

In the Matter of a Labour Arbitration Between

AUTOLIV CANADA INC.

(The “Employer”)

-and-

UNIFOR LOCAL 1941

(The “Union”)

Grievance of Eric Punnewaert

ARBITRATOR - TED CRLJENICA

APPEARING FOR THE UNION

KELLY SCANLAN

JOHN TURTON

GORD STEWART

ERIC PUNNEWAERT

NATIONAL REPRESENTATIVE

LOCAL 1941 PRESIDENT

BARGAINING UNIT CHAIRPERSON

GRIEVOR

APPEARING FOR THE EMPLOYER

DAVID AMYOT

VANESSA STAHBRAND

COUNSEL

HUMAN RESOURCES MANAGER

AWARD DATED MAY 13, 2026

AWARD ON UNION MOTION

INTRODUCTION

- 1) The union has made a pre-hearing motion seeking an order excluding from the hearing video evidence recorded by cameras in the employer’s plant. The grievor was terminated as a result of allegedly having taken, what the employer described as breaks that greatly exceeded the allowed break times. The only evidence the employer has to support its allegation is the video recording that is in issue.
- 2) The presence and use of video cameras in the plant are the subject matter of Letter # 42 of the collective agreement:

LETTER #42 – Surveillance Cameras/Electronic Monitoring

The Company and the Union agree in principle, the security cameras will not be utilized to monitor employee productivity or performance. Evidence from the cameras will not be used in administering discipline for these reasons, however, the Company reserves the right to review and utilize camera recordings in regard to safety events, theft, property damage, and misconduct.

- 3) The events that led to the grievor's termination began with two incidents involving the grievor in his duties as a lift-truck driver. One was during a "barrel change" performed by the grievor, during which the contents of the barrel spilled onto the floor. The other incident was that the lift truck the grievor was operating struck a "traffic mirror" in the plant. I was told that the grievor reported both incidents to management.
- 4) As a result of these incidents, the employer viewed the video recording of the day. The employer says that in the course of that review it discovered that the grievor had exceeded his break times, leading to his termination.

THE UNION'S SUBMISSIONS

- 5) The union challenged the admissibility of the video recording on the basis that: (1) under Letter #42, the employer can only impose discipline based on a review of the video recording if the review was triggered by a specific event; (2) the employer is limited to a review of the circumstances surrounding the triggering event; (3) the employer must have reasonable grounds to review the video recording beyond the circumstances surrounding the triggering event.
- 6) As the grievor reported both incidents to management, it was the union's submission that the employer's review of the video recording should have been restricted to the two events in question. It submitted that this violated the collective agreement, rendering the recording of anything other than the two events inadmissible. The union alleged that the employer went on a fishing expedition to search for misconduct in order to terminate the grievor.
- 7) In the alternative, the union submitted that the allegation against the grievor is in regard to productivity or performance, for which the employer cannot rely on the video recording under Letter #42.
- 8) In the further alternative, the union submitted that if I determine that the video recording is admissible, to assign it little or no weight.
- 9) In support of its motion, the union relied on: *Re Miracle Food Mart and UFCW*, Locals 175 and 633, (1983) 11 L.A.C. (3d) 320 (Swan), *The Corporation of the City of Niagara Falls v. A.T.U., Local 1582*, 1987 CanLII 67502 (Bendel – ONLA); *Canadian Pacific Railway v. Teamsters Canada Rail Conference* (2015) CROA&DR 4362 (Albertyn); and *Canadian Pacific Railway v. Teamsters Canada Rail Conference* (2015) CROA&DR 4363 (Albertyn).

THE EMPLOYER'S SUBMISSIONS

- 10) The employer submitted that the purpose of the final clause of the second sentence of Letter #42 is to allow the employer to review and utilize camera recordings in regard to safety events, theft, property damage and misconduct without any preconditions or restrictions. The union's interpretation would render the clause meaningless. This would be contrary to the principle of contractual interpretation that all words in a contract have meaning.
- 11) Regarding the union's submission as to the circumstances in which the employer can review and rely on video recordings, the employer submitted that there is nothing in Letter #42 requiring a triggering event, restricting the employer to the circumstances of a specific event or requiring it to reasonably justify its use of the recording.
- 12) According to the employer, as an example, if the union's interpretation is correct, it, the employer, would be precluded from relying on video evidence to impose discipline for misconduct discovered while reviewing the recording for an unrelated triggering event. Again, it submitted that there is no such restriction in the wording of Letter #42.
- 13) The employer disagreed that the grievor was terminated for productivity or performance issues, but rather what it described as misconduct in the form of time theft. As such, the restriction of the use of the video recording set out in the first sentence of Letter #42 does not apply.
- 14) The employer disputed the union's allegation that it went on a fishing expedition to find misconduct to terminate the grievor.
- 15) In addition, the employer relied on four previous occasions when it imposed discipline based on evidence obtained from video recordings, none of which the union grieved. Thus, according to the employer, the union is now seeking to interpret Letter #42 that is inconsistent with the parties' previous application of the Letter.
- 16) The authorities relied on by the employer were: *Université du Québec à Trois-Rivières v. Larocque* [1993] CanLII 162 (SCC); *Hotel-Dieu Grace Hospital v. Ontario Nurses' Assn.*, [2010] OLAA No 274 (Crljenica); *Northstar Aerospace (Canada) Inc. v. CAW-TCA Canada and its Local 444*, [2012] OLAA No 128 (Crljenica); *Energex Tube v. Unifor, Local 523*, 2013 CanLII 67040 (Bendel - ONLA); *Greater Toronto Airports Authority v. Public Service Alliance of Canada*, 2007 CanLII 21 (Bendel - CA LA); *MVT Canadian Bus, Inc. v. Amalgamated Transit Union, Local 1775*, 2018 CanLII 40489 (Price - ONLA).

THE UNION'S REPLY SUBMISSIONS

- 17) In its reply submissions the union stated that the four prior occasions when the employer relied on video recordings are distinguishable as they were all triggered by, and limited to, specific events of which the employer was aware – it did not go on a fishing expedition.

REASONS FOR DECISION

- 18) I have not seen the video recording upon which the employer seeks to rely. The union's motion was based solely on the parties' submissions. In the submissions, both parties made reference to facts about which the parties do not agree. Without having received evidence in order to make determinations of fact, I cannot take these alleged facts into account in ruling on the union's motion. My determination can be made solely on the interpretation of Letter #42.
- 19) The authorities relied on by the union turn on the wording of the applicable collective agreement language. See, for example: *Re Miracle Food Mart and UFCW, Locals 175 and 633*, (1983) 11 L.A.C. (3d) 320 (Swan); *The Corporation of the City of Niagara Falls v. A.T.U., Local 1582*, 1987 CanLII 67502 (Bendel – ONLA); and *MVT Canadian Bus, Inc. v. Amalgamated Transit Union, Local 1775*, 2018 CanLII 40489 (Price - ONLA).
- 20) In *The Corporation of the City of Niagara Falls v. A.T.U., Local 1582*, 1987 CanLII 67502, the applicable language was: "All video cameras installed on property or equipment is [sic] for security purposes only".
- 21) Arbitrator Bendel excluded the video evidence upon which the employer sought to rely because the discipline in dispute was not a security issue. Admitting the video evidence would have violated the stated purpose of the cameras.
- 22) In the *Canadian Pacific Railway* decisions relied on by the union, in regard to cameras that were being installed at a railway yard the employer notified employees that:

“ . . . we do not actively monitor these cameras to watch employees. The only time these cameras are reviewed are to investigate claims of theft or break and enter, which we recently had a couple of months ago where a non-employee entered the Yard office and stole some employee belongings.”
- 23) Arbitrator M. Picher excluded the video evidence as the employer's reliance on the recording was contrary to "the specific undertaking given to employees by the Company, when the cameras were installed"¹.
- 24) Thus, the principle from the union's authorities is that evidence will be excluded if it was obtained in a manner that violated the collective agreement.
- 25) Here, the union was aware of the presence of video cameras in the workplace, and negotiated in the form of Letter #42 a restriction on their use – they will not be used in administering discipline in regard to productivity or performance. This is the only restriction in the Letter.

¹ Arbitrator Picher also relied on *PIPEDA Case Summary #414* in which the Privacy Commissioner, in considering the *Personal Information Protection and Electronic Documents Act*, S.C. 2000, c 5, proposed questions to be considered to determine if the use of video evidence was appropriate. I am not aware of the application of that Act to this workplace.

- 26) The parties went further, recognizing that the employer reserved the right to review and utilize camera recordings in regard to safety events, theft, property damage, and misconduct. There is nothing in Letter #42 requiring a triggering event, limiting the employer to only reviewing circumstances surrounding a triggering event, or requiring the employer to provide a justification for reviewing and utilizing the recordings.
- 27) Therefore, it is my determination that in the circumstances of the grievance before me, the employer's review of the video recording does not violate Letter #42. As such the video evidence is admissible in evidence.
- 28) Although it is not necessary for me to base my ruling on disputed evidentiary submissions, such as the circumstances surrounding the four previous times the employer relied on the video recordings, for the sake of completeness, I will address two of the union's submissions.
- 29) One of these submissions was that the grievor's alleged conduct falls within the productivity or performance restriction of Letter #42. As I have not seen the video, I cannot make a ruling on this. However, if the employer's description of the extent of the grievor's alleged conduct is borne out by the evidence, it is unlikely that it can reasonably be described as a productivity or performance issue.
- 30) The union's other alternative argument was that if I find the recording to be admissible I assign it little or no weight. The union did not provide me with any reason to do so.

DECISION

- 31) The union's motion to exclude the video evidence is dismissed.
- 32) The parties may contact me to arrange continuation dates.

May 13, 2026



T. CRLJENICA - SOLE ARBITRATOR