

IN THE MATTER OF AN ARBITRATION

BETWEEN:

GREATER VANCOUVER REGIONAL DISTRICT

(the "Employer")

AND:

GREATER VANCOUVER REGIONAL DISTRICT EMPLOYEES' UNION

(the "Union")

(Steve Farrell Suspension)

ARBITRATOR:

Vincent L. Ready

COUNSEL:

Alan J. Hamilton, Q.C.  
for the Employer

Marjorie Brown  
for the Union

HEARING:

August 16, 2011 and  
February 3, 2012  
Vancouver, BC

PUBLISHED:

February 15, 2012

This constitutes a final award in connection with a grievance filed by the Union on behalf of Mr. Steve Farrell, the grievor. It is not necessary to outline the detailed facts giving rise to this award. Suffice it to say the grievor was engaged in an altercation with another employee on January 18, 2008 and was suspended for one day without pay.

The Union grieved the suspension. An integral part of the Union's grievance centered around the issue of whether the Employer breached its harassment policy by failing to respond to the grievor's requests for assistance in addressing what the grievor considered to be objectionable conduct, including references by a co-worker to his mental state.

The matter was referred to arbitration by the Union on May 4, 2009. The Employer responded to the Union's grievance by advancing a preliminary objection claiming the Union was improperly expanding the grievance and therefore the arbitration board was without jurisdiction to hear the Union's claim for damages arising out of allegations that the Employer had breached its workplace harassment policy.

On December 1, 2010 this Board dismissed the Employer's preliminary objection. On July 26, 2011 the Employer rescinded the discipline and agreed to and paid the grievor one day's wages plus interest. That left the issue of monies owed to the grievor, if any, arising out of the alleged breach of the harassment policy, along with other related matters, to be decided.

On August 16, 2011, the Board convened a hearing on the issue of damages. At the hearing the parties asked the Board to attempt to mediate the outstanding differences between them.

In the end, the parties were unable to resolve their differences and referred those differences back to this Board for final and binding adjudication.

Having considered the submissions and arguments of the parties with care I award the following:

1. This award confirms that the Employer has rescinded the letter of discipline issued to the grievor on October 7, 2008.
2. The Employer paid the grievor one day wage loss at his daily rate for 2008 plus 6.25% deferred compensation.
3. The Employer shall pay the grievor \$10,000.00 net of taxes.
4. The Union and Mr. Farrell will not file, maintain, or pursue any grievance, action, claim, or complaint regarding any aspect of this matter. Without limiting the generality of the foregoing, the Union and Mr. Farrell will not file, maintain, or pursue any grievance or Human Rights complaint regarding the events leading up to the altercation, the altercation, the suspension and/or the grievance. The Union will accordingly withdraw the grievance.
5. The Employer will remove from the grievor's personnel file all references to any imposition of discipline in relation to the altercation.

6. Future Disputes re Altercation

The parties are directed to adhere to the content of the letter addressed to Bill Eastwood from Johnny Carline, Chief Administrative Officer, dated June 24, 2011. The relevant section being:

Typically, if the Employer is directly informed, in a timely manner, of an incident between employees involving an allegation of inappropriate verbal exchange(s) without any allegation of physical or threatening behaviour (the "Verbal Incident"), the Employer

may, after conducting whatever investigation it deems necessary, impose the following discipline with a view to the specific circumstances of the case (taking into consideration, but not limited to, the "William Scott" factors):

- a. For the first offence, the Employer may give a verbal warning to one or more participants;
- b. For the second offence, the Employer may issue a written warning to one or more participants;
- c. For the third offence, the Employer may impose a suspension to one or more participants.

Notwithstanding the above, the Employer reserves its right to impose any form of discipline, up to and including termination, depending on the specific circumstances of a given case, including the severity of the Verbal Incident. The Union maintains the right to grieve any imposed discipline based on any relevant clauses in the collective agreement.

It is so awarded.

Dated at the City of Vancouver in the Province of British Columbia this  
15<sup>th</sup> day of February, 2012.



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Vincent L. Ready, Chair