

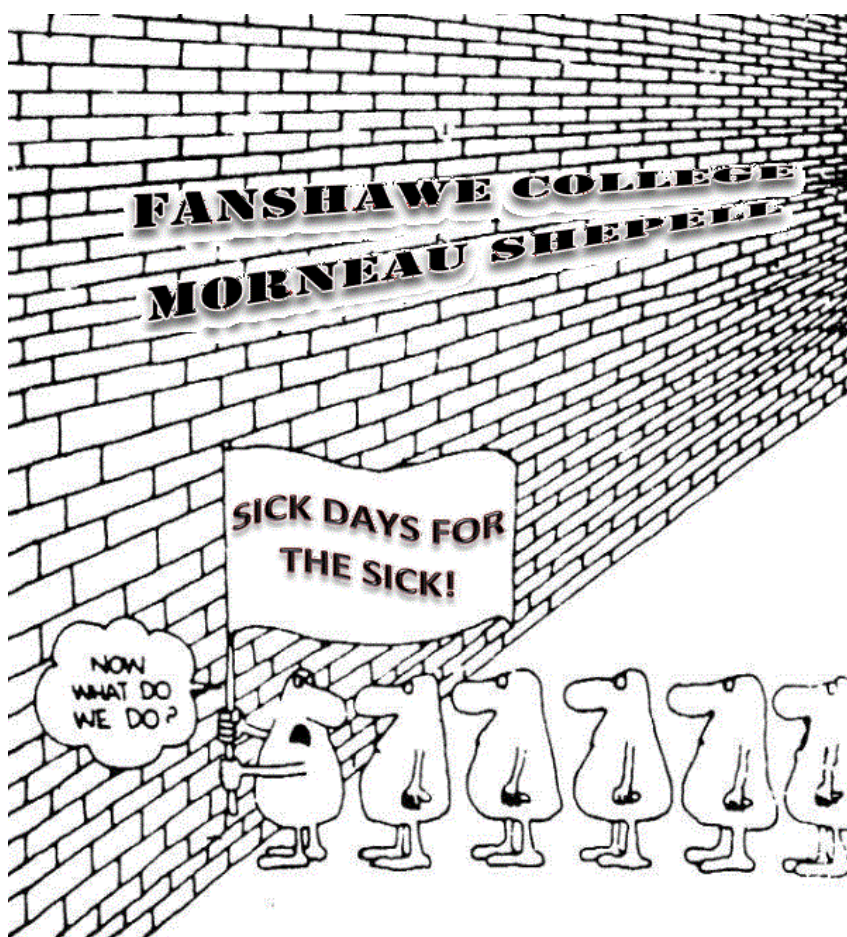
## Five colleagues denied sick days

**FACT:** Morneau Shepell, agent of Fanshawe College, has denied five colleagues—that we know of—access to their sick days.

**FACT:** Many have been harassed and intimidated by Shepell caseworkers.

Why is this issue so important ?

This can happen to any one of us.





Ontario's union  
Le syndicat de l'Ontario

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CANADIAN ASSOCIATION

**CALM**

OF LABOUR MEDIA

## President's Message *by Darryl Bedford* **Sick Treatment?**



Dear Colleagues,

Let me set the stage for where the Local finds itself. We find ourselves in the unusual circumstance of being given mixed messages around the value and respect shown to faculty and staff by the College.

On one hand we have the Academic Leadership Team (ALT)—led by Senior VP Academic Dr. Lane Trotter, including the people who report directly to him—making a genuine commitment to cooperate and communicate with faculty. We have met with the ALT twice to work on important issues of communication, respect, and collaboration. These issues were initially identified in the Employee Opinion Survey, particularly responses regarding whether employees felt valued by managers at the College.

Dr. Trotter says he wants to make Fanshawe the best college in the country. He can't do that without faculty commitment and support. Also, there is a lot riding on SEM. If SEM becomes a unilateral exercise without broad faculty support, it will fail. We're needed at the table.

On the other hand, the operations side of the College, historically dominated by Human Resources, is thwarting our participation and working against cooperation between senior College management and the union. Their moves are completely contrary to the welcome at the ALT committee.

Human Resources has unilaterally reduced the release time by 80% per member for the Workload Monitoring Group. Management has also unilaterally reduced by 3 1/2 hours (over 30% per week) the complementary hours per member of the Joint Health and Safety Committee at London Campus. Both of these committees are among the few where faculty sit as equals with management.

In addition, step meetings for grievances are not held. Taxpayer money is being wasted

on arbitration to take on the union rather than working on reasonable settlements where possible.

Fanshawe is in reputation repair mode and will be for a few years after the St. Patrick's Day riot. The College can't afford another disaster. Faculty and the union are part of this college and should be welcomed at the table. At least that's the message communicated at the ALT.

Perhaps most striking and unsettling is the College's recent handling of sick days (a.k.a. Short Term Disability/STD). Since January 2012, a number of employees have had their legitimate use of sick days denied by Morneau Shepell (formerly Shepell-fgi), an agent contracted by the College.

Morneau Shepell was hired by the College to handle STD and return to work. This change has been disastrous for our members. There are cases where members are harassed to return to work despite medical documentation detailing their need to convalesce. In other cases, doctors' orders have been overridden by Shepell.

Where the ALT is calling for respectful dialogue and an improved workplace, Morneau Shepell, at the direction of Human Resources, is allowed to send distressing letters and to override the sound judgment of members' doctors.

This issue of the Educator is devoted to the issues and implications of changes to our Short Term Disability benefits.

The ultimate question is this: what is our College's true direction? Who is really in charge? Will someone emerge as a solid leader determined to make a difference?

We shall see.

In solidarity,

A handwritten signature in cursive script, appearing to read "Darryl".

Why all the fuss about Morneau Shepell? You're not sick, and besides, you've got 247 sick days banked in case you do get a serious illness.

You think, because the collective agreement says, that you have accumulated sick days to use as needed.

Although true in the past, up until January 2012, it is true no longer. Several of your colleagues have recently found out, to their shock, that they cannot use or take sick days.

How bad is it? Threats of salary clawbacks have been used against ill members who are simply trying to get the workload reduction their doctors recommend or release for treatment they need.

Two employees weren't sure, because of the wording of the denial letter, whether they had a job to return to.

The decrease in short term disability, or sick day eligibility has been instituted by the College through Morneau Shepell (previously Shepell-fgi). Please note that Fanshawe College directs Morneau Shepell and the situation could be turned around promptly if Fanshawe had the will to do so.

We work alongside these people: they are our friends and co-workers. We are extremely concerned for their health and seek to redress the circumstances they have been forced into.

Since January 2012, five Fanshawe College employees, that we know of, have been denied use of their sick days or have been ordered back to work against their doctor's advice. Medical documentation in support of absence or reduction has been ignored. Form letters have been sent to these people, not giving any valid

or concrete basis for denial. The sentence is "the information received to date remains insufficient to justify your absence from work."

A few of our colleagues have allowed us to release some of the details of their conditions and subsequent ill effects in an effort to educate employees about what is going on. They hope through allowing this personal, quite painful recounting of their experiences that they will receive some justice, and prevent such actions being taken against their co-workers should they too become ill.

**Employees with documented medical illness have experienced the following:**

- Two Fanshawe College employees, instead of being able to access their sick bank, have been ordered to dip into their vacation days instead to "make up" for their days absent, or for the time their reduced workload has added up to.
- One employee's access to sick days was denied 6 weeks *after* she was absent from work for health reasons. She has to repay almost \$20,000 in salary and benefits and loses 1/5 of her vacation time
- One employee lost 42 pounds in 4 months from stress, anxiety, and other medical issues—while still working.
- Subsequently, two have suffered extra illnesses such as pneumonia and intense flare-ups of their medical conditions because of the toll the denials have taken.
- One member, on repeatedly being asked by Shepell for "measurable clinical signs," notes that there is discrimination against mental health conditions, and pain and fatigue symptoms, because these conditions do not have a

confirming blood test.

There are other harrowing instances that we cannot recount due to confidentiality. Please know that others are suffering also.

Two years ago, a manager here at the College infamously said in a meeting with Union representatives present that "we don't want employees sitting at home in a drugged-out stupor." No, Fanshawe College requires you here at work, propped up at a lectern or behind a desk, in a stupor of illness.

The College is in the duplicitous position of having contracted Morneau Shepell to reduce use of sick time, while at the same time pointing to Shepell as the agent responsible for the bad treatment of employees. One employee said that when Human Resources does step in, it "intervenes just enough to make the situation worse."

These ill workers on the job are your friends and colleagues. All Fanshawe College employees need to support them and help get them well again. Local 110 believes these sick day denials, under the name of Morneau Shepell but directed by the College, are one of the most serious issues employees have ever faced.

Here's the curious point: why is the College heading down this path? If the College's intent is to question the legitimacy of certain sick days, the process they have engaged in does not address this issue one iota.

Local 110 takes very seriously our job to advocate on behalf of our members. We have never seen such universally bad, ill-considered and high-handed treatment. ☹

# THE CONTRACT: Who is Morneau Shepell?

## What are they paid by Fanshawe to do?

Under a Freedom of Information request, Local 110 obtained a copy of the contract "Disability Management Agreement" that Fanshawe College signed with Morneau Shepell in April 2010. Shepell actually started providing services on December 1, 2009. The contract length is 36 months. Renewal is automatic but the contract can be terminated with 90 days' written notice.

### What does the company Morneau Shepell do?

Shepell's website at <http://www.morneaushepell.com> discusses many services. What Fanshawe College has contracted from them are their Disability Management

services, which include a Short Term Disability Case Management Program, an Occupational Claims Management Program, On-Site Health Services (the occupational health nurses in the office in D1028) and additional Professional Services of an employee assistance program (EAP) nature.

The first paragraph on the Disability Management page of the website claims that "costs associated with absenteeism, disability, drug benefits and employee engagement are rising at alarming rates," though no references or data are provided to support this claim.

Shepell promises to contain these costs by providing services aimed at keeping employees healthy and on the job. The page goes on, saying that "your people are your most important asset," but also promises "proven return on investment" and "effective cost management." They claim that "Morneau Shepell's Disability Management program helps to reduce the cost of absence through reducing the onset and length of STD claims and LTD

incidences."

Their Attendance Support program "yields [a] 10% reduction in absenteeism on its own. This increases significantly when linked to broader absence programs such as a disability

*We have proven return on investment - Effective cost management should not come at the cost of effective people management. We get that. By focusing on the people and the process, Morneau Shepell strives to create a balance between your capital expense and your human capital.*

- We provide operational efficiencies through our comprehensive implementation process.
- We provide immediate and ongoing return to work planning
- Morneau Shepell's Disability Management program helps to reduce the cost of absence through reducing the onset and length of STD claims and LTD incidences.

From the Morneau Shepell website

management program."

While Morneau Shepell is a third-party occupational health services company, which sounds fine at face value, it is one centred around the perceived high costs of health benefits and the ability of its services to reduce them. Cost reduction through reduced absences and benefits usage is the end game.

### Who's running the show?

Shepell is an *agent of Fanshawe College*. Article 4(d) of the contract states that "Shepell-fgi shall be subject to, and comply with the Employer's rules, regulations, policies and procedures provided in advance by the Employer to Shepell-fgi while on the Employer sites." So, let's be clear: Shepell offers third party services, but under Fanshawe College's direction.

Fanshawe College's own Absence Management policy 1-B-34 affirms that "The College determines whether required approvals and documentation are in place to substantiate an absence."

We have heard from colleagues at our

French language colleges in Ontario, who are serviced out of the Montreal Shepell offices. They say that after an initial problem around a return to work issue, they have since been treated fine by Shepell.

We believe that Shepell could be an adequate third party health services company if Fanshawe College directed it to be so.

### How does Shepell get paid?

From what is shown in Schedule A of the contract, Shepell

offers fee-based services and gets paid accordingly. Each Case (person currently receiving service) is defined either Simple or Complex. Simple Cases through to Resolution cost \$375.00, and Complex Cases cost \$495.00. Absence Prevention (it's not made clear what this is) costs \$495 per case. The assistance programs are \$140 per hour. Every phone call made for Attendance Support costs \$9.50.

This list is not complete, but is provided to give readers an idea of how the services are reimbursed.

For the full list of fees for services drop by the union office at D2018.

### Breaches of confidentiality are built into the contract

Fanshawe College has the right to know that you need to be absent, supported by physician's documentation, prognosis--*not diagnosis*--and whether there are any limitations that need to be in place when you're back at work. That's it. Nothing else.

Neither the College nor Shepell is entitled to know your diagnosis. Much of your medical information is your own,

private business. Sometimes people can deduce a diagnosis in part; for example, if your return to work limitation is to use elevators only, the employer may be able to ascertain that you have a physical problem with your knees or your legs, or balance, and the like.

However, there are some additional professional services that Shepell offers that let the College know information about your diagnosis that the employer has no right to know. How does the employer find out about your private health information? It's in the contract: **before Shepell refers the member to these services, the Employer has to give authorization for Shepell to do so.** How can this be bad? These are medical services that support your return to the job, right?

But how would you like Fanshawe College to know, before you do, that Shepell has asked Human Resources for authorization to refer you to their "Substance Abuse Program"? Or, that you are recommended for the "WorkAssist Counselling" program, which "provides expedited access to best-practice treatment of psychological issues that prevent return to work" such as anxiety and depression?

If you have a particularly troubling and perhaps chronic condition, you could be recommended for their "Structured Relapse Prevention Program," which is "designed to support employees to successfully reintegrate back into the workplace and prevent relapse through longer-term follow-up care after treatment."

It seems like these "health management" additional services are **code** for the employer to know they have

a problematic--from a health benefits perspective--employee. We believe that the required employer authorization and offering of these services without patient request are in violation of the **Ontario Personal Health Information Protection Act, 2004.**

### Mental Diagnoses and Illness

Do these particular additional services—WorkAssist Counselling, Substance Abuse Program, and Structured Relapse Prevention Program—breach the confidentiality of employee's medical information? In the opinion of a member who was referred to one of these programs, yes they do.

If Shepell recommends WorkAssist to Fanshawe College for you, then the college now knows that you have psychological issues, or perhaps a diagnosis of mental illness. Given the stigma that mental illness bears, and the

number one driver of disability in Canada." Their mental health programs are integrated into their disability management program, and Shepell boasts that it has "a network of over 2500 mental health experts including in-house psychiatrists, physicians, depression/anxiety specialists, and addictions specialists."

However, Fanshawe College already has an employee assistance program with Homewood. Access to the program is self-initiated by the employee. The college never has knowledge about which employees have accessed the service, nor what support they have requested. The College is only informed about how many contacts there have been, and billable hours.

### Contract Article 7, Confidentiality and Security

The wording of Shepell's

confidentiality clauses clearly says that they will not allow access to the confidential information of employees "except as required for the performance of the Services." Again, the contract stipulates that it "shall not, without the prior written consent of the **Employer**, use,

exploit or divulge or allow access to the Confidential Information to any third party except to employees or sub-contractors of Shepell-fgi who require such use or disclosure to **fulfill the obligations of Shepell-fgi under this Agreement**" [emphasis added].

The burning question is this: what are the *obligations* of Shepell? What have they been contracted to do? If they are an occupational health services company whose obligation is to offer support to

Fee Schedule for Additional Professional Services	
The following represents referral services that can be recommended by the Case Manager on an as-needed basis as additional supports to resolve the case. All case management referral services require authorization from the Employer.	
Service Description	Service Fee
<b>WorkAssist Counselling (WA):</b> provides expedited access to best-practice treatment of psychological issues that prevent return to work. It offers a combination of longer-term counselling, psychiatric consults, and appropriate case coordination with the disability Case Manager.	\$140.00 per hour
<b>Substance Abuse Program (SAP):</b> provides in-depth, specialized assessment and subsequent treatment recommendations for drug and alcohol addiction problems.	\$140.00 per hour
<b>Structured Relapse Prevention Program (SRPP):</b> designed to support employees to successfully reintegrate back into the workplace and prevent relapse through longer-term follow-up care after treatment.	\$140.00 per hour

wish to avoid such stigma by many who experience mental illness, referral to such a program and **the authorization it requires from the employer** represents a stunning breach of personal privacy.

In addition to the breach of confidentiality, employees with mental illness are likely already under the care of a trusted professional, and do not want to be referred to an outside consultant.

Shepell markets itself as having expertise in mental health claims, along with the fact that "mental health is the



(Continued from page 5)

help ill employees get back to health, and make sure that the return to work goes smoothly, then the above sentences are not ominous. But if Shepell's job is to reduce absences, reduce costs to the employer, and in fact guarantee that health benefit usage will go down as a basis for contracting them in the first place, then the above statements take on an entirely different meaning.

Your health information will be sent to other "consultants" employed by Shepell—for what purpose? To get you even better care than your own family physician, with whom you may have had a very long association, and your own specialists, with whom you may also have a history?

## **"The information received to date remains insufficient to justify your absence from work"**

The denials at Fanshawe College concern access to your sick days, or short term disability (STD), or any absences over 5 days in a row. Reduction in

workload claims for people who simply need a lessened load to get through a period of illness are also being denied.

The local is aware of five members who have had their STD denied. There are likely more. In our experience with these denials, any outside consultants that

support the initial denials of your sick day claims. The appeal of the decision is to Shepell also—yes, Shepell determines the outcome of your appeal. Shepell also provides no evidence as to why your appeal of their initial rejection is also denied, other than statements like the

following: "the information that has been received to date remains insufficient to justify your absence from work." So far, there have been no

## **ATTENDANCE SUPPORT**

From the Morneau Shepell website

The Morneau Shepell Attendance Support Program provides a structured way to manage absence quickly, fairly and consistently. We offer a better way to manage casual absences that will promote accountability, help you uncover absence trends and support your employee's ability to be present at work.

Effective absence management starts with understanding the total cost equation.

Shepell may have consulted to evaluate your sick claim have been utilized to deny, discredit, ignore or counter the information your own medical professionals have gathered in support of your claim.

The model being followed seems very like an American health maintenance organization (HMO) model, where medical directors of insurance companies routinely overturn medical documentation and deny claims.

Shepell provides no evidence to

successful appeals.

Remember, Shepell is an agent of Fanshawe College and acts at their direction. We believe the procedural and ethical violations outlined here could be remedied by senior administration here at the college. ☹

Contract

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first above written.

<p><b>Fanshawe College</b></p> <p>Per: <u>[Signature]</u></p> <p>Name: <u>BONNIE HULL</u></p> <p>Title: <u>VICE-PRESIDENT ADMINISTRATION</u></p> <p>Date: <u>April 14/10</u></p> <p>I have authority to bind the Employer</p>	<p><b>Shepell-figi, a division of HRCO Inc.</b></p> <p>Per: <u>[Signature]</u></p> <p>Jean-Marc MacKenzie</p> <p>Senior Vice-President, Health Management</p> <p>Date: <u>March 31, 2010</u></p>
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# Sick Days in the Bank? You're Poorer Than You Think.

# May 2012 Meetings with Human Resources Reps

## About Medical Denials

Two meetings were held recently with Jeff Low, Associate Director of Human Resources and Return to Work Coordinator Kevin Nash. The first meeting was on May 10, 2012, with a subsequent meeting on May 28, 2012. Several issues regarding Shepell and the handling of Short Term Disability at the College were brought up by union officers Darryl Bedford, Kathryn Tamasi and Jennifer Boswell.

The issues brought up at the first meeting were as follows:

1. The union voiced their concerns about the sick leave or work reduction denials our members have received. Form letter denials with confidential information redacted were handed over showing the College how these letters are illegally asking for diagnosis information, and how threatening some of the wording is to members. Some people believed that they were facing termination over their absences.

2. We have asked, in light of all the denials, what exactly Shepell requires. Since case managers send denial letters citing that not enough information has been given to support the employees' absence, and we heard from an employee of Shepell that there are 6 criteria by which claims are measured, we would like to know what those criteria are. If we don't know what Shepell requires, we can't help our members navigate their way through the process.

3. The union asked to be notified at the same time the College is notified of member absences over 5 days. We need to help members navigate their way through the STD process, since it has become so difficult.

4. Fanshawe College members are receiving phone calls from Shepell employees while ill or recuperating at home. One member recounted several occasions of being asked by a stranger, upon picking up the phone, "How are you?" When the member politely answered "Fine, thank you" the response was "Great! Let's discuss your return to work."

5. The union brought up the fact that Shepell employees are constantly being replaced or reassigned. In the last year alone Fanshawe College members have dealt with 3 different case managers. In about the same

period we have seen 5 occupational health professionals in the OccHealth office in D1028. On a few occasions a new case manager has admitted that she didn't know where information gathered by a previous manager was. The turnover/reassignment of Shepell personnel has led problems with tracking of employee medical files and documentation. This constant turnover of personnel is burdensome and discomfiting for our ill co-workers.

6. The Union brought up the issues associated with private medical information and its potential for being mishandled by managers or other personnel here at the College. There is also the off-site issue. While files used to be kept onsite in the OccHealth office in D1028, now much medical documentation is scanned or copied here and sent to Shepell offices in Mississauga. Many, if not all, scanners and photocopiers at the college have hard drives which record documents that have been through them, which many people don't know. We believe there may be breaches of confidentiality occurring because of this issue, in addition to contract provisions (see item #9 below).

7. Shepell notes that if you are turned down for access to your sick days, you can still appeal. The appeal process is run by Shepell. We have not yet seen an initial denial overturned. There needs to be an independent appeal process and/or an expedited grievance process.

Our first meeting ended here. At the beginning of the follow-up meeting on May 28, both Mr. Low and Mr. Nash were asked if they had any information or response for us on any of the above issues. They said no. Mr. Nash did provide some asked-for case follow up information on an employee, and told us incorrectly that the claim had been completely approved.

Issues brought up at the second meeting on May 28 are as follows:

8. We asked again to be informed of member absences over 5 days. The union would like to help our members through Shepell's process and be present at return-to-work (RTW) meetings. We were told that informing the union of absences or STD is not possible. Also, it is left up to members if they want to ask the union to attend their RTW meeting. The union argued that many people have never been through this

process, so they likely don't know what their rights are. This approach by the College also contravenes the Mercer Report, an important, widely-followed report that was previously followed at the College and which outlines return to work and accommodation issues.

9. The WorkAssist part of the contract that Shepell and the college have entered into results in violations of member confidentiality (see "The Contract" article elsewhere in the issue). The college can become aware of sensitive diagnoses such as substance abuse, depression, psychological issues, mental illness or chronic long-term illness through the provision of this service by Shepell because of the prior authorization by the employer that WorkAssist requires.

10. Shepell is overriding and ignoring physician's advice and medical recommendations. If Shepell does not agree with the competency of the physician(s) the member is seeing, then it should refer those physicians to the College of Physicians and Surgeons, in the union's opinion. Written evidence of the overriding of medical advice was handed over to the College.

11. Members remain at work or are returning to work in unhealthy condition, harming themselves certainly, and potentially detrimental and unsafe for others. Members are returning prematurely, being ordered to return early, or denied a reduced workload against physicians' advice. The process leading to these situations is indefensible.

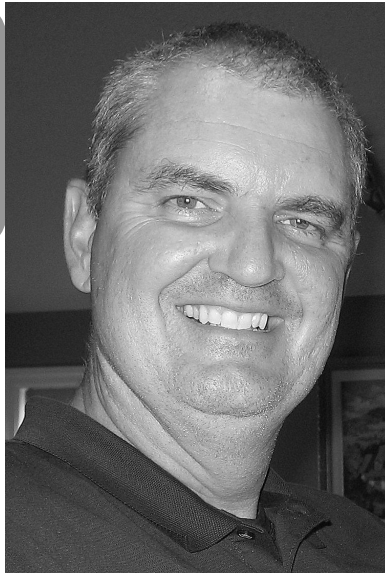
***The College should consider that ill members at work cause a liability issue, and is a health and safety issue of great concern.***

These are the major issues that were brought to the attention of Fanshawe College's Human Resources and Employee Relations in May 2012.

No changes in Fanshawe College's or Shepell's actions have been detected to date.

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## Chief Steward's Report



**By  
Darren  
Chapman**

In my inaugural Educator article to the membership, I want to share some thoughts of what I perceive my job to be and where I plan to dedicate my energies during my term.

First and foremost, I want to thank the Membership for your support and confidence in my transition into the role of Chief Steward. I acknowledge the trust you have put in me and pledge to put your concerns, both individually and collectively, as my number one priority. I would also like to share how impressed I am to be working with the high quality, pragmatic and dedicated Officers and Stewards of Local 110, led by Darryl Bedford. Apart from having an encyclopedic mind, Darryl is well prepared on every issue. We are in extremely good hands.

### Conflict, Disrespect and Bullying

My journey to this position has been a whirlwind. Like many members, I had not been an active member of the Union, nor did I ever imagine that I would be. Taking on a leadership position was even further from my mind. However, as is often the case, collegial circumstances within the workplace changed. Since the imposition of the last contract, I found myself being a witness to declining employee relations, and then an unwitting recipient of an elevation of conflict, disrespect and bullying in the workplace.

Having completed the College's course on Respect in the Workplace, I attempted to address my situation informally through the procedure outlined within the Respectful College Community policy. What I found was that the spirit of the policy is not consistent with management's application of it. The only processes that provided me with security were those prescribed by the terms of the Collective Agreement and the support offered by the Union. Once introduced to the Union process, I soon found out that

what I believed was an individual issue, was in fact a systemic problem.

It became apparent that incidents of disrespect, bullying and intimidation by management are common, and that management's tactic has been to treat these incidents as isolated, and to isolate the victims. Frankly, I'm shocked at the pervasiveness of this one issue within our College. There are reports of occurrences in many schools and departments from faculty and support staff. I have to believe there are examples even within levels of management itself. Apart from their legal responsibilities, one would assume that senior management would want to create a safe and inviting professional workplace free of this behavior. However they appear in many cases to be turning a blind eye.

Bullying, harassment and disrespect issues have been top concerns brought forward by members to the Local over the past few years. For every faculty member who comes to the Union for guidance, or to file a grievance, there are many more who decide not to address their issues for fear of reprisal or retribution. We know members who are witnessing these incidents, but do not stand up and support their colleagues, likely due to their own fears of reprisal or retribution. These are valid concerns.

We counsel our children to stand up to bullying, but as adults we are afraid to do so for fear of losing our jobs. Bullying, harassment and disrespect are a pox on any quality organization and like any disease, it lies undetected until it is explored.

Management has a duty to seek out where this is happening and correct it. Any organization that strives to be best in class cannot accept or tolerate this behavior from any employee. Reputations are at risk.

### Improving Communications

Of equal importance to me is the quality of our communications with our members, with management and with the community at large. Relations with the administration have been tepid at best over the past number of years. You the members have elected a new group of Officers, and we have done our part to be more professional and respectful in our communications. One of our first steps was to change the name of the newsletter to The Educator, in recognition of our responsibility to educate our members.

Also, the focus of the Local has been to improve communications with management. Recently we have seen some improvement in this area. Your Officers and the College's Academic Leadership Team have engaged in a process to promote dialogue. We are hopeful that pragmatic and sincere discussions will effect change. Our approach is to keep to the facts and keep emotion tempered. There will always be issues that are upsetting that can inflame members and management, but the successful resolution of the issues will be determined by the manner in which they are resolved. The quality of an organization is measured by its respectful relationships. I am committed as Chief Steward to promote respectful communications in the workplace.

There has been a long and challenging history of union/management relations. It will take time to reestablish trust on both sides. However, history is just that, history, and we have reason to be hopeful that our relations can improve as we move forward and into the future.



How will we know we're making progress? Simply, by assessing how all parties work through the tough issues such as those we are facing right now. Two which have ended up as grievances are respect issues and short term disability.

A prime example of one area where we could collaborate in a respectful manner relates to Short Term Disability benefits for faculty. Pre-Morneau Shepell, the College managed STD respectfully by supporting employees to use sick leave as needed, and when ready, working to get the employee back to work. However, circumstances changed and the College contracted the services of Morneau Shepell to take over this process. We are now seeing long serving, loyal employees with no history of abusing the system being subjected to harassing calls and unreasonable demands from the contractor to prove they have legitimate health concerns.

### On-line Courses

The last issue that will be a priority for me emanates from the development of new on-line courses. This new format of delivery is not well addressed in our current collective agreement. Equitable distribution and quantity of work that the on-line courses present need to be considered. There are a number of issues that arise with the on-line model. These include class size, course development time, preparation time, evaluation criteria and time, intellectual property, recording and reuse of recorded courses, use of images and ideas of the original professor, and so on. These issues are not going away. As our college grows more schools are developing online courses and more faculty members are voicing their concerns and frustrations.

Depending on the response we get from the College, we will either be working with them to find solutions and remedies to these issues, or we will be aggressively grieving contraventions of the collective agreement. Obviously, our preference will be to enter into discussions with management to resolve issues before they become greater problems. But as they say, "it takes two to tango."

### On Membership

We have a lot on our plate, not the least being that we are entering a contract year. Stay informed of the issues and the progress of negotiations by accessing the local's website [www.opseu110.ca](http://www.opseu110.ca).

Let me end by reminding you all of the value of your participation. I encourage you to feel confident that you can let your Union know if and when you have problems. You can reach us in the Local 110 office between the hours of 9am and 3pm—Monday through Friday.

I am reminded of a recent conversation I had with a member who is not a friend of the Union. This individual stated to me that the Union only wants conflict, is out of touch and doesn't understand the "real economics" of the world outside the College walls. They challenged us to "get real".

Well...we are real. I reminded the member of the fair gains made by members, both past and present under the Collective Agreement. While on one hand it was easy to be dismissive of the Union, but on the other, the member seems happy to accept the current pay, benefits and working conditions here at Fanshawe. However, if one doesn't like working in a Union environment, and the benefits it brings, then he/she is always free to apply to one of the private colleges in town as they are always looking for the quality of educators Fanshawe produces.

I appreciate where the member was coming from, but I'm not in agreement. We may not all agree with the Union's position on every issue, but realistically, I think we all realize that we wouldn't have such good quality of education, employment or employees without a strong union.

Many of us have held, or are currently holding part time positions within the College system. It is during these times of employment where individuals can experience and decide if working under a collective agreement is right for them. By accepting full-time or partial load positions, individuals are accepting of benefits (and sometimes restrictions) of working under a

collective agreement. But blaming the Union for problems that are rarely of our making does not acknowledge the benefits of membership. Employment gains did not magically appear, nor were they given by a benevolent employer. These gains were achieved through collective bargaining.

Some members might feel that individually they don't need the Union – they're working hard, get along with management, and that their students like them—everything's rosy! However, isn't it uncanny how situations change and individuals end up in our office – walking in the door at some point when they realize that management is not necessarily on their side. Just like the Union, management uses the Collective Agreement to their benefit, and in fact one Dean councils his/her peers in management to see the Collective Agreement not as a limiting factor, but as an opportunity. Hmm!

And while the Union is often perceived as a source of conflict, it is in fact rarely the source, but the outlet to which conflict is resolved. From what we've seen for various reasons, many members don't want to deal with conflict on their own. However conflicts have to be resolved using a fair process. Not all conflict is bad – it can be a byproduct of a vibrant, adapting organization when dealt with in a constructive manner. Respectful voicing of opinion and employee engagement is vital, and research shows that those organizations that accept and harness conflict in a respectful tone prosper over the long run.

We're not seeking conflict: we're seeking solutions that are collaboratively achieved in a respectful, fair and equitable manner. However, where required by circumstance to defend our members, we will do so as vigorously as we can.

Your stewards are volunteers, putting themselves forward for the benefit of the members, the College and the students. Regardless of your personal views of the Union, we will be there for you if and when you need us. We should all be thankful that they're willing to stand beside members when they need it the most. When all is said and done, know we have your back. ☺

## What Medical Information Is The College/Shepell Entitled To?

In December 2009, Fanshawe College changed the contract company they use to handle Short Term Disability and Return to Work issues. Individuals whose cases have been handled by the new provider Morneau Shepell (was Shepell-fgi) have been alarmed by the threats to their wages and benefits if they refuse to release private medical information. You will be relieved to know that grievance arbitrators have been very careful not to allow employers access to private medical information.

Simply put, the employer is entitled to information from your family physician supporting an absence. At Fanshawe, the policy specifies that medical documentation must be provided when absent for 5 consecutive days or more.

The general rules regarding access to medical information are:

- It is limited to information certifying that you must be absent for medical reasons; it does not include the diagnosis. A document from a qualified medical doctor that an employee is away and unable to work due to illness or injury is legally considered to be sufficient proof to justify the absence.
- Employees must have their doctor provide functional information (i.e. what they are able to do or not do) to ensure a safe return to work.
- Depending on the condition, the functional ability form may be limited to physical information or sometimes, depending on the case the physician may also provide psychological factors, such as your ability to concentrate if that ensures safe accommodation.
- The College can request prognosis. A prognosis is a professional estimate of if and when you might be able to return. This allows the employer to plan for a replacement worker if the absence is lengthy.
- Information about diagnosis, treatment and medications should not be collected by the College or an agent of the College (Morneau Shepell). An employer's concern for an employee or their desire to assist the employee does not trump your privacy rights. If they ask for private information, they must make it clear that you are not being ordered or threatened to provide it.

Just because Morneau Shepell has nurses on their staff, it does not mean that they have greater rights to access and use your private information than the College. They are agents of the College.

The balance is that the employer gets enough information to run their business and operation (when will you return and what accommodation do you need for a safe and successful return) and you get to keep your private medical information private.

There are some instances when the employer can ask for more information such as a situation when there is reason to doubt that your medical certificate is legitimate. If that is what you are facing, then call for help from your union. If the College is asking you for a broad consent for access to medical information you should contact the union for assistance and advice.

We are here to help. Local 110 can be reached at (519) 452-4205 and [union@opseu110.ca](mailto:union@opseu110.ca). Please also feel free to drop by our office in D2018 and make an appointment to meet with a representative of the Local. ☎

## WHAT CAN YOU DO TO PROTECT YOURSELF?

1. Always follow required practices for calling in sick. The new Absence Management policy says to notify your manager or supervisor of any medical absence from work and supply your expected date of return.
2. If you're off for 5 days or more, notify the union (contact information at right) so we can inform you of your rights and responsibilities.
3. For all communications with Shepell or the College, written or oral, you do not have to reveal your diagnosis, procedure, type of surgery and so on. Read box above!
4. If Shepell or a College representative phones you while you are off sick, remember your rights as listed above. When in doubt, refer the caller to your physician.
5. We advise you to read College policies and the Collective Agreement, particularly at this time of sick leave denials.

Reach Local 110 at —

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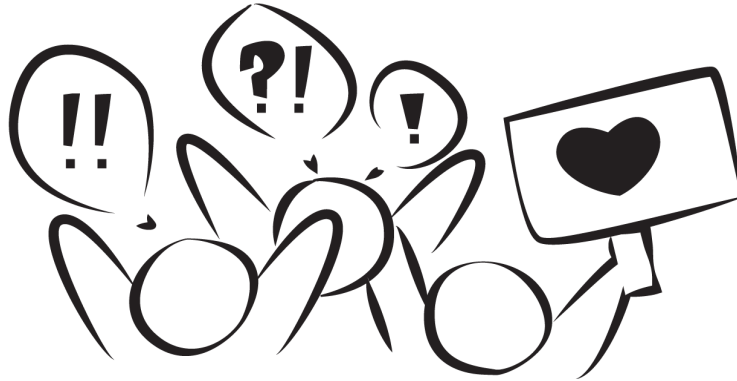
**YOU DON'T HAVE TO GO IT ALONE**

## Advocacy

### What have we done so far about denied sick time?

1. Met with Shepell re. individual cases
2. Supported and counselled members throughout their attempts to get the sick time they need and are entitled to
3. Warned members about the situation (e.g., see "What Medical Information is the Employer Entitled To?")
4. Filed a policy grievance that forced Shepell to change their health forms
5. Informed, and liaised with other locals regarding Shepell and STD issues
6. Advocated one-on-one with various department Chairs
7. Met with Human Resources
8. Met with Chair and Vice Chair of the Board of Governors (Britta Winther and Crispin Colvin)
9. Met with the Academic Leadership Team (ALT) at the College: Senior Academic VP Lane Trotter; Deans David Belford, Pam McLaughlin, Vertha Coligan, Dan Douglas, Gary Lima and Susan Cluett; Terry Boyd and Deb Wilkins
10. Filed individual grievances
11. Brought this issue to the provincial level — now on Bargaining Agenda

WE'RE NOT DONE YET.



## Sick? Stay home or miss even more work

Sick? but still going to work? You'll probably end up taking more sick days in the future than colleagues who stay at home when unwell, according to a Swedish study.

Researchers at the Karolinska Institute of Stockholm found that workers who go to work feeling sick—termed sickness presenteeism—have higher rates of future work absences due to illness.

Gunnar Bergstrom, who led the

study, said these findings suggest that measures attempting to decrease work absences could inadvertently have the opposite effect and show that taking sick leave when appropriate benefited the workplace.

The study, published in the *Journal of Occupational and Environmental Medicine*, was based on research involving two groups of workers—about 3,750 public-sector workers who were mainly female, and 2,500 private-sector

workers who were mainly male. In the first year of the study, 19 per cent of public sector workers and 13 per cent of private-sector workers had more than five sick-presenteeism days.

For these workers, the risk of having more than 30 days of absenteeism the following year was 40 to 50 per cent higher than for workers who had fewer days sick in the office. ¢

~By UCS/CALM

# THE BIG PICTURE

Perhaps you're not a detail oriented person and you don't want to get mired down in particulars. What is the big picture with the recent changes in our health benefits here at Fanshawe College?

## American Health Management Model

It appears that when it comes to access to your sick days, Fanshawe College has adopted an American managed health care model. The result is the denial of your necessary, medically supported absences with the stock phrase "the information received to date remains insufficient to justify your absence from work." If you receive a second denial, on your appeal, the rationale expands to this: "Morneau Shepell has received your request to review the original decision denying your STD claim. Morneau Shepell's Appeal team and internal medical consultant have carefully reviewed all of the information received to substantiate your continued absence, and regrets to inform you that that information received to date remains insufficient to justify your absence from work."

Outside medical consultants are overruling and/or ignoring the evidence supplied by your own health care professionals.

## Loss of Control / Powerlessness

Being faculty means that we are people who rely on our ability to communicate with and persuade others, as well as enjoying some control over our working lives. Crashing into the brick wall of "attendance support" or "absence prevention" bureaucracy (services that Fanshawe College pays for) is a terrible shock.

One member remarked that the worst thing about her experience with fighting for sick days wasn't actually the two denials, though they were bad enough. The worst part was the feeling of utter powerlessness she has experienced, and continues to feel, throughout the process. Soon after that came hopelessness, and additional illness.

Several members have been told, twice, that their physicians' medical documentation is not enough. There is no valid reason for denial given, and no venue in which to represent one's case. If members insist they still need their sick time, they are forced to take vacation days instead.

In addition, there is no longer any significant control over who sees your health records due to off-site processing and the outside consultants used by Morneau Shepell.

## "Black Book" Timelines

Morneau Shepell and the College are now following prescribed, formulaic guidelines that determine how long people should be off. These guidelines seem organized by broad diagnostic categories. Note that diagnostic information is not information that Shepell or the College is supposed to have.

Conversations that Shepell caseworkers have had with members reveal that Shepell follows what we call a "black book" of timelines for medical absences, regardless of individ-

ual circumstances, how ill you may be, and what your physician advises.

For a concussion, you receive 3 days, Shepell/Fanshawe says (tell that to Sidney Crosby!). Did you stay off longer because your doctor told you to, and you weren't feeling well? Well, those days over three will subsequently be taken off your vacation time if you have any. If you don't have any vacation time in the bank, you will have to repay the College for the time off.

## Fanshawe College Policies and Procedures Changed to Support Morneau Shepell

Two Fanshawe College policies have been changed without notice to the union or the general College community. Policy 1-B-34 Absence Management was changed in April 2012 and 1-B-37 Privacy and Confidentiality of Employee Health Records was changed in March 2012. Both were changed by the Senior Leadership Council and the policies' Sponsor is the Director, Human Resources.

Additionally, we believe that the Fanshawe College absence reporting system was changed over a year ago from days to hours to support Shepell's "proprietary software system" which is part of the "Attendance Support" service in the contract.

The College is not following its stated commitment to transparency. Significant policy changes that impact all employees are being made without consultation and posted without notification.

All employees at Fanshawe College are all under this new system—faculty, support staff and administration.

## What's It All About?

Fanshawe College employees being forced to take vacation days rather than being able to access their sick day entitlement in an attempt to reach an absence reduction target percentage guaranteed by Morneau Shepell and/or sought by Fanshawe College. Some are being ordered to repay salary for sick days already taken. Requests for workload reductions (supported by medical documentation) are being denied.

Because this absence reduction is being sought, two essential questions arise:

1. When did this College decide that its sick employees were malingerers and fakers? –or–
2. When did Fanshawe College decide that squeezing its loyal, hardworking employees to "better manage absences" was an admirable and appropriate management goal?

The unsupported assumption of fakery, and the poor decision that absences need to be reduced were factors in the months leading up to December 1, 2009, when Fanshawe College contracted Morneau Shepell as its third party health management agent.

The false assumption and poor decision are still in effect. ☹