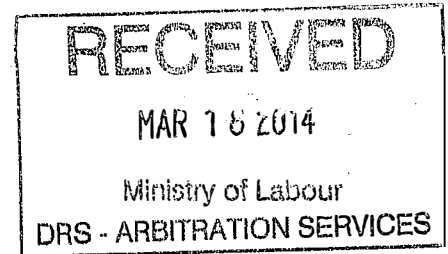


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IN THE MATTER OF AN ARBITRATION

BETWEEN:

UNIFOR LOCAL 112

("the Union")

and

BOMBARDIER AEROSPACE

("the Employer")

Grievance of Douglas Baker

("the Grievor")

Before: Larry Steinberg, Sole Arbitrator

Appearances

For the Union

Merv Gray, Union President and others

For the Employer

Gregory Power, counsel and others

Hearing held in Downsview Ontario on March 17, 2014

Ref # 1409

Award

[1] This case concerns the discharge of the Grievor.

[2] On February 4, 2014 a hearing was scheduled to hear a grievance concerning the Grievor. The parties resolved the grievance by way of Minutes of Settlement by which the Grievor was reinstated to employment with a lengthy suspension and subject to terms and conditions which, in effect, constituted a last chance agreement ("LCA").

[3] The relevant terms of the LCA were that the Grievor was to remain discipline free and comply with all Employer rules, regulations, policies and practices for the term of the LCA (para. 3); that the Grievor was to maintain a record of punctuality in strict compliance with the Employer's Attendance Management Policy and to furnish satisfactory reasons and proper documentation acceptable to the Employer for all late arrivals or early departures (para. 4).

[4] In addition, the parties agreed that the LCA represented the Grievor's "last and final opportunity to redeem himself as an employee of the Company following a lengthy discipline history which has included prior termination for breach of Company rules and policies." (para. 6). The parties went on to provide that a breach of any of the terms of the LCA would be considered sufficient grounds for termination of employment and that any ensuing arbitration would be "limited solely to the determination as to whether any of the conditions contained [in the LCA] have been breached."

[5] The Grievor returned to work on February 10, 2014.

[6] On February 12, 2014, the Grievor was five minutes late returning to his work station following a lunch break. In a meeting held on February 14, 2014, the Employer, to its credit, indicated that, it could have triggered the terms of the LCA, but it was not going to do so and was going to use the occasion as a reminder to

Grievor of the precarious situation he was in. Both the Union and the Employer impressed on the Grievor the importance of complying strictly with the LCA and the disastrous consequences for him if he did not do so. The Grievor thanked the company for giving him another chance.

[7] On February 18, 2014, the Grievor left work at 11 p.m. His shift did not end until 11:30 p.m. He testified that since the shift was relatively new to him, when he heard the buzzer he assumed his shift was over (notwithstanding the fact that he had worked that shift the week before and left at the correct time) and he left. It was only when he was on the way home that he realized his mistake.

[8] He did not advise anyone of his error except the lead hand and allowed the situation to remain unresolved until the Employer discovered it in the normal course.

[9] A meeting was held on February 25, 2014 attended by the Grievor, the Union and the Employer to discuss the issue.

[10] By letter dated March 3, 2014, the Employer terminated the Grievor's employment effective February 26, 2014 for his early departure on February 18, 2014 which was contrary to the LCA.

[11] There is no dispute that, pursuant to para. 6 of the LCA, my jurisdiction is strictly limited to determining if the LCA has been violated. There was no dispute that the Grievor left early on February 18, 2014 without any satisfactory reason acceptable to the Employer in violation of para. 4 of the LCA.

[12] The Union valiantly tried to argue that the Grievor was subject to different rules than other employees who are given some leniency with respect to early departures. But the Grievor is not in the same position as any other employee. By

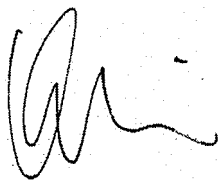
his past misconduct, he put himself in the position where he was subject to the terms of the LCA which do not provide the same leniency.

[13] The LCA must be strictly respected by employees and arbitrators. Employers would have no incentive to enter into such agreements if it were otherwise. Such agreements are, in my view, important tools available to the parties to preserve the employment of employees in circumstances where termination of employment would otherwise be inevitable.

[14] I have great sympathy for the Grievor. However, in the circumstances of this case, I have no choice but to uphold the discharge. The LCA was clearly violated and I have no jurisdiction to alter the penalty imposed by the Employer. The Grievor made almost no effort to comply with the LCA and there are no grounds to relieve him of his obligation under that agreement or the consequences of his failure to do so.

[15] The grievance is dismissed.

Dated at Toronto Ontario this 18th day of March 2014



Larry Steinberg, Arbitrator