

IN THE MATTER OF AN ARBITRATION

BETWEEN

GOLDCORP CANADA LTD.
PORCUPINE GOLD MINES

(THE EMPLOYER)

AND

UNITED STEELWORKERS LOCAL 7580

(THE UNION)

AND IN THE MATTER OF THE GRIEVANCE OF
SURFACE ELECTRICAL SHOP GROUP
VACATION SCHEDULING

ARBITRATOR: K. A. HINNEGAN

APPEARANCES:

FOR the EMPLOYER

MARK CONTINI, DOMENIC RIZZUTO, & OTHERS

FOR the UNION

MARC AYOTTE, MIKE HUARD & OTHERS

HEARING: TIMMINS, ONTARIO - JANUARY 25, 2016

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Ministry of Labour

DRS - MEDIATION SERVICES

AWARD

This grievance, filed on July 24, 2015, by the Surface Electrical Shop Group, then comprised of six electricians (one having since retired), alleges a violation of the collective agreement by the Employer in its manner of scheduling annual vacations for the surface electricians.

The five remaining Grievors all work a 5x5x4 continuous 12hr. shift, while one electrician (not a grievor) has worked a 5x2 8 hr. shift since 2014 as an accommodation to a family status request. This grievance objects to the Employer including him, given his different work schedule, with the other electricians on a 5x5x4 schedule when allocating vacations among the surface electricians. At the hearing, the Union referenced several articles of the collective agreement with a view to illustrating the differences between the two electrician work schedules. It then was submitted that those differences make the electricians on each shift schedule separate and distinct employee groups for the purpose of annual vacation allotment.

The Employer does not dispute the obvious fact of two separate and distinct shift schedules for the surface electricians but takes the position that the employees in that classification, nevertheless, remain a singular employee group for vacation allotment. Notwithstanding the addition of the 5x2 shift in 2014, the surface electricians all still perform the same work and the schedules do overlap.

As the arbitrator with respect to this grievance, my mandate here is to decide whether the grouping of the electricians on those separate shifts for the purpose of their annual vacation allotment violates any provision of the collective agreement.

In that regard, the Employer started with article 3 -- Management -- providing, among things, that it is the Company's exclusive right, subject to the other provisions of the agreement, "generally to manage the enterprise . . . [including] . . . the schedules of work . . .".

Since 2012, Raymond McIver, the Maintenance Supervisor, has prepared and issued virtually the same annual vacation protocol to his supervisors for their direction "to ensure that the maintenance and operational needs are looked after and that vacation is distributed as fairly as possible . . ." That protocol, appropriately, references article 10.03 of the collective agreement in that that is the provision addressing the matter of annual vacation allotment in this agreement. The protocol includes the following general comment;

"As per article 10.03 of the CBA, all vacation requests for the annual period between March 16th and March 15th of the following year, submitted prior to March 1st of each year will be allotted by seniority with consideration given to job classification and shift schedules."

The issue raised by this grievance is whether the vacation protocol as it relates to the surface electricians violates that article when it combines both shifts within that classification when allotting annual vacations. Article 10.03 provides as follows;

"The wishes of employees will be considered in allotting vacation times, but the Company reserves the right to schedule vacation periods. Each department determine the number of consecutive weeks employees will be allowed to schedule vacation.

All vacation requests for the annual period between March 16th to March to March 15th of the following, submitted prior to March 1st of each year will be allotted by seniority with consideration given to job classification and shift schedules. Employees will receive notification no later than March 15th. All vacation requests submitted March 1st will be allotted on a first come first serve basis, reconciled at the end of each shift by seniority.

However, to ensure the orderly and efficient operations, such vacation periods may be rescheduled. . . ."

I have reviewed the vacation protocol against article 10.03 every which way, but cannot find any conflict between them. More specifically, I can find nothing in article 10.03 to suggest that the Company's treatment of the surface electricians' annual vacation allotment is somehow in violation of any of its terms. Notably, at the hearing, the Union submissions with respect to a violation of article 10.03 were very general in nature and did not point me to any specific fetter on the Employer's vacation allotment protocol as within its management right to generally manage its business. In order to uphold any grievance, an arbitrator must find a violation of some term of the collective agreement.

Having found no violation of the collective agreement here, the grievance is denied.

Dated: February 26, 2016

K. A. Hinnegan
K. A. Hinnegan - Arbitrator