

The Canadian Abridgment eDigests -- Labour Law

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LAB.I.5.f.iv.A

Subject Title: Labour and employment law

Classification Number: I.5.f.iv.A

Labour law -- Bargaining rights -- Practice and procedure -- Conduct of hearing -- Disclosure of documents

Union brought successor employer application against respondents, unionized O Ltd. and non-unionized G Ltd. -- Union applied for pre-hearing production orders, for documents relating to control and direction of G Ltd. by shared principal, relating to work bid on or performed by respondents, certain communication records, and records relating to workers -- Application granted -- Pre-hearing production sought was comprehensive but, while some documents sought might prove to be unnecessary to determine merits of issues in dispute, legislative direction required respondents to adduce all facts within their knowledge that were material -- Responding parties to these types of applications were expected and routinely ordered to produce to applicant unions all arguably relevant documents in advance of hearing -- Where union argued that respondents' shared principal sought to operate G Ltd. on non-union basis to perform same work that O Ltd. performed on union basis, it was evident that full extent of principal's control and direction of G Ltd. had not been agreed upon by parties -- Union's request for estimates and quotes, purchase orders, records of payment, and accounts receivable were reasonable in scope and might assist in identifying full extent of relationship between respondents and role played by principal -- Requests for records of communications between principal and any person working for either respondent and between principal and any customer or client as relating to work were reasonable in scope and would be granted as arguably relevant -- Documents relating to workers and principal's involvement in employment and labour relations matters were arguably relevant and would be ordered produced.

LIUNA, Local 183, Ontario Provincial District Council v. Great Lakes Sewer Services Ltd. ([2021](#)), [2021 CarswellOnt 14851](#), Lee Shouldice V-Chair (Ont. L.R.B.) [Ontario]

LAB.I.6.h.i

Subject Title: Labour and employment law

Classification Number: I.6.h.i

Labour law -- Collective agreement -- Job classification -- Revision of classification

Union represented registered early childhood educators (RECE), employed by university which operated early learning centre -- Upon reopening centre after COVID-19 pandemic, university set out to reclassify positions within bargaining unit -- Grievor's position was evaluated, with employer lowering grievor's grade under job evaluation plan -- Union claimed that grievor's grade should remain at previous level -- Union grieved proposed change, on behalf of grievor -- Order accordingly -- Arbitrator evaluated various features of grievor's

job, determining necessary level of function for each one -- Matter was remitted to parties, to determine resulting position grade based on arbitrator's findings.

Ryerson University and OPSEU, Local 596, Re [\(2021\), 2021 CarswellOnt 18185](#), Marilyn A. Nairn Member (Ont. Arb.) [Ontario]

LAB.I.8.f.i.A.3

Subject Title: Labour and employment law

Classification Number: I.8.f.i.A.3

Labour law -- Labour arbitrations -- Practice and procedure -- Compliance with grievance procedure -- Form of grievance -- Particulars

Parties were union representing transit workers, and employer transit authority -- Union grieved discharge of union member -- Parties exchanged particulars and production, through grievance process -- Employer claimed that union had improperly refused to provide certain particulars -- Employer raised preliminary objection, as to jurisdiction of arbitrator to hear grievance -- Union asserted privilege over material sought by employer -- Employer made request for production, claiming this was necessary to determine preliminary objection -- Request granted in part -- Only material that was arguably relevant to issue, was to be produced -- Material related to separate grievance was not to be produced -- Reasons of individual grievor in producing medical information later in process, were potentially relevant -- Efforts of union to gather and assess medical documents had some relevance to issue of timeliness -- Identity of membership of union executive board, was necessary for employer to know case it had to meet -- Date of referral to grievance and identity of union decision-maker, both had relevance to jurisdiction issue -- Request to know why grievance was not referred earlier, was repetitive and unnecessary -- Employer did not need further information as to order of grievance referrals -- This issue was not determinative of jurisdiction.

Toronto Transit Commission and ATU, Local 113 (Drewett), Re [\(2021\), 2021 CarswellOnt 18184](#), Janice Johnston Member (Ont. Arb.) [Ontario]

LAB.I.8.f.vii.I

Subject Title: Labour and employment law

Classification Number: I.8.f.vii.I

Labour law -- Labour arbitrations -- Practice and procedure -- Evidence -- Production of documents

Employer provided health benefits to employees, as part of collective bargaining agreement, through third-party carrier -- Employer selected new carrier unilaterally, and installed this carrier as provider in 2018 -- Union claimed that employer's actions violated collective agreement -- Union filed grievance as to this issue -- Union made request for employer, to produce documentation relating to process that led to new carrier -- Employer filed preliminary objection to this request -- Hearing took place on preliminary issue -- Objection upheld; union's request dismissed -- Issue of grievance was whether collective agreement was changed unilaterally -- Process of selecting new carrier was not relevant to this issue -- Administration of benefits was separate issue

from benefit coverage -- Union had not pleaded bad faith, and could not use this ground as reason for production -- Request was denied, without prejudice to union's right to renew request in appropriate circumstances.

Bruce Power L.P. and Society of United Professionals (BRPW-2018-2627), Re [\(2021\), 2021 CarswellOnt 18186](#), George T. Surdykowski Member (Ont. Arb.) [Ontario]

LAB.I.8.1.iii

Subject Title: Labour and employment law

Classification Number: I.8.1.iii

Labour law -- Labour arbitrations -- Interest arbitration -- Criteria for award

Parties were employer university and unionized university staff -- As per longstanding collective agreement, parties were engaged in annual negotiations as to salaries and economic benefits -- Parties could not agree on these issues -- Matter proceeded to interest arbitration -- Order made in favour of staff -- Interest arbitration required arbitrator to select one of two competing positions -- Arbitrator was not required to give reasons for decision -- Arbitrator decided that not giving reasons would be best for parties' future relationship.

Simon Fraser Administrative and Professional Staff Assn. and Simon Fraser University (Final Offer Interest Arbitration of Economic Benefits), Re [\(2021\), 2021 CarswellBC 3952](#), James E. Dorsey Member (B.C. Arb.) [British Columbia]
