We also acknowledge that the Employer was entitled to discipline her as a result of that mistake. The concern the Union had was that a five (5) day suspension which put her one (1) mistake away from termination, was a far, far too severe penalty for a first mistake. Our position was that a written warning or at worst, a one (1) day suspension, would be appropriate under the circumstances. The Employer took the position that a five (5) day suspension was their standard penalty and that anybody violating their policy as MC did, would have a five (5) day suspension imposed regardless of their circumstances.

At the end of the day, the arbitrator determined that the Union was correct. Arbitrator Hornung reduced the five (5) day suspension to a one (1) day suspension arguing that the Employer's "cookie cutter approach to discipline" was inappropriate in this case. The arbitrator determined that the Employer was wrong not to take into account MC's

“unblemished work record” or the fact that her actions were “unintentional”. He indicated that the Employer should have taken into account that the offence “occurred at a busy and distracting time” and that the grievor generally was “not a careless or inattentive employee”. He also felt the Employer should have taken into account “her obviously sincere remorse” in assessing what would otherwise be an appropriate penalty.

It is hoped that Canada Safeway learns something from this case and that in the future, they look at all factors when determining how to discipline employees instead of arrogantly assuming that they can do whatever they please. UFCW members should also learn something from this. When the Employer hands out unreasonable discipline, the Union is there and is prepared to take them on.