

IN THE MATTER OF AN ARBITRATION

95A989
Local 240
CAAT (A)

BETWEEN:

MOHAWK COLLEGE

("College")

AND:

O.P.S.E.U.

("Union")

AND IN THE MATTER OF:

GRIEVANCE OF CAM BUCHANAN — #95A989

BOARD OF ARBITRATION:

Kevin M. Burkett	- Chairperson
Ron Hubert	- College Nominee
Sandra Nicholson	- Union Nominee

APPEARANCES FOR THE COLLEGE:

Vince Johnston	- Counsel
Ted Strauch	- Chair Motive Power Department
Steve Evans	- Human Resources

APPEARANCES FOR THE UNION:

Ian Rowland	- Counsel
Bob Pando	- President Local 240
Mike Walton	- Chief Steward Local 240
Cam Buchanan	- Grievor

A hearing in this matter was held in Burlington, Ontario on November 2, 1995, April 30 and October 9, 1996 and April 23, 1997.

A W A R D

The Union grieves in this matter that the College breached article 27.06(ii) when it laid off Mr. Cam Buchanan; a professor in the Motive Power Department with long service. It is the position of the Union that Mr. Buchanan had "the competence, skill and experience" to fulfil the requirements of a position occupied by a professor who was junior to him and therefore, should have been permitted to displace that person. Pursuant to article 27.08B, the Union identified Mr. Neale as the junior professor who occupied the position that Mr. Buchanan was qualified to assume. The College, on the other hand, takes the position that Mr. Buchanan lacked "the competence, skill and experience" to perform in the position occupied by Mr. Neale and accordingly, asserts that there has been no breach of article 27.06(ii). There is no dispute with respect to our authority to hear and determine this matter.

The relevant provisions of the collective agreement are set out below:

27.05(iii)

If requested by a member of the CESC within three calendar days following the meeting under 27.05(ii), the CESC shall meet within seven calendar days of receipt of such request for the purpose of discussing the planned staff reduction, the circumstances giving rise to the reduction, the basis for the selection of the employees affected and the availability of alternative assignments. It being understood that the College reserves the right to determine the number and composition of full-time, partial-load and part-time or sessional teaching positions, the College shall give preference to continuation of full-time positions over partial-load, part-time or sessional positions subject to such operational requirements as the quality of the programs, their economic viability, attainment of program objectives, the need for special qualifications and the market acceptability of the programs to employers, students and the community. The CESC may require that further meetings be held.

27.06(ii)

Failing placement under 27.06(i), such employee shall be reassigned to displace another full-time employee in the same classification provided that:

- (a) the displacing employee has the competence, skill and experience to fulfil the requirements of the position concerned;
- (b) the employee being displaced has lesser seniority with the College.

27.06(iii)

Failing placement under 27.07(ii), such employee shall be re-assigned to displace a full-time employee in another classification upon acceptance of the identical employment conditions as the classification concerned provided that:

- (a) the displacing employee has the competence, skill and experience to fulfil the requirements of the position concerned;
- (b) the employee being displaced has lesser seniority with the College.

27.08A

An employee claiming improper lay-off, contrary to the provisions of this Agreement, shall state in the grievance the positions occupied by full-time

and non-full-time employees whom the employee claims entitlement to displace. The time limit referred to in 32.03 for presenting complaints shall apply from the date written notice of lay-off is given to the employee.

27.08B

If the grievance is processed through Step 2, the written referral to arbitration in 32.03 shall specify, from the positions originally designated in 27.08A, two full-time positions or positions occupied by two or more partial-load or part-time employees (the sum of whose duties will form one full-time position), who shall thereafter be the subject matter of the grievance and arbitration. The grievor shall be entitled to arbitrate the grievance thereafter under only one of (i), (ii), (iii), (iv), (v), (vi), or (vii) of 27.06.

By way of background, there are three programs taught in the College's Motive Power Department. The first of these is the Motor Vehicle Mechanic Program (MVM), under which students are taught the various courses required to become a provincially certified motor vehicle mechanic. There are three phases; the common core, Phase I and Phase II. Students alternate between periods of instruction and periods of work as an apprentice mechanic. Mr. Buchanan taught the more sophisticated Phase II courses in this program. The second program offered is the General Motors Automotive Service Education Program (ASEP). This is an apprenticeship program provided exclusively to apprentices employed by General Motors dealers. This program combines MVM courses with 19 other courses designed specifically for G.M. apprentices. These 19 courses make up approximately 40% of the ASEP program. These G.M. designed courses deal exclusively with G.M. products and components. Each lasts from one day to three days. This program, as with the MVM, is government funded, with graduates earning

provincial certification as a motor vehicle mechanic. Mr. Buchanan seeks to displace Mr. Neale from his position as an ASEP instructor. The third program is General Motors dealer training under which G.M. dealer employed licensed mechanics are taught G.M. designed refresher courses. The 19 ASEP courses are included in the 90 or so G.M. dealer training courses that are provided as part of this program. Mr. Buchanan was transferred from MVM to G.M. dealer training in July 1994. He grieved the transfer and was returned to MVM instruction within eight weeks.

Mr. Buchanan is considered to be one of the best MVM instructors in the employ of the College. However, MVM instructors specialize in specific areas of instruction. Mr. Buchanan's speciality areas are air conditioning, electricals and electronics, fuels and cooling systems. The evidence is that ASEP instructors, on the other hand, are required to teach the full range of courses offered in that program. In addition, the College at the insistence of General Motors, has required that in advance of teaching in the ASEP program an individual observe the teaching of each course on two occasions and be observed teaching each course on one occasion by a qualified instructor or by a General Motors representative.

The evidence is that in the 16 years that the ASEP program has been in existence, there have only been two instances where these courses have been taught without the instructor having this required familiarization. Mr. Pat Salerno, the Manager of the Motive Power Department from 1990 to 1994, appointed Mr. Bruce Bygrave and Mr. Greg Grummett in 1994 to teach ASEP courses without the familiarization demanded by

General Motors. It is Mr. Salerno's evidence that they taught to the required standards. However, General Motors had a different view. On the basis of its inspections, it complained by letter dated April 14, 1994 that "...these present ASEP instructors (who it found to be substandard) have had absolutely no General Motors training." The letter concludes by asking that "...our regular ASEP instructors...be returned to ASEP instructing." There was a follow-up series of letters sent to the College by General Motors within the following year, reminding the College that General Motors expects that the "same development methods would apply to ASEP instructors (as G.M. dealer training instructors) to ensure the high degree of familiarity with the course content to enable credible professional delivery." The third letter from General Motors, dated March 17, 1995, stipulates that "...to qualify for the current ASEP curriculum would require at least 135 person days for an instructor who already is fully qualified to teach non-G.M. courses." The requirement to observe each course on two occasions and to be observed on one occasion before being considered qualified to teach in the ASEP program has, with the two exceptions noted (and perhaps one other), been consistently applied for the 16 years of the program's existence without complaint from the Union. The College has allowed those wishing to qualify to sit in on these courses; as Mr. Neale did prior to being allowed to teach in the program. Indeed, when Mr. Buchanan was transferred to G.M. dealer training in 1994, he was told that he would have to sit in on two occasions before being allowed to teach.

Mr. Buchanan has sat in on the following ASEP courses; steering columns, air conditioning controls, (Buick and Pontiac) (Chevrolet and Oldsmobile) anti-lock brakes and steering wheel controls. He has also taught three courses that, in his view, are the equivalent of ASEP courses. These are engine electrical and two specialized electronics courses. These latter courses have been taught in night school to ASEP students who have failed the day school course. Mr. Buchanan and a colleague reviewed the G.M. student ASEP manuals for the purpose of ascertaining whether or not he could teach the remainder of the ASEP courses. We have reviewed Mr. Buchanan's evidence in this regard and note the following: Mr. Buchanan had never taught hydraulic brakes (15002.16); did not have a manual for the 4500 NVG standard transmission course (57700.00); helped an instructor when he was a technologist 10 years before but had no other involvement with the rear axels and drive shaft course (14001.16); had never taught the ABS brakes courses (15500.16); had helped an instructor when a technologist 10 years before, but had no other involvement with the steering systems course (13003.16); did not have a manual and had limited involvement with G.M. speciality trucks (14002.08); had never taught wheel alignment (13003.00), vibration diagnosis (13023.16) or diesel electric fuel injection (16015.24). Although he has not observed each of the other 10 ASEP courses on two occasions and been observed on one occasion, he has either taught or has related experience that, in our view, would provide him with the requisite knowledge to teach the other 10 G.M. specific ASEP courses.

Mr. Pat Salerno, the manager of the Motive Power Department from 1990 until 1994, was called to testify by the Union. He confirmed that any student failing a regular MVM or ASEP course taught in the day school could repeat the course at night in order to upgrade. He acknowledged in cross-examination that G.M. will only allow a student to upgrade to a pass through night school. He was asked in chief if, apart from the General Motors requirement that an instructor observe on two occasions before being allowed to teach, there was any reason that the grievor could not teach in the ASEP program. He replied that certain of the MVM faculty could teach in the ASEP program and he was one of these. He went on to comment that he is on record that many of the faculty could teach on the G.M. side with a little instruction. He admitted in cross-examination that G.M. will only accept those qualified to its standards to teach its apprentices. He further admitted that the department gives its faculty the option of training in the G.M. area on non-contact days. Mr. Neale had taken advantage of this opportunity. Mr. Buchanan, when sent to the G.M. area for training in May/June 1994, grieved. Mr. Salerno sent a letter to Mr. Buchanan dated July 20, 1994 in response to his grievance confirming his capabilities and the intent to rotate all suitable faculty members through the G.M. training program. Mr. Salerno was asked if it concerned him that because of the specialization in the MVM area, MVM instructors could not simply step in and teach in the ASEP program. He replied in the affirmative.

Mr. Greg Crichton, the coordinator of G.M. training, was called by the College. He testified that there is a local agreement with the Union under which teaching contact

hours in the G.M. area are reduced because of the requirement for heavy preparation caused by constantly changing courses and theory. He testified that the instruction manuals, as distinct from the student manuals relied upon by Mr. Buchanan, are much more detailed and complicated. He also confirmed that G.M. faculty are not allowed to specialize. It is his uncontradicted evidence that G.M. faculty teach the full spectrum of courses. He conceded that Mr. Buchanan had the capability to teach the ASEP courses in his specialty areas but testified that he could not have taught the remainder of the courses. His understanding is that Mr. Neale sat in on each ASEP course that he subsequently taught on the required two occasions; either as an MVM faculty member or as an ASEP faculty member.

Mr. Ted Strauch, the chair of the Motive Power Department, was called to testify by the College. He also confirmed the specialization in the MVM area as reflected in a local agreement that relieved the College of the obligation to adhere to the SWIF System until January 1995. It is his uncontradicted evidence that this local agreement applies to both the ASEP and G.M. dealer training. He referred to Mr. Buchanan as a valued MVM faculty member who specialized in the electrical/electronic area. He acknowledged that the January 24, 1995 and two subsequent letters from G.M. formed part of his decision not to allow Mr. Buchanan to bump Mr. Neale. He testified that the College had to retain its G.M. instructors. Mr. Strauch testified that he had a conversation with Mr. Buchanan at the time of his transfer to the G.M. area and that Mr. Buchanan, firstly, complained about the fact that the G.M. courses are taught at the Stoney Creek Campus (he lived

close to the Fennel Campus where the MVM courses are taught) and, secondly, about the need to learn new material when he could teach the MVM courses "off the top". Mr. Buchanan did not dispute that this conversation took place. Mr. Strauch emphasized that while Mr. Buchanan attempts to separate the ASEP courses from the G.M. dealer training courses, G.M. instructors are required to teach both and that both are covered by the local agreement. The evidence satisfies us, however, that while an ASEP instructor must teach the full range of ASEP courses, there is a degree of specialization between ASEP and G.M. dealer training. Mr. Strauch was asked in chief to identify the areas Mr. Buchanan would be deficient. He replied that because Mr. Buchanan had specialized in the MVM area, there were areas of the ASEP program that he would not be qualified to teach.

Mr. Strauch did not disagree when it was put to him in cross-examination that Messrs. Miljanovic and Neale, with the help of a technician, taught exclusively ASEP courses. However, he qualified his answer by stating that Messrs. Miljanovic and Neale taught dealer training courses on an as required basis. He acknowledged that in January 1995, Messrs. Miljanovic and Neale had complementary hours to sit in on G.M. dealer training courses as part of their ASEP duties. He explained that while Mr. Buchanan would have received the same treatment if he had been an ASEP instructor at the time, Messrs. Miljanovic and Neale came with a repertoire of ASEP courses. Mr. Strauch deferred to Mr. Crichton in his assessment of Mr. Buchanan's qualification to teach in the ASEP program.

Mr. Neale commenced sitting in on G.M. courses in 1993 on his own initiative and by September 1994 had time made available to sit in on these courses on a regular basis. The Union submitted a document (Ex. #12) listing a series of courses under two headings; G.M. courses taught to ASEP by Neale and G.M. courses sat in on by Neale. The Union identified a number of the ASEP courses as having been taught by Mr. Neale without first having been observed. Mr. Crichton, the coordinator of G.M. training, was asked in cross-examination if Mr. Neale had sat in on all the ASEP courses before having taught them. He replied in the affirmative. When asked how he knew this, he replied, "My records on the G.M. side." When asked how he reconciled his answer with the information set out in Ex. #12, he replied that Ex. #12 showed only the courses sat in on from September 1994. Mr. Neale commenced to sit in on G.M. courses from 1993. Mr. Crichton further testified that Mr. Neale sat in on other courses under ASEP not shown on the list and that if these are compared to the courses that he taught, it would be found that he sat in in advance for each course that he taught. Mr. Crichton testified that it was his practice to ask each instructor, before assigning him to teach, if he had observed the course and if he was capable. Mr. Crichton was then referred to a number of specific courses (Base Brake Systems, Engine Diagnosis, Specialized Electronics Training, Transmission, and NUT550 Transaxle) and asked if Mr. Neale had sat in on these courses before teaching them. Mr. Crichton agreed that there was no record to confirm that Mr. Neale had sat in on the G.M. side but testified that he may have done so under

ASEP. Mr. Crichton reiterated that in each case, he confirmed with the instructor that he had sat in on the ASEP course before assigning that instructor to teach the course.

The Union argues that on the evidence it must be found that Mr. Buchanan had the "competence, skill and experience" within the meaning of article 27.06 to teach in the ASEP program and, therefore, because he was senior, had the right to displace Mr. Neale. We are referred to the evidence of the grievor, where he reviewed each of the ASEP courses, to the evidence of Mr. Salerno, the department head from 1990-94 who, it is submitted, testified that Mr. Buchanan was capable of teaching in the ASEP program, more so than Mr. Neale, who, it is submitted, was described as an inexperienced faculty member who required training for ASEP. We are referred to the evidence of Mr. Crichton who, it is submitted, also considered Mr. Buchanan to be "the cream of the MVM side" who was capable of teaching in the ASEP program. The Union asks us to find that the ASEP courses are separate and distinct from G.M. dealer training and that, considering the substantial overlap between MVM and ASEP courses and the prior experience of Mr. Buchanan, Mr. Buchanan is qualified to teach in the ASEP program. We are asked to further find that General Motors cannot impose requirements to qualification that go beyond those stipulated in the collective agreement; more specifically, it is submitted that General Motors cannot impose the requirement to observe each ASEP course on two occasions and to be observed on one occasion prior to teaching. The Union argues that if there is any doubt in this regard, reference need only be had to the fact that Mr. Neale had not observed each ASEP course on two occasions

and had not been observed on one occasion when he was assigned to teach in the ASEP program. Accordingly, we are asked to find that apart from the G.M. requirements, Mr. Buchanan had, at all relevant times, the "competence, skill and ability" within the meaning of Article 27.06(ii)(a) to teach in the ASEP program and, therefore, had the right to displace Mr. Neale as a junior employee.

The College argues that the onus is on the Union to establish that Mr. Buchanan had the competence, skill and experience to teach in the ASEP program and thereby was entitled to displace Mr. Neale. The College asks us to find that the Union has failed to discharge its onus in this regard. We are asked to reject the evidence of Messrs. Buchanan and Baker with respect to their ability and qualification to teach the ASEP courses as uninformed opinion based on student manuals. Rather, having regard to the teacher specialization that exists in the MVM program and to the evidence of Mr. Crichton with respect to Mr. Buchanan's ability to teach those ASEP courses in respect of which he had no experience or very dated experience, we are asked to find that he was not qualified to teach in the ASEP program. The College reminds us that of the 19 ASEP courses listed by Messrs. Buchanan and Baker, Mr. Buchanan had no experience or very dated experience with respect to 12 of these courses.

In response to the Union contention that the General Motors prerequisites are irrelevant and ought not to have been considered, the College points out that article 27.05(iii) specifies that the quality of the program, the need for special qualifications and that market acceptability of the program are to be taken into account. The College argues

that by necessary implication, the requirements laid down by General Motors with respect to the teaching of General Motors apprentices are not only relevant but also reasonable. In the face of the G.M. specificity with respect to these courses and in the face of these requirements having been in place without challenge by the Union for some 16 years, we are asked to find that they constitute prerequisites to qualification; prerequisites that Mr. Buchanan did not possess. We are reminded that only two instructors have taught these courses without these requirements in the 16 years that the ASEP program has been in existence and that both were assigned over the objection of Mr. Crichton, the coordinator of General Motors training. We are reminded that Mr. Buchanan was assigned to teach G.M. courses, which would have qualified him, and he grieved. As to the Union evidence with respect to Neale not having observed ASEP courses in advance of teaching them (Ex. #12) we are reminded that the Union document does not list the courses sat in on by Mr. Neale prior to September 1994. Rather, we are asked to accept the evidence of Mr. Crichton that on the basis of his documentation and on the basis of his direct questioning of each instructor prior to being assigned an ASEP course, Mr. Neale possessed the necessary prerequisites to teach all of the ASEP courses that he did. It is the position of the College that having regard to all of the foregoing, it must be found that the Union failed to establish that Mr. Buchanan possessed the competence, skill and experience to teach the full spectrum of ASEP courses and to further find, therefore, that he is not entitled to displace Mr. Neale.

DECISION

Under article 27.06, Mr. Buchanan must establish that he possesses the "competence, skill and experience" to teach in the ASEP program. As we read article 27.06, the requirement is for present capability. It is only if Mr. Buchanan is capable of stepping in and performing the core functions of the ASEP position that he is entitled to displace the junior employee. This then requires an examination, firstly, of what "competence, skill and experience" is required to teach in the ASEP program and, secondly, whether Mr. Buchanan possessed this "competence, skill and experience."

The ASEP program combines MVM courses with G.M.-specific courses in a comprehensive training program for G.M. apprentices. The G.M.-specific courses, which make up about 40% of the overall ASEP program, are designed by General Motors. General Motors provides the teaching manuals and updates these on a regular basis. For our purposes, the single most notable characteristic of the ASEP program is the absence of specialization. Unlike the MVM program, in which instructors specialize in specific subject areas, instructors assigned to the ASEP program are required to teach the full range of course offerings. This is significant because of Mr. Buchanan's background as an MVM instructor and his specialization in air conditioning, electricals and electronics, fuels and cooling systems.

General Motors has a long-standing business relationship with this College. Not only are G.M. apprentices taught at this College, but an extensive retraining and

upgrading program is in place for General Motors' mechanics. General Motors pays the College a fee per student in the mechanic program and, although the ASEP program is government funded, provides in excess of \$10,000 per ASEP student in the form of tools, materials, equipment and books. Not surprisingly, General Motors has considerable influence with respect to both the content and the delivery of these courses. For our purposes the insistence by General Motors that ASEP instructors observe each course on two occasions and be observed teaching each course on one occasion before being assigned to teach is of fundamental importance in that the College relied on these criteria in finding Mr. Buchanan not qualified. The issue is firstly, whether these criteria constitute the sole measure of an individual's qualification to teach in the ASEP program within the meaning of article 27.06 and, secondly, whatever the measure of an individual's qualification, whether Mr. Buchanan possesses the necessary "competence, skill and experience".

In the manufacturing sector, it is not unusual for the customer to determine product specification. For example, if General Motors orders an automobile component, it specifies the size, shape, weight and composition. In addition, through its right to refuse delivery or to change suppliers, General Motors has ultimate control with respect to quality. While General Motors does not have direct control over the qualifications required of those employed by its suppliers, it has an indirect control by reason of the business relationship. However, while it is normative for the customer to dictate product specification and quality, it is not normative for the customer to dictate the terms and

conditions of employment that govern the supplier's employees. The difficulty here is that the product supplied to General Motors is the teaching itself (the work of the bargaining unit employees) and herein lies the rub. In the context of this business relationship, how does one reconcile the dictates of General Motors with the terms of an enforceable Collective Agreement negotiated between the College and its teachers?

It is trite to observe that our role is to give meaning to and enforce the terms of the collective agreement. The collective agreement governs the relationship between the College and its teachers and, accordingly, any dictate by General Motors, as it impacts upon any teacher covered by the collective agreement, can only be given effect if it can be reconciled with the terms of the collective agreement. In this case, the necessary starting point is the requirement under article 27.06 that the displacing employee have the "competence, skill and experience" to perform the job. This standard must be given effect having regard to the nature of the assignment; in this case the teaching of a program designed to satisfy the needs of a primary client. In this regard reference is to be had to article 27.05 where it is stipulated that in effecting a lay-off, the College shall give preference to the continuation of full-time positions "subject to such operational requirements as the quality of the programs, their economic viability, attainment of program objectives, the need for special qualifications and the market acceptability of the programs to employers." Not surprisingly, given the interface between the College and the business community, the economic viability and the market acceptability of its programs are considered to be "operational requirements" under this collective agreement.

It follows that in respect of the ASEP program, the requirements that the subject matter be G.M.-specific and that instructors not specialize in order to better ensure consistency and continuity of instruction are properly market driven characteristics of the program that are not inconsistent with the terms of the collective agreement. Indeed, the Union has never complained that these are defining characteristics of the program nor, it would appear, has the Union ever complained about the monitoring of these courses by G.M. personnel. It follows, therefore, that the qualifications of an individual to teach in the ASEP program must be measured against these characteristics.

Against this backdrop the question arises as to whether the G.M. imposed requirement for prior observation and practice teaching govern in assessing an individual's qualifications to teach in the ASEP program. Notwithstanding the desire by G.M. to establish high standards and notwithstanding the recognition of economic viability and market acceptability as operational requirements, this collective agreement does not specify that an individual observe on two occasions and be observed on one occasion in advance of being assigned to teach in the ASEP program or any other program for that matter. Indeed, it has long been recognized in the jurisprudence that absent specific requirements, the full range of an individual's skills and experience come to bear in determining qualification. The failure of the Union to have challenged the requirement laid down by G.M. in this regard evidences an acceptance of the level of immediate competence required to teach courses in this program. However, it does not evidence an acceptance that under this collective agreement, these requirements are to be

given automatic blanket application. Rather, it is open to be determined on a case by case basis whether an individual has the "competence and experience" to teach in this program to the required level of immediate competence without having observed on two occasions and been observed on one occasion. If an individual can demonstrate acquired experience and a level of skill that establishes immediate competence equal to or greater than someone with the technical expertise who has observed on two occasions and been observed on one occasion, that individual must be found to be qualified.

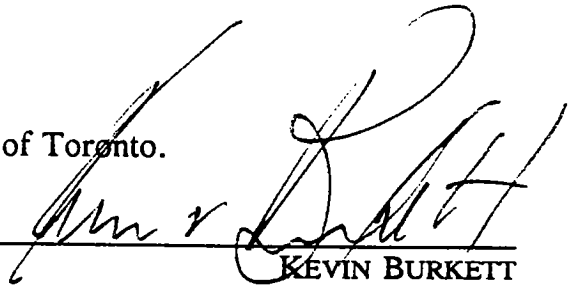
Before turning to the competence, skill and experience of Mr. Buchanan to teach in the ASEP program, it is necessary to deal with the Union assertion that Mr. Neale did not observe on two occasions and be observed on one occasion prior to teaching in the ASEP program and that, therefore, the standard was not consistently applied. Having regard to the fact that Mr. Neale commenced to sit in on ASEP courses from 1993 while the document setting out his experience in this regard as relied upon by the Union dates from September 1994 and having regard to the evidence of Mr. Crichton, we have not been satisfied that Mr. Neale was knowingly permitted to teach ASEP courses without satisfying the prerequisites of observing a course on two occasions and being observed teaching the course on one occasion. The evidence is that in the 16 years that the ASEP program has been in existence, only two instructors have knowingly been assigned to teach without satisfying these prerequisites; in both cases over the objection of the coordinator of G.M. training. Furthermore, the evidence is that there existed at all relevant times an open invitation to automotive mechanic instructors to sit in on G.M.

courses in order to become qualified to teach in the ASEP program. The standard, therefore, has been consistently applied.

This takes us to the qualification of Mr. Buchanan to teach in the ASEP program. Mr. Buchanan is acknowledged to be among the best of the MVM instructors. However, as with all of the instructors in that program, he specialized in specific subject areas. There is no dispute on the evidence that in his areas of specialty (air conditioning, electricals and electronics, fuels and cooling systems), Mr. Buchanan would have been qualified to teach if there was specialization in the ASEP program. The prerequisites laid down by G.M. for these courses could not bar him if there was specialization. However, qualification to teach in the ASEP program requires an immediate or present capability to teach the full range of ASEP courses to the same standard as if he had observed on two occasions and been observed on one occasion. On the evidence before us, Mr. Buchanan has not established immediate or present capability with respect to Hydraulic Brakes (15002.16), 4500 NVG Standard Transmission (57700.00), Rear Axels and Drive Shaft (14001.16), ABS Brakes (15500.16), Steering Systems (13003.16), G.M. Specialty Trucks (14002.08), Wheel Alignment (13003.00) and Diesel Electric Fuel Injection (16015.24). These courses are part of the core duties of an ASEP instructor. Mr. Buchanan, therefore, because he has not established present capability to teach the full range of ASEP courses to the standard required, has failed to establish that he possesses the "competence, skill and experience" to teach in the ASEP program, within the meaning of article 26.

Having regard to all of the foregoing, it must be found that Mr. Buchanan lacked the "competence, skill and experience" to teach in the ASEP program, as that program exists and has existed for some time. Accordingly, it must also be found that he does not have the right to displace Mr. Neale pursuant to article 27.06 of the collective agreement. This grievance is hereby dismissed.

Dated this 5th day of ~~October~~ ^{DECEMBER, 1997} in the City of Toronto.



KEVIN BURKETT

I concur/~~dissent~~ "SANDRA NICHOLSON"
SANDRA NICHOLSON - UNION NOMINEE

I concur/~~dissent~~ "RON HUBERT"
RON HUBERT - COLLEGE NOMINEE