



NECA
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Management Rights Know Your Rights

Ryan Courtney
Executive Director, National Labor Relations

CONVENTION EDUCATION

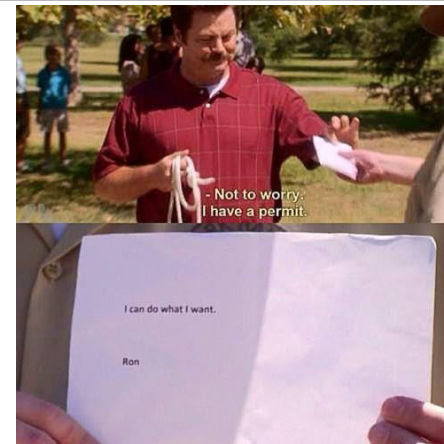
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What a lot of folks think it is...



Management Rights

The Union understands the Employer is responsible to perform the work required by the owner. The Employer shall, therefore, have no restrictions except those specifically provided for in the collective bargaining agreement, in planning, directing and controlling the operation of all his work, in deciding the number and kind of employees to properly perform the work, in hiring and laying off employees, in transferring employees from job to job within the Local Union's geographical jurisdiction, in determining the need and number as well as the person who will act as Foreman, in requiring all employees to observe the Employer's and/or owner's rules and regulations not inconsistent with this Agreement, in requiring all employees to observe all safety regulations, and in discharging employees for proper cause.



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Management Rights

- The key point to Management Rights clauses is they give the employers the freedom to run their business as they see fit.
- If language exists in a CBA, it applies to all signatory employers and can infringe on Management Rights.
- Management Rights is very broad and vague for a reason. For the most part, this broad, vague approach has been upheld in court.*
- Understanding the terms which may appear in a CBA that can limit Management Rights is crucial to avoiding issues and disputes.



Right to Reject

Referral Procedure

Section 4.03 – The Employer shall have the right to reject any applicant for employment.

Is it legal? Yes.

- Mountain Pacific NLRB Hiring Hall Case Established Mgt. Right to Reject – 1958
- Parsons Electric Case Reaffirmed Right to Reject Without Furnishing a Reason – 8th Circuit Court of Appeals, 1992
- U.S. District Court for the District of Oregon in Kofoed v. Rosendin Electric, 2001 – “A unionized employer need not explain why anyone referred for work by a union hiring hall was rejected for employment if the pertinent CBA does not require an explanation.”



Right to Reject

Referral Procedure

Section 4.03 – The Employer shall have the right to reject any applicant for employment.

...provided just cause is show.

...Any applicant who is rejected by the Employer shall receive \$XX.XX compensation. A written cause shall be supplied if requested.

...Job applicants referred to an employer under the provisions of the referral procedure shall be paid no less than two hours pay at their prevailing rate of pay by the employer to compensate them for the necessary time spent at the referral location.



Favored Nations

Section 2.10 – The Union agrees that if, during the life of this Agreement, it grants to any other Employer in the Electrical Contracting Industry on work covered by this Agreement, any better terms or conditions than those set forth in this Agreement, such better terms or conditions shall be made available to the Employer under this Agreement and the Union shall immediately notify the Employer of any such concession.



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Different ≠ Better



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...For the purpose of organizing, the Business Manager shall, at his discretion, offer better terms and conditions on a limited basis when necessary.



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Management Rights

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Age Ratio

On all jobs requiring five or more Journeyman, at least every fifth Journeyman, if available, shall be 50 years of age or older.



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Management Rights

...in hiring and laying off employees...



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Reverse Layoff

When making reductions in the number of employees due to lack of work, Employers shall use the following procedure:

- a) Temporary employees, if any are employed, shall be laid off first. Then employees in Group IV shall be laid off next, if any are employed in this Group. Next to be laid off are employees in Group III, if any are employed in this Group, then those in Group II, and then those in Group I...



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Foreman and Supervision Language

- To have these individuals covered by the CBA, it must be stated.
- Anything beyond this can be seen as a restriction on the ability to use them.
- Steward language can also be a form of restriction on this language.



Management Rights

...in determining the need and number as well as the person who will act as Foreman...

Examples of Foreman Language

There must be a Foreman on every job and on each shift on a job.

A Foreman shall not work with the tools after being responsible for seven journeymen.

Employers shall designate Journeymen as a sub foreman, Foreman, and General Foreman on all jobs in accordance with the following schedule.

On any job requiring more than two crews, the GF shall supervise Foremen only and shall not at any time supervise a crew.

Each crew shall consist of two Journeymen. One of these Journeymen shall be designated as a Foreman at the discretion of the Employer.



Management Rights

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Examples of Steward Language

The Steward shall remain on the job until its completion unless sooner removed by the BM.

When Stewards have been appointed on a job, they can only be removed by mutual consent of IBEW LU and the Employer.

When the project requires 4 or more JWs, the Code of Excellence Steward shall receive a premium of 10% per hour.

The Steward shall be the last employee to be laid off, provided he is qualified to perform the work.



Steward Language

Stewards can be extremely useful industry partners, when they are used correctly and as intended.

Steward is not a classification in the CBA an employer hires. Employers hire IBEW linemen, wiremen, and others CBA classifications.



Common Provisions



Common Provisions

No JW working under the terms of this agreement shall be subject to a physical examination as a qualification for employment.

A once weekly safety meeting shall be conducted at all job sites and shops at the normal starting time of the first workday of the normal workweek.

Any worker laid off shall remain on the jobsite for the entire 8-hour workday.

Employees shall not be subject to disciplinary action for drinking coffee during working hours.

Any proposed changes to the starting & quitting times shall be submitted to the LMC and may be changed according to their decision.



Common Provisions

In the event the workman's clothing becomes damaged or ruined, it shall be replaced by the employer.

No work except in case of true emergency shall be performed outside of the regular working hours without prior notification to both parties to this Agreement.

The employer shall pay \$XX per day worked to all employees traveling YY miles from the Local Union.

The employer shall pay all lodging, meals, and travel expenses to employees traveling outside of the jurisdiction of the Local Union.



Company Policies



Company Policies

Remember, if it is not addressed in the CBA, it reverts to being covered by Management Rights.

When crafting company policies, avoid imposing more restrictive terms than your agreement.

If something exists in your company policy, it MUST be followed for EVERY employee. Do not deviate.



Management Rights

Additional Considerations

Termination vs Layoff/Reduction in Force

- Document each step.
- Follow any applicable company policy.
- Avoid Termination disguised as a Layoff.

Drug Testing Programs

- Understand what may be in your CBA.
- Know your Customer Requirement.
- Know your Company Policy.
- Understand how these three work together.



Write this down...

- Management Rights exists to give employers freedom to operate their business.
- The only limitations to it are what is outlined in the CBA.
- If the CBA does not contain language, it is covered by Management Rights...unless it is illegal.
- Understanding the provisions in a CBA and knowing what to look for will help avoid issues and disputes in the future.
- ALWAYS contact your Chapter Manager when attempting to understand provisions in your CBA!



Thank You!



Complete the Online Evaluation

