

Grievance Report

- 1) Arbitration Award
- 2) Application of Article 13.4.3

1) Arbitration Award

- The Executive decided to take a policy grievance on application of the Personal Harassment Policy to the internal affairs of the MRFA to Step 5 of the Grievance Procedure on February 1, 2010
- The decision was based on advice of the Association's legal counsel and CAUT

Background

- The matter was initiated by a personal harassment complaint involving disagreements about a former employee of the Association and a denial of tenure
- This resulted in an individual grievance to which the Executive added a policy grievance at Step 2
- Only the policy grievance was taken to arbitration
- The hearing was held on September 10, 2010

What the grievance sought

- There is potential to limit debate if faculty members become overly sensitive to the possibility of a personal harassment complaint
- Cited the non-discrimination article of the CA “membership or activity in the Association”
- Stated that the Association acknowledges that there may be conduct in the internal affairs of the Association that is so substantive that the Policy may apply, but is of the position that there are boundaries and that the conduct in this case did not cross the boundaries

Some arguments from the arbitration award

- The first principle we discern about the substantive question before us is that the truly internal affairs of a bargaining agent should generally be outside the influence of management power.
- The second, related, principle we may discern is that union officials and representatives enjoy relative immunity from employer disciplinary power in their activities representing and advocating for employees in the bargaining unit.

The Outcome

- However, the arbitrator ruled that this immunity is only relative, not absolute
- The Association's nominee disagreed saying that we are a legislative corporation and conduct our business on a volunteer basis under the bylaws of the Association
- Nevertheless, the ruling does mean that the Personal Harassment Policy applies to faculty members doing MRFA business

2) Application of Article 13.4.3

- 13.4.3 Employees who are required to work more than ten (10) months in any full year of the Agreement shall be paid an additional one-tenth (1/10) of their annual salary for each month worked in excess of ten (10) months, or a pro rata share thereof.
- Step 3 Grievance Committee ruled that this does not apply to part-time employees