

Conifer Arbitration Report

AR No. 6/86

RE: BALFOUR FOREST PRODUCTS INC.
AND
I.W.A. LOCAL 1-424

RE: WORK JURISDICTION

Due to a particularly troublesome series of breakdowns of production machinery, most of a dayshift production crew elected to go home. 3 bargaining unit employees remained at work for the balance of the shift and, together with supervisory staff, tested the repaired machinery and some lumber was produced.

The production line was thus operated from approximately 4:30 p.m. to 6:00 p.m.

The Arbitrator found that work performed up to 5:00 p.m. was "testing equipment, not normal work" and work performed from 5:00 p.m. to 6:00 p.m. "was work that was normally done by employees in the bargaining unit."

The production dayshift would have normally ended at 5:00 p.m.

The company indemnified the employees by paying those who would have been working on the production line straight-time pay for the hour 5:00 p.m. to 6:00 p.m.

The award enhances the language in the Collective Agreement, ART XVI Section 4) by establishing that testing of equipment is not normal work, and may be performed by NON-bargaining unit people.



R. A. Rogers,
Conifer

RAR/JLD

Enclosure

Dec. 8/86

IN THE MATTER OF AN ARBITRATION

BETWEEN

BALFOUR FOREST PRODUCTS INC.

(the Company)

AND

INTERNATIONAL WOODWORKERS OF AMERICA, LOCAL 1-424

(the Union)

JOB DESCRIPTION GRIEVANCE

Single Arbitrator

David H. Vickers

Company Representative

David E. Sheard

Counsel for the Union

Sandra I. Banister

Date of Hearing

October 28, 1986

Place of Hearing

Prince George, B.C.

The issue in this Arbitration can be stated as follows:

Was the Company in breach of the Collective Agreement when, on March 20, 1986, it allowed non-bargaining unit employees (supervisors) to operate the Small Log or Secondary Edger and other production machinery?

This is a work jurisdiction matter and calls for an interpretation of Article XVI(5) of the Collective Agreement which reads as follows:

"Employees outside the bargaining unit will not perform work that is normally done by employees in the bargaining unit.

However, nothing in this Agreement shall be construed as prohibiting foremen from doing work for purposes of instruction, provided by so doing a lay-off of bargaining unit employees does not result, or in the case of any emergency when regular employees are not available, provided that every reasonable effort is made to find a replacement."

The incident in question arose in the Company's No. 2 Sawmill, a new undertaking that commenced operations in September, 1985.

At about 6:15 p.m. on March 19, 1986, a bearing on the Secondary Edger overheated and failed. New bearings were installed but overheating continued.

The night shift continued to work on the problem which was not resolved when the day shift arrived at 7:45 a.m.

Several attempts to run the Edger were made throughout the day but on each occasion, the bearing continued to overheat.

The Secondary Edger is one piece of equipment in a production chain. The cycle begins in the Deckman's area where logs are brought up for log sorting and storage. There, they are processed through a Canter Twin Reducer, a Primary Canter, a Scragg and a Secondary Canter before reaching the Secondary Edger. From there, the production flow continues to an Optimizer Edger and on to the Trimmerman positions and eventual sorting and stacking.

The production crew consists of fourteen people. When the Secondary Edger ceased operations, production came to a halt. The crew was assigned to clean up chores and to duties in No. 1 Sawmill. Apparently, the crew was anxious to go home. At 2:30 p.m., the Company decided those employees in the production crew who wanted to go home could leave. Three employees remained for the balance of the shift. The afternoon shift was not due to commence work until 6:00 p.m.

By about 4:30 p.m., the equipment was repaired. Saws were installed and the equipment test run without cants or logs. There was some difference of opinion on the exact time that the Company began testing the equipment under normal operating conditions. I find that cants began to be processed sometime between 4:45 p.m. and 4:50 p.m.

All of the equipment in the production chain continued to be operated, with two exceptions, by management personnel. Two bargaining unit employees worked but they were employees who had less seniority than the regular holders of the jobs. The equipment and thus production, continued until

6:00 p.m. when the afternoon shift took over. Approximately 16,000 board feet of lumber was produced during this period.

The Union argues that Article XVI(5) is unequivocal and that persons employed outside the bargaining unit are not to perform work normally done by employees except for instruction or in the case of an emergency. This was neither instructional work nor was it an emergency. Alternatively, if it was an emergency, no effort was made to find replacement personnel.

The Company argues that Article XVI(5) restricts the Company to work normally done. If the work is not normal, than the Company is free to use non-bargaining unit personnel. In this case, the work was a test and testing was not normal production work. Production is only incidental to the test and not the objective. The Company says further that non-bargaining unit supervisors have tested equipment on other occasions and there has been no complaint and the Union is now estopped from raising the issue.

Alternatively, the Company said that it was an emergency and the word "available" in Article XVI(5) means immediately available. The emergency continued, said the Company, until the afternoon shift arrived.

Article XVI(5) specifically states that work "normally done by employees in the bargaining unit" will not be performed by others outside of the bargaining unit. When I review the evidence, I am forced to conclude that while supervisory personnel have tested equipment in the past, there was no evidence to support testing over such a lengthy period

of time. Thus, in the circumstances of this case, no estoppel can arise.

I believe that the argument advanced with respect to the testing of equipment is, at best, inconclusive. Doubtless, management personnel have tested equipment on other occasions. As well, bargaining unit employees have been involved in testing equipment. But in this case, testing became production. While it was valuable for the Company to know that the equipment was in fact operational, I believe their efforts went far beyond a normal test.

In the circumstances, I find that testing of equipment, not normal work, occurred up to 5:00 p.m. The work that was performed from 5:00 p.m. to 6:00 p.m. on March 20, 1986, was work that "is normally done by employees in the bargaining unit". No emergency existed but if it did, I find that no reasonable effort was made to find bargaining unit replacements.

Accordingly, the answer to the question posed is in the affirmative and the grievance is allowed. There will be a declaration that the Company was in breach of Article XVI(5) of the Collective.

It is not for me to say whether management would have kept the day shift on an additional hour or made an effort to call in the afternoon shift to commence work at 5:00 p.m. Doubtless, it would have made the most economical decision. Thus, in addition to the declaration, the Union is entitled to an Order that the Company indemnify employees on either the day shift or the afternoon, whichever results in the most

economical decision. I will retain jurisdiction in the event that there is any difficulty in implementing this Award.

DATED at Victoria, British Columbia, this 14th day of November, 1986.



David H. Vickers

