

UFCW Canada Local 1006A General Membership Meeting
January 18, 2022
Telephone Town Hall Event Transcript

Glacier Effs-Samuel:

Hi everyone. My name is Glacier Effs-Samuel Recorder of your Union. I want to welcome everyone to our first Telephone Town Hall General Membership Meeting for 2022. First of all, happy new year to everyone listening tonight. Despite the challenges posed by the ongoing pandemic, we hope that 2022 will be a great year for our members and their families.

Glacier Effs-Samuel:

Thank you for joining us today on our Telephone Town Hall, as always. It's about being together with each other and connecting to thousands of UFCW 1006A members from all sectors and cities across Ontario.

Glacier Effs-Samuel:

We've got thousands of members, as I mentioned earlier, so people are still connecting. And thank you for those who came on earlier, thank you for your patience.

Glacier Effs-Samuel:

We've got a great program to share with you tonight. 1006A President, Wayne Hanley, will provide us with an update on the latest Union news, and 1006A general legal counsel, Michael Hancock, will join us to discuss mandatory vaccination policies.

Glacier Effs-Samuel:

Stay with us for the entire call and you'll have a chance to win a tablet. We'll have more details on that later on. So tonight, we also hope to hear from you. Telephone operators are standing by to take any questions and pass them on to our us. And once again, to ask a question, please press *3 on your telephone keypad. Make sure you give your full question, name, and where you work, to the operator, who will then pass them on to us. Once again, press *3 on your telephone keypad to ask a question.

Glacier Effs-Samuel:

Questions about individual workplace issues will be forwarded to your Union representative who will contact you no later than tomorrow night. As we have done in our past meetings, we will post an audio file, meeting transcript, meeting minutes, on our website.

Glacier Effs-Samuel:

During each Telephone Town Hall General Membership Meeting, members will vote to adopt the previous meeting minutes. So our first poll will be taking a vote for the adoption of the

minutes of the Telephone Town Hall General Membership Meeting as posted on our local union website on October 19, 2021. So use your telephone keypad to participate in the vote. And again, the question before you will be, do you approve the minutes of the Telephone Town Hall General Membership Meeting, held on October 19th, 2021? Press one, if you approve of the minutes of the October 19th, 2021 meeting, press two, if you do not approve of the minutes of the October 19th, 2021 meeting. Once again, press one, if you approve of the minutes and press two, if you do not approve of the minutes.

Glacier Effs-Samuel:

As we wait for the results to come in, I'll mention again, for our members' convenience, an audio file printed transcript of each meeting is posted on our Union website under the 'Get Involved' section of the website.

Glacier Effs-Samuel:

So if you know members who couldn't make it to the meeting tonight, you can let them know that they can listen to the call and its entirety online.

Glacier Effs-Samuel:

So the results are coming in and the minutes of the October 19th, 2021 Telephone Town Hall Meeting have been approved, 92% approved. So I'd like to remind you again, telephone operators are standing by to take down any questions and pass them on to us. To ask a question, please press *3 on your telephone keypad. So now I'd like to introduce the President of our local Union, President Wayne Hanley.

Wayne Hanley:

Thanks, Glacier. And good evening everyone. First of all, I want to wish all of you a very happy New Year, and thank you for being here with us tonight. Most important, thank you for continuing to be part of our Local Union family. And I truly hope that all you and your family are keeping well and safe.

Wayne Hanley:

We have a busy year ahead of us at the local Union with several negotiations taking place, including one of our largest employers, No Frills, which will affect approximately 12,000 of our members. As this set of negotiations will affect thousands of members across the province, preparations are underway to commence bargaining soon. The first meeting with the employer will be on March the 30th and 31st, and then again from April 25th to the 29th.

Wayne Hanley:

We're currently reviewing hundreds of proposals that were submitted by the No Frill membership. And I thank all of our No Frill members for submitting those proposals. As a member, being active, being involved, staying informed during the negotiation process, is vital as negotiations are your opportunity to achieve the improvements to your contract. Which

spells out your wages, your benefits, and your working conditions. Speaking of collective agreements, we'd like to know a little bit more about how familiar you are with your union contract. And now I ask Glacier if you could take a quick poll question here for our members.

Glacier Effs-Samuel:

Sure, Wayne. So our next poll question will be, do you have a copy of your Union contract for reference? So press one, if you do have a copy of your Union contract for reference. Press two, if you do not have a copy of your union contract. So again, the poll in place before you right now is, do you have a copy of your union contract? Press one, if you have a copy of the union contract. Press two, if you do not have a copy of your union contract.

Glacier Effs-Samuel:

So while we wait for the results to come in, I want to let everybody know that you can easily get a copy of your union contract by visiting our website at www.ufcw1006a.ca. Click the find your rep link on the union website and follow the steps to request your union contract. You can also obtain a paper copy of your contract by contacting the union office or your union representative.

Glacier Effs-Samuel:

So the results are coming in. So 47% of the attendees on the line say yes, they have a copy of their union contract, 53% say no. So this is very informative. Wayne, I'll pass it back to you.

Wayne Hanley:

Yeah, thanks Glacier. That says we've got a little bit of work to do to get contracts out. And as Glacier said, just a little more than half of you that don't have a copy of your contract, please go onto the website. It's available there and you can access it through your smartphone or through a desktop computer.

Wayne Hanley:

As we discussed, your union contract is one of the most important documents that you as members have when it comes to knowing your rights at work. When you're scheduled, when your wage increases are scheduled, what vacation days and entitlement you have, and any benefits, quite frankly, that you may be entitled to. Knowing what your hours or your working conditions will be, and that you have a grievance procedure, should your employer violate the contract, or in your opinion, they violate the contract.

Wayne Hanley:

So if you haven't already, again, I ask you to reach out to your union representative or to our website and get a copy of your contract as soon as you can. We have very important and valuable information there for you.

Wayne Hanley:

When you get involved in negotiations by talking with union reps, filling out proposal forms and participating in meetings and votes, it shows us and shows management of the strength at the negotiating table that your negotiating committee can have. When your employer knows that the members are united in supporting their bargaining committee, we achieve a better contract, a fair contract, with the improvements that you deserve.

Wayne Hanley:

Next, I'd like to talk about something that currently affects all of our lives every day. As you know, in 2022, we're off to a difficult start with a new COVID variant skyrocketing cases and high level hospitalization. It should be alarming to all of us.

Wayne Hanley:

Many of our members who are on the front lines have been negotiating through the challenges of another wave after the first three waves that we have are members who work at restaurants in the service sectors, who are finally seeing a rebound and getting some back to work, now are facing layoffs once again, as public health restrictions temporarily close those workplaces.

Wayne Hanley:

Like before, we're working closely with affected members to inform them of available resources to ensure that their rights under the union contract are protected. Through these dark days and challenging times, members have kept our community and province running while also finding solidarity and strength from each other.

Wayne Hanley:

Of course, many of you are exhausted. It's understandable that after two years of navigating through the pandemic. The reality is that the virus and these variants is still with us. So this wave like others will eventually subside. And until it does, we need to continue to take the steps to be safe. To protect ourselves, protect our coworkers and protect our loved ones in the communities in which we all live.

Wayne Hanley:

Getting vaccinated properly, masking, getting a booster shot, following public health guidelines, are the ways that we keep our hospital ICUs from being overwhelmed and our healthcare system from being strained and unable to deal with the non-COVID issues that have arised.

Wayne Hanley:

The issue right now, that's facing many of our members and many workers across the province is the issue of mandatory vaccination policies in the workplace. And yes, 1006 has work sites now where employers are implementing mandatory vaccination policies. So, I've asked tonight to have our general legal counsel, Michael Hancock, to join us tonight and discuss with Glacier, this very important issue that's going on right now within not only our union and our members, but all workers. Glacier?

Glacier Effs-Samuel:

Thanks, Wayne. I'd like to quickly remind members, that again telephone operators are standing by to take your questions and pass them on. Press *3 on your telephone keypad to ask a question. So I'd like to welcome UFCW 1006A, general legal counsel, Michael Hancock, to the Town Hall. Michael is joining us today to discuss, as Wayne mentioned, mandatory vaccine policies at the workplace. There have been a number of developments regarding mandatory vaccine policies since our last Town Hall, many of which have made headlines in the news. Michael, what can you us about these developments?

Michael Hancock:

Thank you, Glacier. And thank you, Wayne, for inviting me to join you and all of our members this evening. There have been quite a few developments and newsworthy events, especially in the last few weeks. On January 5th, the City of Toronto announced that it had fired 461 employees who had not complied with its mandatory vaccination policy by either not being fully vaccinated or for refusing to disclose their vaccination status. It's not clear how many of these people are members of a union and how many are not.

Michael Hancock:

The non-unionized employees will be able to try to sue the City for wrongful dismissal. And that process will play itself out, likely very privately, for many months. The same is true for the 354 employees of the Toronto Transit Commission who were fired in the first week of January 2022, for violating the mandatory vaccination policy there. In addition, there are 200 more TTC employees who remain on unpaid leave for not being fully vaccinated. They have until January 27th to get their second shot or be fired as well.

Michael Hancock:

It's important to note that the employees being fired for violating these policies do not receive notice or severance pay. They are treated like employees who are fired for other forms of misconduct, such as theft.

Michael Hancock:

For the unionized employees, we will have to wait and see what the outcome of any arbitration hearing may be before we find out how many, if any of those terminations are overturned. Depending on the nature of the work performed by the affected employees, it's possible that some may get reinstated while others do not.

Michael Hancock:

Lost wages may be awarded, or they may not. Determinations may be converted into leaves of absence without pay, or they may not. The arbitration process is likely to take some time. For example, the City of Toronto and CUPE 416, have hearing dates booked in January and February before arbitrator, Rob Herman. Once that hearing process is complete, arbitrator Herman will likely take a month or more to issue a final decision.

Glacier Effs-Samuel:

So Michael, employees who are terminated and who are waiting months for the outcome of an arbitration, still have bills to pay. Are they able to claim EI benefits while they wait?

Michael Hancock:

That's an excellent question. Typically, unions advise their members to apply for EI, regardless of whether they've been fired or laid off. And oftentimes members will receive EI, even if their record of employment is coded M, meaning, dismissal for cause.

Michael Hancock:

On December 24th of last year, however, there were guidelines issued to employers by the federal government regarding record of employment codes, specifically for people who are not working for reasons related to COVID-19. More specifically, employers were told to use code M, meaning dismissal for cause, if an employee is suspended or terminated for not complying with a mandatory COVID-19 vaccination policy. In those cases, if a person applies for EI, the government may contact the employer to determine a number of things.

Michael Hancock:

One, if the employer had a mandatory policy which was clearly communicated to its employees. Two, if the employees were told they could lose their jobs if they did not comply with the policy. Three, if the application of the policy to the employee who's applying for EI, was reasonable in the workplace context. And four, were there any exemptions for those refusing to comply with the policy?

Michael Hancock:

In all likelihood, people who are fired for not complying with mandatory vaccination policies are not going to be able to receive employment insurance benefits.

Glacier Effs-Samuel:

Good to know. That's pretty significant. A significant impact on workers. Is there anything the courts can do to prevent the employer from acting on these policies while an arbitration hearing is underway?

Michael Hancock:

In Ontario, the Superior Court of Justice has the authority to issue something called an injunction. That is a type of order that prevents a party from doing something. These orders are issued in very limited circumstances and only if a specific legal test is met. At least two unions in Ontario have sought injunctions to try to prevent employers from enacting or relying on their mandatory vaccination policies. And those requests were denied.

Michael Hancock:

One union had its request denied because it already had an arbitration underway and the court said it had no authority to deal with the issue because it was before an arbitrator. And in the other case, the union, the ATU Local 113, which represents Toronto Transit Commission employees, had its injunction requests denied because the court found that the balance of convenience was strongly in favor of the TTC and that the harm to the union's members, if the injunction was not granted could be fixed later on. These results are similar to an attempt by a number of employees at the University Health Network who tried to get the court to issue an injunction there as well. That group was made up of unionized and non unionized employees. Both groups had their requests dismissed by the court for a variety of reasons.

Michael Hancock:

It's clear that the courts will not interfere with employers imposing their mandatory vaccination policies, and that the task is up to arbitrators to decide if the policies are reasonable and enforceable.

Glacier Effs-Samuel:

So Michael, if it's solely in the hands of the arbitrator, have there been any arbitration decisions on mandatory vaccine policies and what guidance can we take from them?

Michael Hancock:

There have in fact been a number of decisions. As a quick starting point, employers have the right to enact workplace policies, so long as they're not contrary to the union contract, they're clearly communicated and are reasonable. Much of the fight over mandatory vaccination policies is over whether the policies are "reasonable." There have been four decisions dealing with mandatory vaccination policies that have been issued here in Ontario.

Michael Hancock:

Two of those cases involved other locals of UFCW, Local 333 versus Paragon Protection and Local 175 versus Bunge Canada. Another case involved the Power Workers Union and the Electrical Safety Authority. And the most recent case involved Maple Leaf Sports and Entertainment and the Teamsters Local 847.

Michael Hancock:

At a very high level, three decisions have upheld the mandatory vaccination policies while one policy was struck down. Each decision was based on the unique factors related to the specific workplace that was before the arbitrator. From my perspective, what's most important, isn't how many cases were for or against policies, but the most important factor is seeing the consistency of the approach being taken by the arbitrators in terms of the factors they look at when they make their decision. Those factors include the contents of the policy.

Michael Hancock:

For example, does it include time off for vaccination? What information or proof was required to confirm a person's vaccination status? Did the policy contain a clear warning of consequences if the policy was not complied with? Did it have exemptions for medical or religious reasons and arrangements for those who had a valid exemption? Arbitrators also looked at the nature of the workplace and I can't underscore this enough, the nature of the workplace is really key. The presence of vulnerable populations, or is it high risk environments, is a factor.

Michael Hancock:

For example, in Paragon Security, the case with UFCW 333, the security guards there worked at many locations, including major office buildings, and were the individuals who actually provided COVID screening services for others accessing the building. In the Electrical Safety Authority case, on the other hand, the employees, could mostly work remotely from home. In Bunge the situation was different again, because the operations were carried out at two facilities that were adjacent to each other with staff being primarily assigned to work in one facility or the other, but they could be reassigned to either facility as the business required it. And the interrelated nature of the employer's operations became relevant to whether the employer's policy for mandatory vaccinations could be applied at both facilities, or if there could be or should be different policies at different sites?

Michael Hancock:

Another key factor that arbitrators have looked at is the specific language of the collective agreement. In the Paragon case, the collective agreement stated that if a client required specific vaccinations for persons working at its premises, the employees would have to get those vaccines or face consequences, which included being transferred to other work locations. Again, compare that with the Electrical Safety Case, where there was a collective agreement right for individuals to work remotely and work from home, for the most part.

Michael Hancock:

Two very different situations, two very different outcomes. Another factor looked at was the requirement of third parties. This is a common issue for the service industry, as contracts for service providers require contractors to abide by the land owner or the landlords rules and policies.

Michael Hancock:

And we see this and it often arises in cases of a site ban, for example, where the owner of a mall or a factory or refinery tells its contractor that a specific person isn't allowed on the property because of allegations of wrongdoing. Commonly theft, or violence, or drug use and impairment, or other health and safety related reasons. This was a factor in Bunge Canada because the port authority that owned the land on which one of the facilities operated, introduced a mandatory vaccination policy for all of the people working on its property, including those of its tenants. So Bunge had no choice, but to impose a mandatory vaccination policy. And in Paragon, many of the clients had themselves imposed vaccination requirements.

Michael Hancock:

Another factor that arbitrators look at and look at consistently, is the Occupational Health and Safety Act. And each of the arbitrators looked to the requirements of the Act, and in particular, the obligation on employers to take every precaution reasonable in the circumstances for the protection of workers when they weighing the different factors of the cases in front of them.

Michael Hancock:

The Human Rights Code is another piece of legislation that the arbitrators have considered. The arbitrators at this point, agree that imposing consequences on those who choose not to be vaccinated, as opposed to those who have a valid religious or medical exemption is not a violation of the Human Rights Code. Personal preference, in other words, is not a creed for the purposes of the Human Rights Code.

Michael Hancock:

Another factor the arbitrators looked at was the serious and ongoing threat posed by the pandemic. Each of the decisions reflects the state of the pandemic and its impact on health and safety in the workplace. And what's interesting is that the cases caution us that what is unreasonable today may be reasonable tomorrow, depending on the state of the crisis.

Michael Hancock:

I do want to talk a little bit about the case involving Maple Leafs Sports and Entertainment and the Teamsters because it's interesting and it's different from the other cases because of the arguments made by the Teamsters. Under that workplace policy, the consequence for employees not being fully vaccinated and disclosing their vaccination status to the employer was being placed on unpaid leave. The main argument for the Teamsters was that the policy was unreasonable because it forced employees to disclose private medical information. They argued that an alternative to forcing employees to disclose their vaccination status should have been requiring rapid antigen testing before starting work. The arbitrator rejected that argument regarding privacy, because in his view, the collection of the information was necessary to administer a mandatory policy, which had strict protocols in place for the collection, access and disclosure of personal health information. The grievance was dismissed, and the grievor in that case remains on unpaid leave.

Glacier Effe-Samuel:

Thanks, Michael, that's a lot of information, but good information. What many of our members want to know on a practical level is, will the mandatory vaccine policy in their workplace be upheld?

Michael Hancock:

Glacier, that is a good question and one I know many people are asking. I wish I could give you a definitive answer. The reality is I cannot say with certainty what policies will be upheld and which may not be. Each policy will be viewed on its own merits. What is clear at this point is

that the courts are not going to act to prevent employers from enforcing their policies, even if that enforcement leads to mass terminations.

Michael Hancock:

That policies may have to be litigated one by one at various workplaces before we have a much clearer picture of the law. Each workplace is itself, somewhat different. Each decision from arbitrators may reflect the snapshot in time in terms of the specifics of the workplace, the specifics of the policy and the dangers posed by the pandemic. So, I hate to give a lawyer's answer, but my answer is, it depends and I don't know.

Michael Hancock:

At this point from a legal standpoint, the option that poses the least amount of risk to employment is being vaccinated. It also happens to be the option that provides the greatest protection for our members and our communities. From a legal perspective, that is the safest route at this point.

Wayne Hanley:

Michael, it's Wayne here, thank you for the informative discussion and for being here with us tonight. There is a lot of information. It is an evolving piece of law right now, but the way most arbitrators are finding, is that the mandatory policies will pass the test of reasonableness.

Wayne Hanley:

Thanks for sharing with our members. I know we have a number of questions that relate to COVID. Most of them are our workplace and work site specific. So, we will have the union reps follow up with those that have asked questions tonight, tomorrow. One thing that does show up in a number of the questions is questions about the Loblaws RCSS National Grocers, changing their Pay Protection Program and getting rid of the option one in that program, which allowed for members to be paid, who had positive tests.

Wayne Hanley:

Just released today by our Communications Department, we sent a notice out to our activist list. So some may have got that. Some people on this call may not have got it, but the changes to that Pay Protection Program, the rules and the protocols is posted on our website. And I would encourage you to all log onto that if you are with RCSS National Grocers or the Maple Grove Distribution Center, or any of the Loblaws companies because it is a national change to their Pay Protection Program.

Wayne Hanley:

I now want to change the subject a little bit and talk briefly about some of the other things that are going on. Local 1006A is constantly advocating for you and our members. Last fall, we won an arbitration case, which possibly impact nearly 15,000 of our members.

Wayne Hanley:

Our victory led to the recognition of The National Day for Truth and Reconciliation on September 30th, recognizing it as a stat holiday for our members at National Grocers at their Maple Grove Distribution Center, Loblaws, Great Food and the Real Canadian Superstore. Our victory came despite the company repeatedly refusing to recognize the statutory E holiday, despite the clear language in our union contract, the result of our victory there, was that hundreds of thousands of dollars ended up in the pockets of our members and not in Loblaw's profits.

Wayne Hanley:

The members who were affected by this, who were owed the money, all received their pay before the end of 2021. I'm also pleased to announce that our organizing department continues to do good work in helping members achieve union representation. Since our last Town Hall meeting more workers across Ontario have voted to join UFCW 1006A, with our newest members coming from Sessions Cannabis, Steamworks Baths. We organized our fourth Tokyo Smoke location, and two Plateau Cannabis, locations.

Wayne Hanley:

We welcome these members. Hopefully, some of you are on the call. We welcome you to our union family, and now we'll work hard to achieve a fair first contract for all.

Wayne Hanley:

Despite the challenges posed by the pandemic, our union reps continue to do the important work of protecting your rights by ensuring that the rights in your collective agreement are upheld, from answering members' questions to filing grievances when members violate the contracts. Our reps are always there for you.

Wayne Hanley:

Over the last month I'm pleased to report that Local 1006 has awarded and distributed 42 scholarship checks worth \$1,006 each to our members and to our dependents. We hope these scholarships will help make a small difference in the lives of many of our members and their families by helping them achieve that dream of a post-secondary education. Thank you to everyone who applied this year, and I'm happy to say that applications for the scholarship program for 2020 are now open online, on the local union website.

Wayne Hanley:

And I want to take time to recognize the work of our incredible Women's Issues Network for the campaign that activists had this past holiday season. Union members and staff from Ottawa Pembroke and Whitby volunteered their time to create shoebox full of gifts for women's shelters. Initiative that was part of the 16 days of activism against gender-based violence, which ran from November 25th to December the 10th.

Wayne Hanley:

The shoe boxes were filled with various essential items to help women in need, including shampoos, toothbrushes, socks, gloves, and other accessories.

Wayne Hanley:

The activists together with members of their workplace help raise awareness to help eliminate violence against women. And in our education department, they've been doing some excellent work in empowering, training new stewards. In November of 2021, the stewards or the department training, nearly 60 stewards through three virtual introductory sessions. We were planning for in person training the spring, but due to the rising numbers in the current public health guidelines, we're having to review those options.

Wayne Hanley:

Our Health and Safety Department continues to do its part to advocate for our members on the shop floor. Recently, the department held interactive Zoom seminars on critical injuries for members, stewards, and joint health and safety committee members. The seminar delved into topics such as the Occupational Health and Safety Act, the employer's responsibility and workers' rights. I'd also like to take a moment to thank all of our stewards for the incredible work they do to be the voice and the advocate of your coworkers at work. These last couple of years have been challenging. Our stewards have helped the members during the new challenges posed by the pandemic. I can't thank you enough for volunteering your time, your sincerity. You certainly have made a difference in the lives of our members.

Wayne Hanley:

And lastly, I have some sadness to share. In December, Alfredo Di Febo, a long-time member of the Local Union's Executive Board, a vice president, sadly passed away. As an activist, Alfredo was eager to resolve issues that arose at the store level and worked hard to communicate the union's message to employees about the benefits of working in union shops and the benefits of having a collective agreement.

Wayne Hanley:

He strived to encourage members to be more engaged and participate in the union. We mourn his loss and remember his contributions and service to the members of 1006A. And over the holidays our thoughts have been with Alfredo's family and all of the 1006A members who knew of him worked with him, shared life with him. Rest in peace, Alfredo. Glacier?

Glacier Effs-Samuel:

Okay. I just want to remind everyone again, if you do have any questions, press a *3 on your telephone keypad. If you stay with us for the end of the meeting, you'll have a chance to enter a contest, to win a telephone keypad. And I want to thank Wayne and Michael, and those who are listening tonight, thank you for joining us. Thank you to you and your family. We want to say stay safe and remember, we're here if you need us.

Glacier Effs-Samuel:

For those with questions that we were unable to get to, your union rep will get back to you within 24 hours. You can find out who your rep is by visiting our website at www.ufcw1006a.ca. Click to find your rep button. And please remember that an audio file and transcript of tonight's meeting will be posted on our website for your convenience, as well as the minutes of tonight's meeting will also be posted for your review and to be approved during the next meeting, which will be scheduled on April 19th, 2022. So I have one more piece of business to take care of, which is the contest for the tablet, which will be our last poll for today. So again, to enter into the contest, simply press one on your telephone keypad.

Glacier Effs-Samuel:

The winner will be announced on our website tomorrow by 3:00 PM. And our website, again, as a reminder, you don't remember it is www.ufcw1006a.ca. For those of you who'd like to leave a question or comment, please stay on the line after the call. And again, thank you guys for joining us tonight. And I hope everybody has a great evening.