

Canadian Forest Products -and- IWA-Canada, Local 1-424

[1991] B.C.D.L.A. 625-06

British Columbia
A-99/91
Board: V. L. Ready
April 30, 1991

SENIORITY - LAYOFF
RECALL

There was a violation of the collective agreement in circumstances where the grievor was qualified as a millwright and could have performed the work in dispute and therefore should have been recalled instead of less senior employees. The grievor could have been called in for the weekend work in question without attracting overtime and there is no provision in the collective agreement prohibiting the combination of assignments of work that would have occurred.

Decision: Grievance allowed and the grievor is entitled to 40 hours pay at his regular rate of pay.

Facts: This grievance arises as a result of a plant closure at the Employer's sawmill operations in Prince George. The Union grieves on behalf of the grievor alleging that during the plant closure July 2 to 15, 1990 inclusive, millwrights with less seniority than the grievor were called in to work to install a compressor. The Employer raised a preliminary objection regarding the time limits of the collective agreement.

Reasons: With respect to the issue of time limits, the nature of the grievance is such that it ought to be heard as the grievance goes to a fundamental provision of the collective agreement and the delay occurred at the latter stage of the grievance procedure and the grievor was not in any way responsible for the delay. There was no way that the Employer could reasonably have assumed that the grievance was abandoned in the circumstances and there was no prejudice to the Employer nor any growing damages despite the delay of 45 days. With respect to the merits of the grievance, employees effectively on layoff are entitled to the benefits of the recall provisions and as the senior employee, the grievor should have been called back to work in line with his seniority.

(11 pages) B.C.D. Lab. Arb. - July, 1991

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