

## RESOLUTION OF EMPLOYEE CONFLICTS IN THE HOSPITALITY SECTOR IN THE UNITED STATES: AN ANALYSIS OF ARBITRATED AND LITIGATED CASES

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### ABSTRACT

This study explores conflictual issues and conflict resolution in the US hospitality sector, particularly with reference to unionized workers through the arbitration process. Using search terms of “hotel” OR “casino” AND “discipline” from 2006 to 2010 in the BNA Labor and Employment Law Library, cases were retrieved and content analyzed to evaluate variables such as laws under which these cases were resolved and relevant contractual collective bargaining provisions. The labor organizing issues included unfair labor practice, unauthorized use of property for union campaigning, refusal to remove union insignia. Discrimination issues included not getting time off for religious observation and charges of disparate treatment. Poor behavior issues included abusive language, racial slurs towards guests, ignoring customer requests for service, unauthorized rest period, and unauthorized use of property for personal reasons. Pay issues included determination of eligibility and computation of overtime pay, and unequal protection clause with respect to pay under city ordinance. Outcomes in terms of how employees fared include failure to have progressive discipline, suspension, discharge, and reduction of penalty.

### KEYWORDS

Employee Discipline, Tourism, Unions, Hospitality.

### 1. INTRODUCTION

This study explores conflictual issues and conflict resolution in the US hospitality sector, particularly with reference to unionized workers through the arbitration process. A main purpose is to make recommendations to management about managing such employee relations issues to improve customer satisfaction.

### 2. LITERATURE REVIEW

Traditionally, employee conflicts have been settled through a variety of means, especially in unionized settings. However, according to the Bureau of Labor Statistics, in 2011, only about 8 percent of workers in hotels and other accommodations are union members or are covered by union contracts,

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compared with 14 percent of workers in all industries combined. This means that only a very small proportion of workers in the hotel sector are protected by a union contract which would include grievance arbitration. Other employees in the sector, seeking redress, would have to revert to the judicial system for external resolution. Just how an employee fares under arbitration and litigation in the resolution of conflict is the subject of this research.

Existing research on the topic tends to focus in the following categories: organizational effectiveness of unionization, the basis of the contract vs. law for the resolution of conflict, specific issue research such as gender discrimination or appearance and single country studies:

Edralin's (2009) research evaluates the organizational effectiveness of unions in the hospitality sector, among others, to ascertain whether workers interests are sufficiently taken care of by their union representatives. On the other hand, Head and Lucas (2004) analyzed whether these needs can be met in non-unionized organizations. Other researchers worry about whether the employer or the employee is making "laws" relating to workplace justice (Hyde and Ressaissi, 2008). Lucas (2009) suggests that the low rate of unionization in the hospitality sector is structural due to industry specific characteristics.

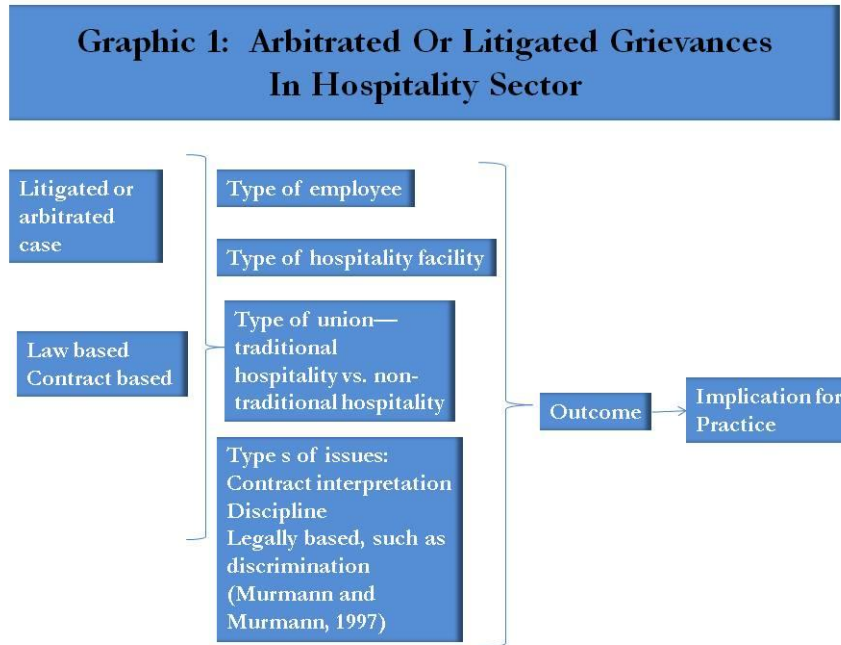
One important issue is can third parties arbitrate conflicts based on law rather than based on the contractual arrangements (Corbett, 2007).

Specific issues researched include the following areas of concern: Gender based discrimination in the hospitality sector is a widely recognized problem and Dilts and Samavati (2007) have noted arbitration as a resolution mechanism for this. Appearance of employees in the sector has also been of research concern (Yelnosky, 2007). Existing research on employee conflict resolutions in the hospitality sector consists of studies in single countries including Australia (Davidson, Timo, and Wang, 2009); Great Britain (Luca, 2009) and Canada (Matters, 2007).

### **3. METHODOLOGY**

Using search terms of "hotel" OR "casino" AND "discipline" from 2006 to 2010 in the BNA Labor and Employment Law Library, cases were retrieved and content analyzed to evaluate variables such as laws under which these cases were resolved, including the Fair Labor Standards Act, the National Labor Relations Act, and relevant contractual collective bargaining provisions.

In a preliminary analysis of some cases, the following issues were identified and which run the gamut of issues. The hypothesized relationships are portrayed in Graphic 1 as depicted below. The labor organizing issues included unfair labor practice, unauthorized use of property for union campaigning, refusal to remove union insignia. Discrimination issues included not getting time off for religious observation and charges of disparate treatment, Poor behavior issues included abusive language, racial slurs towards guests, ignoring customer requests for service, unauthorized rest period, and unauthorized use of property for personal reasons. Pay issues included determination of eligibility and computation of overtime pay, and unequal protection clause with respect to pay under city ordinance. Outcomes in terms of how employees fared include failure to have progressive discipline, suspension, discharge, and reduction of penalty.



**4. MAIN CONTRIBUTIONS**

The study contributes in the following ways. It adds to knowledge regarding how conflicts are resolved in the hospitality sector in the United States. It highlights what laws and what issues come into both arbitration and litigation of such conflicts. It will make recommendations to hospitality managers about how to manage to avoid grievances, arbitration and/or lawsuits.

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