What if Ma and Pa mistreat their workers? Education and solidarity needed to help workers exercise their rights

By TRACY GLYNN

Reducing poverty is fashionable where equality is unimaginable

Fired by a union-busting boss, the workers of Hot and Crusty Bakery in New York City occupied the closed bakery and held a sidewalk picket for over 40 days—forcing the owner to cede to their demands, which included the reopening of the bakery, rehiring of all the workers and recognition of their newly formed union. Check out an upcoming film about the workers’ victory, The Hot and Crusty Story at: thehandthatfeedsfilm.com. Photo by Launditu, Workers Center.

By GARY HEATHCOTE

Recently, while patrocinizing an eatery in the Fredericton region, I was reminded that one should not assume that locally-owned small businesses are necessarily more ethical in their labour practices than large corporate chains or franchise operations. A business may present itself as a family enterprise, serving its community, but Ma and Pa’s concept of family may be decidedly dysfunctional, and they may not treat their employees with fairness, dignity and respect. From independent sources, I learned that tips intended for the wait staff are hoarded by the manager of this restaurant. During high volume shifts, the manager pockets hundreds of dollars of tips, dispensing moiety portions to employees, usually only $5 or $10. Only when the manager is absent are wait staff free to share their tips equally and fairly with each other and the kitchen help. Sadly, these workers assume that such skimming of tips is within the bounds of managerial privilege. As complaints about other workplace issues have been met with cutbacks in hours, and appeals to the owner about the manager’s unfair treatment and greed have been met with disinterest and ignoring, morale is in the dummfoundingly dispiritingly dismally disheartening workplace environment.

We probably all have friends and family members who might shrug at this and say, well, life is unfair and these workers are free to leave and seek employment elsewhere. But as a social movement and viewed in the bigger picture point: What management (and ownership, through complicity) is practicing at this restaurant is unlawful, under statute of the New Brunswick Employment Standards Act (NBESA). This Act includes an explicit statement that tips and gratuities are “the property of the employee to whom or for whom they are given, and shall not be withheld by the employer or treated by the employer as wages.” Elsewhere, the Act states that an employer may adopt a practice where tips and gratuities are pooled, but this can only be done when employees agree to such sharing, and this practice “does not give the employer a proprietary interest in the tips and gratuities.”

Since employees at this restaurant are unaware that their mistreatment is actually unlawful, some key questions are raised. 1. Are New Brunswick wage workers who earn tips and gratuities generally unaware of their protection under the NBESA, given that employers are not required to post any information about tip skimming or tipping out being unlawful. Under the Act, only regulations about minimum wage are required to be posted in a prominent location in the workplace. Since this Act was passed in late 1980s (1983), and provisions banning worker abuse are not required to be posted, it is unlikely that a largely unorganized, minimum wage earning workforce would be generally aware of provisions that ban such exploitation.

2. If there are indeed three ways in which one can file a complaint under the NBESA. The first is to file an Ordinance Violation Notice at www.grnb.ca/labour, and on the Standards Online Complaint Website. The complainant can be kept confidential by selecting “No” to the first item on the form, which is Permission. The second way is to request a paper complaint form by writing to the Department of Post-Secondary Education, Training and Labour, Employment Standards Branch, P.O. Box 6000, Fredericton NB E3B 5H1, or phoning 1-888-452-2687. The third way is to visit the nearest Employment Standards Branch and speak to an officer. Regional offices of this government branch are located in Bathurst (275 Victoria Street), Cornwallis (551 Main Street), Dieppe (200 Champlain St.), Edmundston (121 rue de l’Eglise), Fredericton (498 Whitehorse Parade/ID Cutty Place).

3. While the answer to this question is not known, such unlawful practice could well be widespread, cloaked in silence resulting from employees not knowing about the Act, or sections of the NBESA. More is known about the prevalence of tip skimming in jurisdictions where there is no protection under the law, such as Ontario. A common food industry practice is that managers and owners take “tip outs”, a percentage of the tips, to supplement their own wages. Ontario MPP Michael Prue is presently making a third attempt to outlaw such practices, and his bill applies not only to restaurant employees but also to those who rely on tips for their livelihood, such as hairdressers, chambermaids, and part-time taxi drivers.

New Brunswick, along with Prince Edward Island and Quebec, is one of three provinces not to have laws that prohibit the banning of tip and gratuity exploitation by employers. While this speaks well of past New Brunswick legislators, tip skimming in this province continues (law or no law), probably for the reasons suggested. Surely, a step in the right direction would be to get the government of New Brunswick to urge employers to post information about the illegality of tip skimming and tipping out in all service establishments staffed by workers.

Further, we can all do our part to help: Talk with your waitress, hairdresser or other service worker during appropriate moments. Ask them how they like working there, and if management treats them fairly. Assure them that you have an interest in knowing that when you tip in appreciation of good service, that the tip will go to those who deserve it. And if that does not happen at their place of work, spoil these beans and let them know that they do not have to take it anymore.

Gary Heathcote is a friendly troubleshooter and retired anthropologist living in Fredericton.

Have you experienced wage theft or other wrongful treatment from your employer? The Fredericton Industrial Workers of the World (IWW) want to know. The IWW is an open union to all workers, whether or not they have representation rights in their workplace. The IWW is not the job, recognizing that unionism is not about government certification or employer recognition but about workers coming together to address common concerns. Sometimes this means striking or signing a contract. Sometimes it means refuse or reduced work with unsafe equipment. Sometimes it means agitating around particular issues or grievances in a specific workplace, or across an industry. Contact the Fredericton IWW at frederictoniwwriseup.net

By GEORGE VAIL

"Food bank usage is an... (continued on page 2)"