

UNW  
and  
NEU

IN THE MATTER OF AN ARBITRATION

BETWEEN:

GOVERNMENT OF THE NORTHWEST TERRITORIES as represented by  
the Minister responsible for *Public Service Act*

(hereinafter called the "employer")

AND:

UNION OF NORTHERN WORKERS

(hereinafter called the "union")

(GROUP GRIEVANCE NO. 98-638 - )  
TERMINATION OF EMPLOYMENT OF CASUAL EMPLOYEES)

**BOARD OF ARBITRATION**

Mervin I. Chertkow - Single Arbitrator

**COUNSEL**

Sharilyn Alexander and Blair Chapman - for the employer  
Chris Dann - for the union

**DATE AND PLACE OF HEARINGS**

April 14<sup>th</sup>, 1999 at Yellowknife, N.W.T.

**DATE OF AWARD**

April 22<sup>nd</sup>, 1999

## 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.

This is a group grievance on behalf of casual employees Ryma Aneliunas, Wendy Buckley, Angie Smith, Timothy Evans and Andrew Cassidy. At all material times they were employed as casual employees with the Department of Resources, Wildlife & Economic Development. The end date for each grievor was August 31<sup>st</sup>, 1998 as noted on the Casual Staffing Action for the respective employees. The grievors were originally paid in error only until Friday, August 28<sup>th</sup>, 1998. To comply with their letters of offer, each employee was paid for Monday, August 31<sup>st</sup>, 1998. On that date the grievors filed a group grievance alleging a contravention of Appendix A6.04 of the collective agreement. That provision states;

**A6.04** A casual employee shall upon commencement of employment be notified of the anticipated termination of his/her employment, and shall be provided a one day notice of lay-off for each week of continuous employment to a maximum of ten (10) days notice.

It is the position of the union that the employees were, at the commencement of their employment, notified of the anticipated termination date being August 31<sup>st</sup>, 1998. However, they were not given the ten days notice they were entitled to being one day of notice of layoff for each week of their continuous employment. In effect, they only received one days' pay in lieu of notice and therefore, entitled to payment for an additional nine days in lieu of notice.

On its part the employer urged that because at the outset of their employment they were given a termination date, that in itself constituted the required ten days notice in this case. They were paid for one day because of the error in terminating their employment on August 28<sup>th</sup> rather than the anticipated termination date of August 31<sup>st</sup>, 1998.

III

I have concluded the group grievance is well-founded. The fact that the employees at the point of hire were given their "anticipated" termination date did not relieve the employer from providing a one day notice of layoff for each week of continuous employment to a maximum of ten days. A6.04 speaks only to the "anticipated" termination date, in this case August 31<sup>st</sup>, 1998. These employees were not hired for a term certain which is really what the employer's position amounts to. They were casual employees that could have been terminated at any time prior to the "anticipated" termination date, which, in fact, is what happened in this case.

They were entitled to the maximum of ten days notice and having received payment only in lieu of one day's notice, each is entitled to payment of nine days at their regular rate of pay in lieu of such notice.

Accordingly, the group grievance is sustained and the employees shall be paid accordingly. I shall retain jurisdiction should the parties encounter any difficulties in the implementation of this Award.

DATED at Kamloops, British Columbia, this 22<sup>nd</sup> day of April, 1999.

  
MERVIN I. CHERTKOW  
Arbitrator