

Grievance of W.C. Arising from the Termination of his Employment with the Province of Manitoba

published 09/20/2013

In the matter of an Arbitration between:

MGEU (the Union) and the Province of Manitoba (the Employer) and W.C. (the Grievor) heard by the Hon. Martin H. Freedman, Q.C., C.Arb.



Counsel: David Lewis, Union

Robert Olson (Partner, Thompson Dorfman Sweatman LLP), Employer

Overview

Grievance of W.C. arising from the termination of his employment with the Province of Manitoba. The Province developed concerns that the Grievor was using his position as a manager for personal gain, alleging he altered receipts, claimed personal expenses as business expenses, deliberately removed detail from certain receipts, falsified the purchasing card logs, approved the falsification of logs by other employees under his direction, and interfered in the investigation of irregularities involving himself and other staff by breaching confidentiality. It was also asserted that he refused to provide any explanation at all for his actions.

The Province determined that the Grievor's conduct had irreparably damaged the trust in the employment relationship, leading to his termination.

The Grievor denied those assertions and requested immediate reinstatement without loss of money, benefits and/or seniority.

Evidence

There is considerable evidence not only calling into question but establishing W.C.'s serious deficiency in management capability, shown by an almost complete lack of oversight of N.M.'s (the accounts clerk whom he directly supervised) actions in relation to his credit card, and a very serious lack of care, competence and diligence in relation to the logs, the purchases and the receipts.

There is also clear evidence that the Grievor failed to provide any explanation to the Province, at any time up to the point of his termination, and then not until the hearing, of the

circumstances that had led the Province to have grave concerns about his conduct.

The Province had good reason to suspect that W.C. was in some way complicit with the misuse, because it was his card that had been used for the purchases by N.M., and he had certified purchasing card logs that were false.

W.C. was found to have failed to meet the standard of conduct and integrity expected of him, and it was determined that his conduct had irreparably damaged the Province's trust in him and in the employment relationship. Those findings and determinations were properly available to be made on the evidence.

Decision (issued August 19, 2013)

At Par. 146, Arbitrator Freedman wrote, "An employee faced with an allegation of a serious breach of employment obligations has an obligation to explain his position to his employer. Failure to do so exposes the employee to disciplinary action. I agree with Arbitrator Hinnegan's decision in *York* that such an employee is not relieved from his duty to provide an adequate explanation to his employer because a lawyer has advised him to remain silent pending a potential criminal investigation."

The grievance was dismissed. The Grievor was directed to tender an unqualified written resignation to the Province with the Province treating his termination as a resignation, with all references to the incidents at issue removed from his personnel record.

"Thank you! That is a fantastic result and good principles for the employer." - Employer to Mr. Olson upon receipt of the Decision.

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