

Pacific Forest Products -and- I.W.A., Local 1-118

[1984] B.C.D.L.A. 170 - 03

**British Columbia
A-246/84 D.R. Munroe****August 31, 1984****DEMOTION - APPROPRIATENESS ARBITRABILITY AND JURISDICTION GRIEVANCE
PROCEDURE - TIMELINESS**

In two grievances, the Arbitrator dismissed the first by reason of breach of time limits. As to the second, a temporary demotion was ordered where the grievor had experienced a catastrophic accident in a heavy rig.

Decision: See Headnote above.

Facts: By reason of two incidents related to truck driving, the Employer suspended the grievor initially and then demoted him after the second incident. The Union grieved twice. The Employer argued that the first grievance was not arbitrable given the breach of time limits. The second incident concerned the grievor's decision to bail out of a loaded truck which was demolished on impact. The grievor was demoted for that action given the fact that the road was in good condition. The grievor explained that mechanical problems caused concern and he was unable to regain control of the unit and abandoned it. The Employer disputed that version and private inspection placed the grievor's version in some doubt.

Reasons: As to the timeliness argument, the Arbitrator indicated that only in extraordinary circumstances should mandatory time limits be set aside. The Arbitrator then set up a 7 step test to weigh whether relief ought to be granted. Acknowledging that the Employer was not prejudiced to any great degree, the Arbitrator nonetheless observed the rather forceful time limit language of the agreement and concluded that he could not ignore it. The first grievance was held to be not arbitrable. As to the second matter, the Arbitrator viewed it as incredulous that some 6 different mechanical systems failed the grievor concurrently while independent investigation did not demonstrate any such mechanical malfunctions. The Arbitrator reasoned that the cause of the accident was either medical or negligence. Although unable to ascertain whether the accident was culpable or not, the Arbitrator concluded that in either case a temporary demotion would be appropriate. Such a decision was ordered with other caveats.

(18 pages) B.C.D. Lab. Arb. - October, 1984

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