GRIEVANCE AWARD

HEADNOTES 87C90

HEADNOTE

GSB Number -
OPSEU Number - 87C90
OPSEU Local - 558

OPSEU (KOLODZIE) v. CENTENNIAL COLLEGE

Award dated December 20, 1989 (Teplitsky)

Probationary Employees - Dismissal - Grievor worked a series of sessional and part time contracts over a period of 15 months. The Board determined on the basis of Exhibit 4, copy of which is attached, that the grievor had taught more than 14 hours a week on a regular basis for more than 12 months out of a 24 calendar month period. Accordingly, the grievor was deemed to have completed his first year of probation and the dismissal was improper and the grievance allowed.

Peter J. Lukasiewicz

87C90
L558
(A)

IN THE MATTER OF AN ARBITRATION

B E T W E E N :

ONTARIO COUNCIL OF REGENTS FOR COLLEGES
OF APPLIED ARTS AND TECHNOLOGY
(CENTENNIAL COLLEGE)

\- and -

ONTARIO PUBLIC SERVICE EMPLOYEES UNION
(FOR ACADEMIC EMPLOYEES)

\- GRIEVANCE OF E. KOLODZIE

BOARD:

MARTIN TEPLITSKY, Q.C.

JON McMANUS

R. HUBERT

APPEARANCES:

On behalf of the Union: Peter J. Lukasiewicz, Counsel

On behalf of the Employer: J. G. Richardson, Counsel

Hearing held Tuesday, August 29th, 1989.

A thorough review of the jurisprudence discloses that the issues discussed before us have been previously considered by other arbitrators. Our task is to apply this settled "law" to the facts.

Mr. Lukasiewicz' submission is that in determining the status of the grievor his hours in the continuing education department, where he taught virtually the same credit courses as he taught during the day, are to be counted. This proposition is supported by a decision of Arbitrator Brown in Sheridan College and OPSEU (Ellis Grievance) May 30, 1983. No basis was suggested for not following this decision.

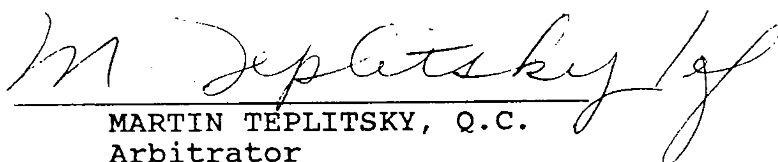
What is clear from the evidence is that this College was not aware of Arbitrator Brown's rulings when it considered the grievor's situation.

Therefore, I have no hesitation in concluding, after analyzing the facts as summarized in Exhibit 4, that the grievor at the time of the termination of his teaching had taught more than 14 hours a week on a regular basis for more than 12 full months in a 24 calendar month period. He was, accordingly, entitled to be treated as having completed 1 year of his probationary period.

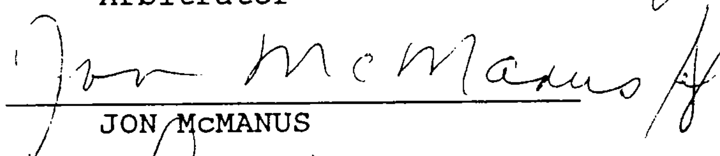
Unfortunately, because the employer did not understand that he was on probation, no consideration was given, as to whether or not his probation should have been continued. He was treated, necessarily, as a term limited employee and simply advised that his employment was ending. The powers of a board of arbitration in reviewing an employer's assessment of a probationer are limited. In this case, there was no assessment. There is nothing to review. The employer's approach was wrong.

In the result, the grievance is allowed. We remain seized to determine what, if any, remedy is appropriate.

DATED the 20th day of December, 1989.



MARTIN TEPLITSKY, Q.C.
Arbitrator



JON McMANUS

R. HUBERT