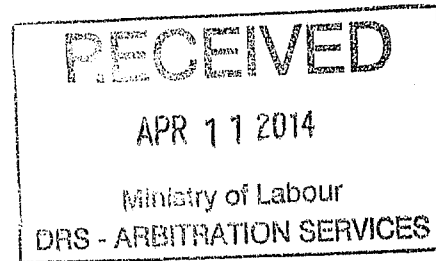


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10639-XR-13

IN THE MATTER OF AN ARBITRATION



BETWEEN:

Graham Packaging Canada Company

-and-

**United Steel, Paper and Forestry, Rubber,
Manufacturing, Energy, Allies Industrial
and Service Workers International Union
(United Steelworkers)
Local 243G**

Grievance of Mike Selkirk

Lorne Slotnick, Arbitrator

Representing the Company – Casey Dockendorff

Representing the Union – Dennis Williamson

Hearing – Mississauga, Ont., March 28, 2014

A W A R D

This grievance challenges the termination of the grievor, Mike Selkirk, after a safety violation on February 5, 2014. The union does not dispute that discipline was warranted but argues that the termination was excessive.

Background facts

The parties filed an agreed statement of facts. The following is based on that statement.

The company's plant in Mississauga, one of many it operates around the world, produces blow-molded plastic packaging such as containers for yogurt and motor oil. The United Steelworkers represents about 55 employees at the plant. The grievor, Mr. Selkirk, has approximately 11 years' seniority under the collective agreement; however, prior to working at the Mississauga plant, he had roughly 32 years of service at the company's Burlington plant, which closed in 2002. At the time of termination, Mr. Selkirk was classified as a technical specialist, with responsibility for set-ups, quality checks and troubleshooting, among other duties. He had no disciplinary record within the 16-month period covered by the "sunset clause" in the collective agreement.

The Company has a "Cardinal Rule Safety Policy," made effective in 2008, which states as follows:

Willful or negligent violations of established safety rules, or behavior so serious that could result in a major injury (i.e. fatality, loss of limb, etc.,) will result in immediate suspension, pending corporate review, prior to termination.

Some examples of "serious acts" would be reaching into a running piece of equipment without following proper procedures, not following established energy control procedures, or bypassing or defeating a safety switch or guard. (This list is not all inclusive.)

It is agreed that the grievor was aware of this policy, that he understood it, and that the company takes safety violations seriously.

The company's safety rules include a lock-out/tag-out policy, covering situations where employees put any part of their bodies past a machine guard. Employees are required to place their own lock on the machine in these circumstances.

The parties agree that the plant manager, Morgan Shaw, who started at the plant in the spring of 2013, noticed that this policy was not being followed consistently and decided to re-emphasize its importance, an initiative that included retraining of employees and random safety audits. A manager was terminated in the fall of 2013 for failure to follow the lock-out/tag-out policy. The grievor attended a presentation in September, 2013 that detailed how to lock out various machines and other aspects of the policy. The grievor was subject to a random safety audit on January 20, 2014, just two weeks before the termination, when the company found that he was fully compliant with and knowledgeable about the policy.

However, on February 5, 2014, during a plant walk-around, a supervisor found Mr. Selkirk working inside a horizontal rotation blow-molding machine while the machine was in motion.

The grievor had a “buddy” present and told the supervisor he would not have been able to fix the machine had it been locked out; however, the supervisor reported the incident after telling the grievor that the buddy system required management approval, which had not been obtained in this case. Mr. Selkirk was suspended immediately and, after the company investigated, it terminated his employment two days later. On the day of his suspension, Mr. Selkirk sent a text message to the plant manager saying he was “truly sorry.”

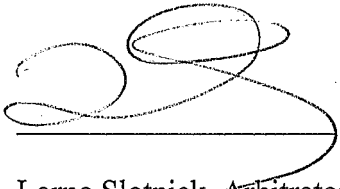
Decision

The company cannot be faulted for taking safety rules seriously, nor does the union disagree with this approach. The company makes a valid point that substantial disciplinary consequences for those who violate safety policies can have an important deterrent effect on other employees who might be tempted to use short cuts, as the grievor evidently did in this case. However, balanced against these considerations are others in the grievor’s favour, primarily his age – 64 – and his extraordinary length of service with this company, well over 40 years. In addition, while there is no doubt that he violated safety rules and thus could have endangered himself, he did have a “buddy” present when he was working inside the machine.

In my view, the company’s goals of upholding safety rules and deterring future violations can be accomplished without the termination of this long-term employee. I therefore order the company to reinstate Mr. Selkirk to his position, effective five calendar months after his termination, with no loss of seniority but with no compensation. A five-month suspension will remain on his

record for the duration of his employment with the company, notwithstanding the “sunset” provisions of the collective agreement.

I will remain seized in the event of any dispute over implementation of this award.

A handwritten signature in black ink, consisting of a large, stylized 'S' followed by a horizontal line and a small flourish.

Lorne Slotnick, Arbitrator
April 8, 2014