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C.U.P.W.
PACIFIC
DEC 18 2006
REC-11

Re: Canada Post Corp. -and- CUPW
(Dennis Watson Grievance)

This is to confirm that a preliminary hearing was held on Thursday, December 7, 2006 at the offices of Heenan, Blaikie to deal with a matter related to disclosure of information on the Grievor's computer hard drive. This letter sets out the result of that meeting.

In this case, the Union has acknowledged that the Grievor's actions, which involved the use of his personal computer at home, gave rise to grounds for some form of discipline (the first Wm. Scott question) and the principal issue in the case is whether discharge was excessive in all the circumstances of the case.

With respect to the Employer's request to have access to the Grievor's computer hard drive, the Employer was prepared to call an expert witness to address how the information would be handled but the Union Counsel indicated, quite reasonably that, as she had not been informed about this witness being called, the Union would need an adjournment. The Employer then decided to not call the expert and simply proceed with its application.

After hearing submissions from the parties and some evidence from the Grievor, the Board determined that the evidence sought by the Employer was "potentially relevant" to the matter in dispute, certainly with respect, to, inter alia, the issues of credibility and remorse and perhaps even to the scope and seriousness of the Grievor's actions. However, the Board also indicated to the parties that the privacy rights of Mr. Watson needed to be respected. Thus, the Board asked the parties along with their experts to meet in early January to determine how and what information can be retrieved and identify specific areas where Mr. Watson's privacy may be compromised. It was agreed that Mr. Watson's computer would be temporarily given to the Board (the Employer was concerned about tampering) and Mr. Watson has been provided with a replacement computer.

Hopefully, the parties can cooperate in determining how both the Employer's right to the relevant information and the privacy rights of the Grievor can be accommodated. However, failing such agreement, the parties can then apply to this Board to address specific areas of dispute.

Dated this 14th day of December, 2006.



David C. McPhillips, Arbitrator

cc: John Bail, CUPW
Tim Loznic, Canada Post