



do we have to "work now, grieve later"??

One of the most basic and longstanding rules of Arbitration Law is that any Employees who dispute an employer's instructions must, subject to the considerations below, comply with those instructions, and only through the grievance procedure, challenge the validity of such an order or instruction. The general principle is widely known as "work now, grieve later."

Why is this? The rule and its rationale are based on the fact that neither the Union nor the employer can be the final judge as to whether or not the Collective Agreement has been violated. The grievance procedure, found in all Collective Agreements, is used to determine whether or not there has been a violation of the Collective Agreement. Both clear and unclear violations of the Collective Agreement must be resolved with the grievance procedure.

In some circumstances, the "work now, grieve later" principle does not apply, usually when adequate and effective redress cannot be secured through the grievance and arbitration process. For example, if an imminent danger exists in the workplace, an Employee has the right to refuse unsafe work. Please note that an imminent danger refers to a health and safety situation and exists when there is reasonable grounds to believe that:

- (a) the use or operation of the machine or thing constitutes a danger to the employee or to another employee;
- (b) a condition exists in the place that constitutes a danger to the employee; or
- (c) the performance of the activity constitutes a danger to the employee or to another employee. [Canada Labour Code s128(1)]

If you find yourself in a situation where there is a disagreement over your rights with Crew Scheduling, request your right and quote the applicable article from the Collective Agreement. This is why it's a good idea to have the Collective Agreement with you at all times (click [here](#) for the PDF version). If an agreement is not reached, you are required to work now and grieve later. Contact your local, and if your rights have been violated, the Union will file a grievance on your behalf.

In closing, and just to be clear, the general principle of “work now, grieve later” is a long standing rule of Law that applies to Unions and unionized Employees. It is the principal means of redress by the Union for any abuse of authority by the employer.

Excerpts taken from Brown and Beattie, Canadian Labour Arbitration Resource.

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Any questions? Contact us by [email](#) or phone at 905 678 6330.

In Solidarity,
Local 4098