

H E A D N O T E

GSB # CAAT(A)  
OPSEU # 87Z641  
OPSEU Loc. 110  
Article(s): 8

GUSTER, D. (OPSEU) vs. Fanshawe College  
Award dated April 13, 1988 (J. Samuels)

The grievor, a Teaching Master in the Stationary engineering program was laid off. He grieves that he has the right to displace a less senior employee who teaches various welding courses.

Under Article 8.05, the grievor has the right to displace a less senior employee providing he possesses the "competence, skill and experience to fulfill the requirements of the position relatively equal to the employee being displaced".

Board rules the grievor has some basic skills in welding, but the position requires someone highly qualified, skilled and experienced in all forms of welding. The employee now in the position meets this criteria, the grievor does not.

Grievance denied.

Concerning an arbitration

872641  
L110

Between:

**FANSHAWE COLLEGE**

**and**

**ONTARIO PUBLIC SERVICE EMPLOYEES UNION**

Grievance of D. Gerster, lay-off, displacement rights

Board of Arbitration

J. W. Samuels, Chairman  
A. S. Merritt, College Nominee  
I. Freedman, Union Nominee

For the Parties

Union

J. E. Mosher, Counsel  
G. Fordyce, Steward  
D. Gerster, Grievor

College

P. Jarvis, Counsel  
I. Hobbs, Personnel Officer  
G. Gedies, Chairperson, Motive Power Technology  
F. Brill, Chairperson, Mechanical Technology  
J. Devlin, Administrative Officer, Mechanical Technology

Affected Third Party

R. Sweetzir

Hearings in London, April 6 and 7, 1988

On January 18, 1988, the grievor was laid off from his position as a Teaching Master in the stationary engineering program at Fanshawe College because the program was being discontinued. He claims that he has the right to displace a less senior employee, Mr. R. Sweetzir, who teaches various welding courses.

Article 8.05(b) of the collective agreement provides for the right of displacement of a less senior employee in the same classification if the grievor "has the competence, skill, and experience to fulfill the requirements of the position relatively equal to the employee being displaced".

Mr. Gerster is an experienced and qualified third-class marine engineer. As part of his training and experience, he has done some welding--mostly oxyacetylene, with some shielded metal arc (or "stick"). While at Fanshawe, he taught Welding 140 several times. This is the welding course in the program for stationary engineers, and is an introduction to oxyacetylene welding, with some time spent on stick welding.

Mr. Sweetzir is a highly qualified welder, and he teaches nothing but welding courses. He has been involved in welding industrially since 1972, and has taken numerous welding courses from Fanshawe College, the Welding Institute of Canada, Hobart Arc Welding Systems, the Metals Engineering Institute, GMF Robotics, and the American Welding Society. He has taught welding at Fanshawe as a technician, sessional instructor, and full-time Teaching Master since 1979. His teaching load, into which Mr. Gerster wants to slip, includes the following welding courses---

- |                 |   |
|-----------------|---|
| <b>Weld 101</b> | A basic introduction to oxyacetylene welding.   |
| <b>FEMC 200</b> | An intermediate and advanced course in welding related to farm machinery, includes shielded metal arc welding, gas metal arc welding (or "MIG"), gas tungsten arc welding (or "TIG"), and welding in all positions. |

- Auto 110** An introduction and then advanced instruction to students preparing for autobody repair and refinishing, which includes oxyacetylene, MIG and stick welding.
- Weld 302** Provides theoretical knowledge and practical experience in robotic arc welding, MIG, TIG, and resistance welding.

These courses require an instructor with wide experience in all forms of welding, and an ability to demonstrate welding with a high degree of skill. Mr. Sweetzir fills this bill admirably.

On the other hand, Mr. Gerster has no experience or training in MIG, robotics, or resistance welding. He has virtually no experience with TIG. And these are not insignificant matters. MIG and TIG are crucial to FEMC 200. MIG is the very heart of Auto 110. Robotics, MIG, TIG and resistance welding are all there is to Weld 302. In our view, Mr. Gerster is simply totally unprepared by training or experience to handle these three courses.

Even with respect to Weld 101, we have concerns about Mr. Gerster's ability to teach the whole of the course. This course goes further than Weld 140, with which Mr. Gerster is familiar.

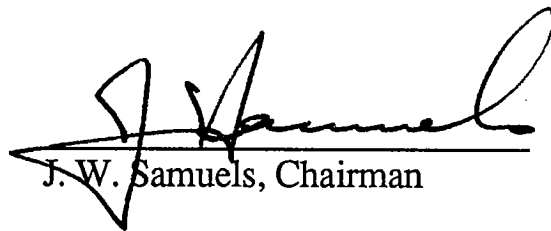
Under Article 8.05, the grievor only has a right to displace a less senior employee if he can walk right in and do his job. This has been confirmed in all the cases involving this provision---*Conestoga College* (grievance of Bailey, unreported decision of Brent, September 6, 1983); *Conestoga College* (grievance of Rennie, unreported decision of Brown, October 23, 1985); *Conestoga College* (grievance of Keating, unreported decision of Shime, January 16, 1985); *St. Lawrence College* (grievance of Brown, unreported decision of Shime, September 11, 1986); and *Conestoga College* (Grievance of Brouwer, unreported decision of Samuels, December 31, 1986). The grievor was not ready at the time of his lay-off to simply move in and do Mr. Sweetzir's job. Indeed, he was far from ready to do it. Mr. Gerster would require a great deal of further training and experience to

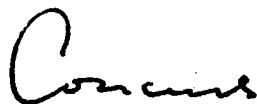
teach Mr. Sweetzir's courses, and considerable accomplishment to do the job with the skill Mr. Sweetzir displays.


In a nutshell, Mr. Gerster is an experienced third-class marine engineer, with some basic skills in welding. Mr. Sweetzir is highly qualified, skilled and experienced in all forms of welding. The target "position" in this case requires someone who is highly qualified, skilled and experienced in all forms of welding. Mr. Sweetzir meets the requirements of the position. Mr. Gerster does not.

For these reasons the grievance is dismissed.

Done at London, Ontario, this 13<sup>th</sup> day of April, 1988.

  
J. W. Samuels, Chairman

  
A. S. Merritt, College Nominee

  
I. Freedman, Union Nominee