

IN THE MATTER OF AN ARBITRATION

BETWEEN:

Municipal Property Assessment Corporation

And

OPSEU

(Multiple Grievances regarding Layoffs)

Before: William Kaplan
Sole Arbitrator

Appearances

For the Employer: Daniel Fogel
Hicks Morley Hamilton Stewart Storie
Barristers & Solicitors

For the Union: Kristin Eliot
Eliot, Smith
Barristers & Solicitors

These grievances proceeded to a hearing in Toronto on May 30, 2005.

Introduction

In May 2001, MPAC announced a major reorganization. As part of this reorganization, a number of employees received layoff notices (although very few employees involuntarily had their employment severed). In the aftermath of that reorganization, and issue of those layoff notices, a large number of grievances were filed. By the decision of the parties, an expedited mediation-arbitration system was put into place to fairly and quickly resolve the numerous outstanding grievances in dispute. Accordingly, the parties submitted detailed written briefs setting out the facts in issue and their respective positions and arguments as to the appropriate disposition of the various layoff cases. The first round of those layoff cases proceeded to a hearing on May 30, 2005.

While various arguments were advanced and, in all cases, were tailored to individual grievors, the union's main position, briefly put, is that the grievors were all qualified to move directly to certain identified positions, had the skill and ability to perform those positions with minimal orientation and should have been allowed, given their seniority, to move directly into these specific targeted positions. In response, the employer submits that the grievors, by and large, did not possess the qualifications to assume those

positions “without training” as required by the collective agreement and that seniority did not, therefore, come into play.

Not surprisingly, given the extent of MPAC operations, and the scope of the reorganization, the union was able to point to a few examples of employees in comparable positions who received what appears to be more than simple orientation facilitating their movement to desired positions. To the extent this took place, which the employer rejects as having happened, the employer argues that it was anomalous and, in any event, not what was required by the collective agreement.

Having carefully considered the evidence and arguments of the parties, I am of the view, subject to particular awards below, that the employer was in compliance with the collective agreement and with the Futures Protocol negotiated between the parties. Moreover, while the submission was made in every case that the employer failed to properly assess the grievors, in my view, on the evidence presented, this submission cannot be maintained. Certainly, whatever flaws were identified, they were not fatal. Several grievors, it must be pointed out, voluntarily resigned after filing their grievances. It should also be noted that with one exception, for which the

parties worked out a consensual post-hearing mechanism designed to ensure due process, all incumbents were notified of their right to attend and participate.

Decision

1. Grievance of Jean-Paul Maurice

Submissions completed. Decision deferred on agreement of the parties pending resolution of a related grievance involving a more senior grievor.

2. Grievance of Everett Kelly

Submissions completed. Decision deferred on agreement of the parties pending resolution of a related grievance involving a more senior grievor.

3. Grievance of Jacques D'Aoust

Dismissed.

4. Grievance of Michel Lacelle

Dismissed.

5. Grievance of Annette Kimelman

Grievor to be paid \$2000 less deductions required by law. Payment to be made within thirty days.

6. Grievance of Joanne Mercier

While the grievance is dismissed, it should be noted that this finding is made without regard to the employer's performance based allegations.

7. Grievance of Martin Vink

Grievor to be paid the sum of \$900 less deductions required by law.

Payment to be made within thirty days of today's date.

8. Grievance of Roxanne Levy

With the agreement of the parties, this grievance is disposed of based on the comprehensive and detailed written submissions. Grievance dismissed.

9. Grievance of James Simon

Pursuant to Minutes of Settlement between the parties dated September 4, 2003, and the agreement of the parties at the hearing, it is clear that both of Mr. Simon's grievances have been consolidated and will proceed before Arbitrator Charney if otherwise unresolved.

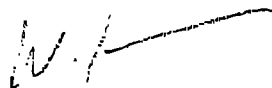
10. Grievance of Maureen Hacking

Grievance dismissed.

Conclusion

I remain seized with respect to the implementation of my award.

DATED at Toronto this 6th day of June 2005.



William Kaplan, Sole Arbitrator