IN THE MATTER OF AN ARBITRATION

B E T W E E N :

AIR CANADA

- and -

IAMAW

Facebook Terminations

MARTIN TEPLITSKY, Q.C.
Arbitrator

APPEARANCES:

On behalf of Air Canada:	**Greg McGinnis** **John Beveridge**
On behalf of the IAMAW:	**Sean FitzPatrick** **Boyd Richardson**

Hearing held in Toronto on April 15, 2013

The employer issued suspensions pending discharge on 8 Toronto employees and one from Montreal. They were part of a group of 800-900 employees who participated in a facebook group which they called a "board". There was a "prior board" which was dismantled for fear, apparently of discipline for what had transpired on it. The employer was unable to obtain evidence with respect to the "prior board". Some of the participants on the board, including its apparent leader(s), acted under an assumed name. These have, as yet, not been definitely identified.

What the employer alleges against these employees is that they counseled and encouraged illegal job activities with a view to somehow improving the Union's bargaining position in the negotiations and as a reaction to the government's imposition of binding arbitration and removal of the right to strike or lockout. The Union and its officers were not participants in any of the activities. The employer learned of the "board" through an anonymous delivery of materials to Mr. Beveridge. When 800-900 participants are involved, it is not surprising that someone would "spill the beans".

On the first day of the hearing, a settlement was reached with 4 grievors who resigned from their employment. This left 4 Toronto and 1 Montreal employees.

I have read the transcripts of the facebook. The exchanges on the board complained of are clearly disciplinable. No one contended otherwise. Encouraging illegal workplace conduct, e.g., sitdowns, sick outs, work stoppages, strikes at the heart of collective bargaining which is organized to prohibit mid-term strikes or lockouts and which provides mandatory binding arbitration for the resolution of all disputes. Such conduct also causes enormous financial losses to the employer because of both direct revenue losses through schedule disruptions and indirectly through the flying public's searching elsewhere for more secure flight arrangements. Unfortunately, as well, I recognize that within the Air Canada world, threats of illegal strikes occur relatively frequently. It has become part of the culture–a part which must be eliminated for

the enterprise to prosper and equally for its employees to succeed. What impressed me throughout the hearing was the complete failure of the grievors to appreciate that the harm they were causing was also hurting employees.

In exercising my discretion on penalty, I have considered, not only the personal circumstances of the individual grievors, their length of service, prior disciplinary record, the likelihood of their reoffending and the need for deterrence through a strong message that illegal job actions are intolerable. I have also considered counsel's submissions. Essentially, these were on the union side that discharge was too severe and on the employer's side that discharge was appropriate.

I turn then to the remaining grievors:

Lloyd Alsisto

Decision: He has 7 years service. He is married and has a family. He was an unsatisfactory witness because he was untruthful. He attempted to excuse his conduct and he changed his evidence completely in dealing with the "tee shirt" issue. He appeared to me to be a person who enjoyed instigating trouble; for example, he wrongly advised a colleague to leave his shift early because his shift was wrongly recorded when he knew this to be the case. And, I would have no confidence that if he were restored to the workplace that he would not reoffend. His grievance is dismissed.

Eddy Castro-Lara

Decision: This grievor has 12 ½ years of service. My impression of the grievor is that he is not a serious person. It appears that his co-facepagers did not take him seriously. As well, he was suffering from an illness for which he has received treatment. I am satisfied that his illness contributed to his conduct. Considering both his length of service, his illness, his treatment and my clear impression that he would not reoffend, I have concluded that he should be reinstated forthwith without compensation. His record will reflect a Step V and a final chance to maintain employment.

Darren Quenneville

Decision: He is a very senior employee - almost 25 years of service. HE was contrite and sincerely apologetic. His evidence was honest and heartfelt. I have no hesitation in concluding that he would not reoffend. He is reinstated forthwith without compensation. His record will reflect a Step V and a last chance to maintain his employment.

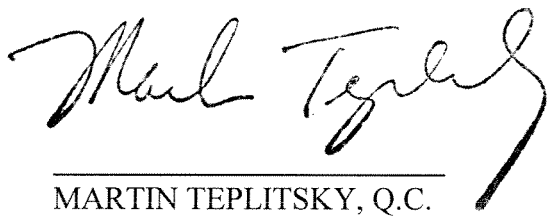
Paul Cooper

Decision: He is a very senior employee - 23 years of service. He is neither contrite nor apologetic. His only regret is having been caught. He knew the huge losses illegal walkouts and other conduct created. Based on his evidence, I am satisfied that if reinstated, he would reoffend. Given this conclusion, I cannot exercise any discretion in his favour. His grievance is dismissed.

Henrick Gongol

Adjourned to next monthly review. Preemptory to the Union.

DATED the 22nd day of April, 2013.



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