

Arbitration Award Summary

16-P—01922 Misuse of Relief

Case Outline:

This grievance falls under the Government of the Northwest Territories Collective Agreement expiring March 31, 2016.

This grievance was filed as a result of the Employer hiring employees incorrectly as Term/Relief Employees rather than Indeterminate Relief employees. The Union became aware of such a situation and as such, requested an audit dating back to August 2013 of all Relief employees to determine whether more improper classifications occurred.

Employer's Argument:

The Employer argued that this issue arose when the Union became aware of a member who was improperly hired as a Relief/Term in August 2013. The Employer asserted that it conducted an audit of Relief Employees when the Union raised the issue and did not find any other instance of improper classification. Further, the Deputy Minister of Human Resources, Bronwyn Watters, sent a memo to all Human Resource Staff advising that employees cannot be hired as Term/Reliefs and only as Indeterminate Reliefs.

Finally, the Employer submitted that the Union did not meet "its onus to prove a breach of the collective agreement because there is no active controversy" (pg. 13).

Union's Argument:

The Union argued that the Employer acknowledged that they breached the Collective Agreement when it categorized a member as a Term/Relief employee. The Union's issue was that the Employer needed to take "the necessary steps to ensure that there are no other bargaining unit employee classified as Term/Reliefs" (pg. 11).

As the Union had not been receiving the Information report under Article 14, there was no means available to determine if there were other misclassified employees prior to May/June 2016 when the issue was raised.

Arbitrator's Decision:

The Arbitrator allowed the grievance.

The Arbitrator found there to be a breach of Article 14.01 of the Collective Agreement as the Employer failed to provide the Union with adequate information to ensure that there were no other employees classified as Term/Reliefs in their system. The arbitrator directed the Employer to conduct an audit from August 2013 through the date of the award.

Notes

The Union became aware of this issue when a member brought this to our attention. They were improperly classified as a Term/Relief. Subsequent to filing individual grievances for the member, the Union filed a policy grievance to ensure no other member was being improperly classified.

Employees who are improperly classified may not be receiving all of the benefits that they are being entitled to under the Collective Agreement. If a member was under a Term/Relief contract, their employment would terminate at the end of the term. However, Relief are indeterminate positions that do not have an end-date.