

MERVIN I. CHERKOW
— Arbitrator and Mediator
#300 - 180 Seymour Street
Kamloops, B.C. V2C 2E3

CONSENT AWARD

M. I. Cherkow
(UNION POLICY GRIEVANCE NO. 96-679)

THE UNION OF NORTHERN WORKERS

AND:

**THE GOVERNMENT OF THE NORTHWEST TERRITORIES AS
represented by THE MINISTER RESPONSIBLE FOR THE
PUBLIC SERVICE ACT**

BETWEEN:

IN THE MATTER OF AN ARBITRATION

96-679

IN THE MATTER OF AN ARBITRATION**BETWEEN:**

**THE GOVERNMENT OF THE NORTHWEST TERRITORIES as
represented by THE MINISTER RESPONSIBLE FOR THE
PUBLIC SERVICE ACT**

(hereinafter called the "employer")

AND:

THE UNION OF NORTHERN WORKERS

(hereinafter called the "union")

(UNION POLICY GRIEVANCE NO. 96-679)

BOARD OF ARBITRATION

Mervin I. Chertkow - Single Arbitrator

ADVOCATES

Mark Kent and Sharilyn Alexander - for the employer
Chris Dann - for the union

DATE AND PLACE OF HEARINGS

June 25th, 1997 at Yellowknife, N.W.T.

DATE OF CONSENT AWARD

July 2nd, 1997

CONSENT AWARD

I

This grievance was heard under the expedited arbitration procedure as set out in article 37.27 of the collective agreement between the parties.

Article 24.02 (5) (a) of the collective agreement between the parties states as follows;

- (5) (a) Where an employee has received more than his/her proper entitlement to wages or benefits or where retroactive membership dues deductions are necessary, no continuing employee shall be subject to such deductions in excess of twenty percent (20%) of the employee's net earnings per pay period except in recoveries for absence without leave.

II

The current collective agreement between the parties was signed on August 6th, 1996. On coming into force, the agreement resulted in retroactive money being owed to the employees as well as retroactive money being owed from the employees to the employer.

The previous collective agreement between the parties expired April 1st, 1996 and during the bridging period up to August 6th, 1996, employees were paid under the pay scale in the previous collective agreement as well as settlement allowance, vacation

travel assistance and an accommodation allowance, the latter being outside of the collective agreement.

The employer ceased paying accommodation allowance effective April 1st, 1996 and added \$5,400.00 the pay scale for the employees less 6¼%. The net result of that bargain was to eliminate settlement allowance and vacation travel assistance as benefits under the collective agreement and in addition, it cancelled the accommodation allowance that it had previously paid, all effective as of April 1st, 1996.

As well, a new Northern Allowance was created and added to the collective agreement as appears in article 41.01, based upon the community in which the employee is employed. Article 41.01 replaced the settlement allowance set out in the previous collective agreement.

What became an issue between the parties and resulted in the filing of this policy grievance is the method used by the employer to calculate excess entitlements during the period April 1st to August 6th, 1996 and its administration of the provisions of article 24.02 (5) (a).

III

During the course of the proceedings a settlement of the grievance was reached by the parties and at their request it is to be incorporated in a Consent Award to be issued by me.

The terms of settlement are as follows;

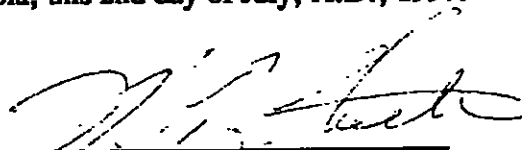
1. The employer, *bona fide*, calculated the recovery of overpayments of entitlements to wages and benefits from employees that arose from the implementation of changes to the current collective agreement based on its interpretation of article 24.02 (5) (a) of the collective agreement with which the union disagreed and filed this grievance.

* Page 3 *

2. Without admission of liability and in the interests of avoiding like grievances being filed in the future, the employer agrees that any future implementation, if necessary, shall be carried out as asserted by the union; namely, the method of calculation of the excess of entitlements of wages and benefits will not be off-set by any monies owing to the employees before the 20% maximum deduction from net earnings is applied as set out in article 24.02 (5) (a).
3. The within settlement constitutes full and final resolution of the within grievance and shall be incorporated in a Consent Award to be issued by the arbitrator.

Based on the above settlement this grievance is fully resolved in accordance with the terms set out therein. It is so awarded.

DATED at Kamloops, British Columbia, this 2nd day of July, A.D., 1997.



MERVIN I. CHERTKOW
Arbitrator