

IN THE MATTER OF THE ONTARIO *LABOUR RELATIONS ACT, 1995*

-and-

IN THE MATTER OF AN ARBITRATION

BETWEEN:

OMSTEAD FOODS LIMITED

- The Employer

-and-

UNITED FOOD & COMMERCIAL WORKERS UNION,
LOCAL 459

- The Union

AND IN THE MATTER OF a group grievance and an individual grievance of Richard Gresser, each regarding the calculation of pension contributions

Arbitrator: Howard Snow

Appearances:

On behalf of the Employer:

Anna M. N. Vannelli - Counsel
and others

On behalf of the Union:

Kelvin Kucey - Counsel
and others

Hearing held February 27, 2008, in Windsor, Ontario.

CONSENT AWARD

Omstead Foods Limited is the Employer in this matter. The United Food and Commercial Workers Union, Local 459, represents these employees.

Both a group grievance and an individual grievance were referred to arbitration. Both grievances related to the calculation of pension contributions. At the hearing, the Union agreed to withdraw the group grievance, without prejudice. The parties reached a settlement of the individual grievance of Richard Gresser and requested that I issue an award incorporating the terms of their settlement of the Gresser grievance.

Counsel advised that the individual grievance involved Article 25.10 which is as follows:

ARTICLE 25

HEALTH AND WELFARE

...

25.10 PENSION PLAN - The Company will pay into the Canadian Commercial Workers Industry Pension Plan, on behalf of each seniority employee, the sum of eighty one cents (\$.81) effective April 1, 2005, for each non-overtime hour worked by each seniority employee, subject to a maximum of forty (40) hours per week. Effective April 1, 2006, the Company will contribute eighty six cents (\$.86) for each non-overtime hour worked by each seniority employee, subject to a maximum of forty (40) hours per week, and ninety one cents (\$.91) effective April 1, 2007. Pension plan payments will be made for all hours worked at straight time contribution rates for all overtime hours worked up to an individual annual maximum contribution of 2000 hours. These Company contributions will be remitted by the Company by the fifteenth (15th) day of the month following the month for which the contributions are being made.

...

Counsel advised that the parties had agreed that, with respect to the year 2006, there had been an error in the calculation of the number of hours the grievor had worked for purposes of the Employer's pension contribution under Article 25.10. Counsel indicated that the grievor was to be credited with an additional 104 hours pension contribution for 2006 as settlement of the grievance.

Based on the submissions of counsel, I direct the Employer to correct the above error and to make the correct contribution for 2006. I leave to the parties the calculation of the exact amount owing.

I will remain seised to deal with any difficulties which may arise in the implementation of this award.

Dated at London, Ontario, this 4th day of March, 2008.

Howard Snow, Arbitrator