

IN THE MATTER OF an Arbitration pursuant to
the Labour Relations Act, 1995, S.O. 1995, c. 1, Sched. A

AND IN THE MATTER OF the Grievance of Mark MOLINARO

Between

ESSAR STEEL ALGOMA INC.
(The “Employer”)

And

UNITED STEELWORKERS LOCAL 2251
(The “Union”)

AWARD

Henri R. PALLARD (Arbitrator)

Heard: Sudbury, Ontario, 31 December 2014
Award: 2 January 2015

Appearances:

For the Employer

Simon MORTIMER, Counsel
Hicks Morley Hamilton Stewart Storie LLP

For the Union

Marc MOLINARO, Vice-President
United Steelworkers Local 2251

For Brian Chapman

Steven G. Shoemaker, Counsel
Wishart Law Firm LLP

AWARD

1. In its grievance against Essar Steel Algoma Inc. (the “Employer”), the United Steel Workers Local 2251 (the “Union”) made allegations about the conduct of Brian Chapman. Some of its allegations may imply that he has breached some legislative provisions. As part of its remedy, the Union asked that he be disciplined. When Mr. Chapman was informed of these allegations, his counsel informed the Arbitrator that he may request to intervene and participate in the grievance process. He later formally requested the right to intervene. The Union objected on the grounds that the request should only be heard once certain preliminary matters had been resolved. On 31 December 2014, the Union withdrew its objection to Mr. Chapman’s request to intervene. However, it requested a decision with reasons.
2. Mr. Chapman submits that the Union’s allegations and request for discipline may have a direct and substantial impact on him. Natural justice and procedural fairness require that he be given the opportunity to respond.
3. According to the Employer, counsel for the Employer is only representing its interests and not the interests of the Mr. Chapman.
4. In *Hoogendoorn v. Greening Metal Products and Screening Equipment Company*, 1968 R.C.S. 30, the union was seeking the dismissal of an employee because he had refused to authorise the employer to deduct union dues from his pay. The Supreme Court of Canada held that an employee was entitled, as a matter of natural justice, to be heard when the union was taking a position adverse to his interests. It appears to me that that proposition would also apply to a supervisory employee when the employer’s interests may not coincide with the supervisor’s interests.
5. I find that Mr. Chapman’s legal interests may be directly affected in the outcome of the particular grievance before me as my findings may have a substantial and prejudicial impact on him given the nature of the allegations made by the Union. Moreover, his interests may not coincide with the Employer’s interests. As such he has a direct interest in the my award and has the right to participate in the grievance process.
6. I order that the Union and the Employer provide to Mr. Chapman a copy of all documents that have been submitted to me for my consideration in this matter. The Union and the Employer shall do so no later than 9 January 2015.

DATED at Sudbury, Ontario, this 2nd day of January, 2015.



Henri R. PALLARD
Arbitrator