

B E T W E E N:

Fanshawe College
(Employer)

- and -

Ontario Public Service Employee's Union
(Union)

And In The Matter of Woodall

Board of Arbitration: M. Brian Keller, Chair
Mr. J. McManus, Union Nominee
Mr. G. Metcalfe, Employee Nominee

Appearances: Robert Atkinson, for the Employer
Mary-Anne Kuntz, for the Union

Hearing in London, November 18, 1993.

AWARD

The grievor alleges that a change in assignment, which he characterizes as a transfer, constituted a disciplinary measure. The employer, by way of a preliminary matter, argued that the action taken by it was not disciplinary and consequently the Board is without jurisdiction to proceed further. The union concedes that if the matter is not disciplinary the Board has no jurisdiction.

The grievor has been employed with the College or its predecessor since 1974. In 1980 he became a student counsellor. At his request his assignment was changed in 1984 when he commenced counselling students in the Business and Secretarial Division. The latter was later re-named the Office and Administrative Studies Division, (O. & A. Division).

Commencing in mid-1989 the grievor started expressing in writing certain concerns he had regarding the manner in which his ability to effectively counsel students in the Office and Administrative Studies Division was being undermined specifically, in his view, by Ms. Sheila Lancaster, chairperson of the Office and Administrative Studies Division. The complaints were addressed to the grievor's supervisor as well as Ms. Lancaster directly. In addition, the grievor's supervisor involved the responsible Dean, Mr. Doug Tomlinson. The grievor's concerns were considered and responses were given to him. He remained dissatisfied with the College's responses.

In May 1990 the grievor received a reassignment. He was no longer to counsel students in the Office and Administrative Studies Division. According to the grievor, he was reassigned to an area where he had been requested as counsellor. He indicated he got along very well with everyone in his new assignment. There is no issue that the reason for the reassignment was because of the conflict between the grievor and Ms. Lancaster and specifically their inability to agree on the role of the counsellor in the Office and Administrative Studies Division.

The respective positions of the parties can be put very simply. The union states that the reassignment of the grievor, who did not want to be moved, was a result of the conflict between himself and Ms. Lancaster and it constituted discipline. The employer argues that it was simply dealing with an obvious conflict in a manner that would benefit both the grievor and the students. The former because he was removed from an environment where he couldn't properly function and the latter because they would have the benefit of the grievor's counselling.

The employer characterized its actions as a reassignment, which is not abnormal and undertook that no mention of the events preceding the reassignment would in any way be referred to during the course of his employment with the College.

There is no--doubt that the grievor is a very conscientious employee who has a high degree of concern for the well being and future of the students he counselled. There is equally no doubt that he was extremely frustrated by the inability of the Office and Administrative Studies Division to share his view of the role and the importance of the counsellor. He expressed his views and frustrations to the management. Unfortunately his attempts to ameliorate the situation were met with a singular lack of success. The end result was a direct conflict between the grievor and the division he was servicing - the Office and Administrative Studies Division. Because of its inability to resolve the conflict the grievor's assignment was changed to one where, on the evidence, his dedication as a counsellor was better appreciated.

The Board sympathizes with the grievor. He was attempting to do what he thought was in the best interests of the students in the Office and Administrative Studies Division. Those attempts were rebuffed. The continuing conflict was solved by his reassignment. It is within the power of the College to reassign. The reassignment is not, according to the employer, disciplinary,

” there is no suggestion to that effect on the grievor's file and the grievor has the undertaking of the College referred to above. According to the applicable case law, the actions of the College are not disciplinary.

It must be said that although it would clearly have been preferable from the grievors perspective to resolve the conflict at the Office and Administrative Studies Division to his satisfaction, it must also be said that it was a tribute to his abilities and dedication that he was removed from a situation where he was unappreciated, unwanted and wasted to one where he could bring to bear his counselling energies without distraction and thus be of greatest benefit of the students.

Given that those decision taken by the College was not disciplinary, the Board is without jurisdiction to proceed further with this matter.

Nepean this day of 1994
M.B. Keller, Chair

I concur/desent
Jon McManus, Union Nominee

I concur/desent
George Metcalfe, Employer Nominee