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June 29, 2009

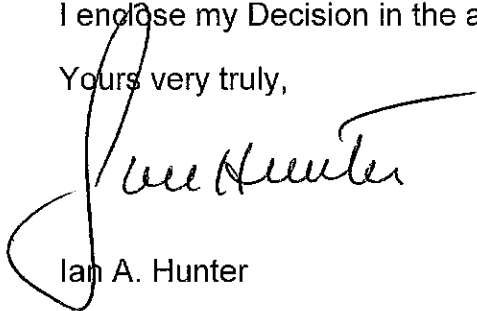
Mr. Ian L. McArdle  
Human Resources Committee  
Ontario Council of Regents for Colleges of  
Applied Arts and Technology  
2 Carlton Street, Suite 1102  
TORONTO, Ontario  
M5B 1J3

Dear Mr. McArdle:

Re: O.P.S.E.U., Local 109 v. Fanshawe College;  
Classification Grievance of B. Kosarac

I enclose my Decision in the above case.

Yours very truly,



Ian A. Hunter

iah:nh

enclosure

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IN THE MATTER OF AN ARBITRATION

BETWEEN:

ONTARIO PUBLIC SERVICE EMPLOYEES UNION, LOCAL 109  
(hereinafter called the Union)

- and -

FANSHAWE COLLEGE  
(hereinafter called the College)

- and -

CLASSIFICATION GRIEVANCE OF MR. BOJAN KOSARAC  
(hereinafter called the Grievor)

SOLE ARBITRATOR  
Professor Ian A. Hunter

APPEARANCES:

FOR THE UNION: Ms. Marg Rae, President, Local 109

FOR THE COLLEGE: Ms. Cathy Macdonald, Human Resources Consultant

AN ARBITRATION HEARING WAS HELD AT FANSHAWE COLLEGE  
ON JUNE 11, 2009

## DECISION

### (1) Introduction

The classification grievance of Mr. Bojan Kosarac is dated August 1, 2007 and alleges improper classification (Exhibit 1).

The position under review is called "I.T. Solutions Architect". The position is part of "Information Technology Services" and the particular department is "Network Services and Computer Operations". The incumbent, Mr. Kosarac, reports to Mr. Jimmy Tom, Manager, Network Services and Computer Operations.

As required by the Collective Agreement (Article 18.4.3.4) the parties provided me with helpful briefs in advance of the hearing.

An expedited arbitration hearing was held at Fanshawe College on June 11, 2009.

### (2) An Overview of the Position

The I.T. Solutions Architect is responsible for providing leadership, advice and expertise in support of the College's computing infrastructure and resources. The incumbent is involved in research, design and implementation of new computer technologies. He also assists in supporting I.T. operational needs throughout the College.

Approximately two-thirds (2/3) of the incumbent's time is spent in:

- conducting research and advising on new directions in computer technology;
- assessing new technologies and their impact on existing computing facilities and curriculum;
- designing and developing I.T. solutions to meet the College's needs;
- coordinating and implementing new I.T. technologies;
- acting as a senior technical advisor in certain assigned areas;
- participating as an advisor and committee member for planning network and infrastructure.

The other one-third (1/3) of the incumbent's time is spent on day-to-day "trouble-shooting" issues in relation to the College's computer network.

The incumbent's home department (Network Services and Computer Operations) is one of five (5) departments ((1) Information Systems Services; (2) Technical Support Services; (3) Learning System Services; and (4) Project Management) that together comprise Information Technology Services (ITS). ITS plans, acquires, and installs computer systems across Fanshawe College, including its satellite campuses, and is responsible for all computer operations at the College. The Grievor's home department (NSCO) implements, operates and maintains local and wide area services; this means designing and implementing new computer and network services, planning and developing the College's information technology architecture, and installing, maintaining and trouble-shooting existing services and networks.

(3) Job Factors Agreed

The P.D.F. indicates agreement between the Union and College on the following job factors and ratings:

| <u>Job Factor</u>          | <u>Level</u> | <u>Points</u> |
|----------------------------|--------------|---------------|
| 1A. Education              | 4            | 48            |
| 2. Experience              | 6            | 86            |
| 5. Guiding/Advising Others | 4            | 41            |
| 9. Physical Effort         | 1            | 5             |
| Occasional                 | 3            | 6             |
| 10. Audio/Visual Effort    | 3            | 35            |
| 11. Working Environment    | 2            | 38            |

(4) Job Factors in Dispute

The parties dispute the following job factors:

1B. Education

This factor deals with a requirement for additional courses, certification or accreditation in addition to the formal educational requirement (in this case a three (3) year diploma/degree plus professional certification or equivalent) as specified in job factor 1A.

The College has evaluated this at Level 3: "Additional requirements obtained by course(s) with a total between 101 and 520 hours."

The Union rates this at Level 4: "Additional requirements obtained by course(s) with a total of more than 520 hours."

The Union brief submitted: "... I have been to 17 different long training sessions in the 9 years I have been a full time employee at Fanshawe College." With respect, this is not what the factor addresses. It is courses taken and required prior to hiring that are to be considered. However, the October 2008 revision to the training manual also states: "... If, after an incumbent is hired, job responsibilities change so that there is a requirement for additional education (as defined by 1B above) and that change would subsequently be included in the job posting/P.D.F., then those additional educational requirements must be considered."

The Grievor testified that two (2) elements specifically are required: CISCO certification and Microsoft certification. If true, this would clearly put the hours required above 520 hours.

However, Mr. Jimmy Tom, the Manager of Network Services and Computer Operations, and the Grievor's Supervisor, testified that the additional training that he would require for a new hire are "courses in operating systems and networking". Mr. Tom testified that there are private companies that provide such training, and that most courses are 30 to 40 hours in duration.

Mr. Tom said that he would require a minimum of three (3) courses on operating systems, and three (3) to four (4) courses on networking. This means six (6) to seven (7) courses at 30 to 40 hours per course. Even accepting Mr. Tom's highest estimate (7 courses at 40 hours per course), the "additional requirements" still fall comfortably within Level 3.

Accordingly, I hold that the College's classification at Level 3 is correct.

Education - Level 3 - 21 Points

### 3. Analysis and Problem Solving

This factor measures the level of complexity involved in analysing situations ... and in developing options, solutions or other actions.

The College has rated this factor at Level 4 and the Union concurs.

The dispute between the parties is that the Union also proposes an "Occasional" rating at Level 5: "Situations and problems are complex and multi-faceted and symptoms are vague or incomplete. Further investigation is required. Solutions require interpretation and analysis of information within generally accepted principles."

The P.D.F. provides three (3) examples of problems regularly encountered.

- (1) Implementing new technology;
- (2) Wireless network unreachable or unavailable;
- (3) Technology research assignments.

It lists an "Occasional" example as: "Application and network slowdown".

From the Grievor's evidence, and from the evidence of Mr. Tom, I am persuaded that a Regular rating at Level 4 adequately addresses all of these problems. Level 4 speaks to problems "... often requiring further investigation and research" and the incumbent certainly encounters those. I did not, however, hear convincing evidence of "complex and multi-faceted" problems where the "symptoms are vague or incomplete" which is a hallmark of Level 5.

Also, I note that before problems reach the Grievor, they have usually gone through a Technician at the Help Desk, and perhaps also a Technologist or Coordinator. I accept that the incumbent is frequently involved in trouble-shooting computer problems, both hardware and software; he is required to interpret and analyze information to arrive at a solution, but that solution is obtainable "according to established techniques and principles", again a hallmark criteria of Level 4.

Accordingly, I have concluded that Analysis and Problem Solving is properly rated at Level 4 (110 points) and there is no additional occasional requirement.

Analysis and Problem Solving - Level 4 - 110 Points



#### 4. Planning/Coordinating

This factor measures the organizational and/or project management skills involved in completing tasks or organizing events.

The College has rated this at Level 3: "Plan/coordinates activities, information or materials to enable completion of tasks and events, which affect the work schedule of other employees."

The Union proposes Level 4: "Plan/coordinate and integrate activities and resources for multi-faceted events, projects or activities involving other employees. This typically involves modifying these individuals' priorities for activities/projects to meet objectives."

The classification manual elaborates on Level 4 by explaining: "Typical planning and coordination at this level involves multiple inputs and complex tasks, frequently requiring the coordination of activities or resources of a number of departments, such a major campus renovation or major technology upgrade. The position could be responsible for multiple, concurrent major projects at the same time. At this level, the position would have the authority to require others to modify their schedules and priorities."

Nothing in the evidence, either of Mr. Kosarac or Mr. Tom, suggested to me Level 4. It is true that the Grievor is engaged in time-sensitive and task-oriented I.T. projects. Many of these projects have a three (3) to five (5) year time horizon. It is also true that his work involves him in frequent contact with managers, faculty,

hardware and software providers and others, both within and outside the College. But there was little evidence of coordination of activities across departments, nor of multiple, concurrent projects occurring at the same time, nor of requiring other employees to modify their priorities or to rearrange their schedules in order to meet the Grievor's work load.

In fact, it was Mr. Tom's evidence that his department is more at the mercy of other College and departmental priorities (the semester cycle, teaching priorities, etc.) than vice-versa. Mr. Tom stated: "We do not have the authority, in my department, to affect the schedules of other employees, except in emergency exceptions such as containing a major security emergency." I asked Mr. Tom how often such an emergency might occur, and he replied: "Maybe once per quarter".

The Grievor has several (up to five (5)) major projects on the go at any one time. These projects can have a dramatic and major influence on the future technological landscape at Fanshawe College. But the projects are tested and implemented gradually, and usually in a way so as to minimize disruption to employee schedules.

Planning/Coordinating                      - Level 3            - 56 Points

## 6. Independence of Action

This factor measures independence or autonomy in the position. Raters are instructed to consider: the types of decisions made; consultation and input from

others (including supervisors) in making those decisions; and rules, procedures and past practices and guidelines which facilitate decision making.

Such considerations, taken as a whole, define the parameters and constraints of the incumbent's freedom to act.

The College has rated this factor at Level 3: "Position duties are completed according to general processes. Decisions are made following general guidelines to determine how tasks should be completed." The College then includes an Occasional rating at Level 4.

The Union rates this factor at Regular Level 4: "Position duties are completed according to specific goals or objectives. Decisions are made using industry practices and/or departmental policies." The Union proposes an Occasional rating at Level 5: "Position duties are completed according to broad goals or objectives. Decisions are made using College policies."

The P.D.F. for the Grievor's position states: "General College guidelines and policies, industry standards, recommendations from vendors and consultants." This language itself suggests to me Level 4. This conclusion is reinforced when I note that the P.D.F. also states: "In the event that no guidelines exist for a particular issue, the incumbent is expected to exercise judgement and take appropriate action", and subsequently "brief management at the earliest opportunity". This suggests wide parameters within which the incumbent is expected to exercise his own judgement. From Mr. Kosarac's evidence I conclude that such wide latitude

in making decisions and exercising independent judgement is the norm, it is not “occasional”. Nothing in Mr. Tom’s evidence dissuaded me from this conclusion.

Roughly two-thirds (2/3) of the Grievor’s time is spent on future infrastructure planning. This is an independent function and the incumbent makes his decisions based on industry practices and the latest “cutting edge” technological developments.

I asked the Grievor if he was constrained by general College guidelines or policies and he replied: “No. I don’t consider that.” He was bound, he said, by “industry standards” (i.e. common practices in I.T. in both the public and private sector) and what he called the “Jimmy Tom rules”.

Mr. Tom elaborated those rules:

- (1) Avoid anything that entails an outage;
- (2) Avoid anything involving configuration changes; and
- (3) Avoid anything that involves expenditure.

It is clear that decisions involving expenditure are made by Mr. Tom, not by the I.T. Solutions Architect. But it is the I.T. Solutions Architect who (a) researches the issues; (b) compares prospective solutions; (c) provides cost estimates for those solutions; and (d) makes recommendations on the most appropriate course of action at the College. I find that Level 3 underrates the Independence of Action required in the position.

The correct rating for this factor, I have concluded, is neither proposed by the parties. Rather, I hold that Independence of Action should be evaluated at Level 4, and that no additional Occasional rating should be included.

Independence of Action                      - Level 4                      - 110 Points

## 7. Service Delivery

This factor examines how the position services clients. It examines how the request for service is received and filled. It considers the degree to which the position is required to design and fulfill service requirements.

The College has rated this factor at Level 3: "Tailor service based on developing a full understanding of the customer's needs."

The Union proposes Level 4: "Anticipate customer requirements and pro-actively deliver service."

It is important here to recall the job title: "I.T. Solutions Architect".

The core rationale for the position is to anticipate and design I.T. solutions based on "an assessment of the anticipated College needs and emerging technologies" (P.D.F.), and the P.D.F. and the sample memos in the Union brief, are redolent of "anticipating Fanshawe College's I.T. requirements and pro-actively delivering service".

This service also includes: acting as senior technical advisor on the technical and planning committee; assessing the desirability of new technology, advising the College for or against new technologies; researching and proposing to the College the best and most economical ways of staying current with new technologies; and implementing those new technologies into an existing system.

The Grievor gave many examples of this; for example, his role in the VOiP (Voice Over Internet Protocol) and his ongoing involvement in the wireless network.

Mr. Tom's evidence corroborated the fact that the Grievor's primary job is to anticipate future College technological requirements, and then (once decided upon by others and financed) to pro-actively deliver the service.

Service Delivery

- Level 4 - 73 Points

## 8. Communication

This factor measures the communication skills, verbal and written, required by the position.

The College has rated this Level 3: "Communication involves explaining and/or interpreting information to secure understanding. May involve communicating technical information and advice."

The Union proposes Level 4: "Communication involves explaining and/or interpreting information to instruct, train and/or gain the cooperation of others."

Nothing in the P.D.F., or in the Grievor's evidence, suggested to me that communication should be rated higher than Level 3. Indeed, "communicating technical information and advice" is the core communication responsibility involved in the I.T. Solutions Architect position. Nor did I hear any evidence which revealed "instructing, training, or gaining the cooperation of others" or at least not beyond that involved in technical communication which necessarily leads to collaborative results. It is true that the Grievor communicates with outside computer technologists (e.g. vendors and industry I.T. experts); the Union brief characterizes these communications as "negotiations". However, Mr. Tom's evidence made it clear that the Grievor's role stops at recommendations; the decision as to what new technology to implement, and the decision about how and who will pay for it, is made by Mr. Tom. Likewise the Grievor's role in dealing with outside vendors is to obtain information and to secure understanding. It does not extend, I find, to negotiation.

I am satisfied that Level 3 adequately embraces the Communication factor.

Communication

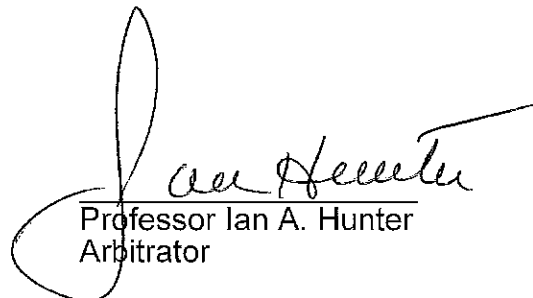
- Level 3 - 78 Points

(5) Decision

The grievance of Mr. Bojan Kosarac is allowed. The College is directed to reclassify the I.T. Solutions Architect position at 707 points, Payband 'K'. I remain seized to deal with any issue which may arise in the implementation of this Decision.

I have appended a completed Arbitration Data Sheet.

Dated at the City of St. Thomas this 29<sup>th</sup> day of *JUNE*, 2009.

  
Professor Ian A. Hunter  
Arbitrator



## Arbitration Data Sheet - Support Staff Classification

College: FANSHAWE Incumbent: SONIA KUSARAK Supervisor: JIMMY TOM  
 Current Payband: L Payband Requested by Grievor: L

1. Concerning the attached Position Description Form:

- The parties agreed on the contents     The Union disagrees with the contents and the specific details are attached.

2. The attached Written Submission is from:  The Union     The College

| Factor                          | Management         |        |            |        | Union              |        |            |        | Arbitrator         |        |            |        |
|---------------------------------|--------------------|--------|------------|--------|--------------------|--------|------------|--------|--------------------|--------|------------|--------|
|                                 | Regular/ Recurring |        | Occasional |        | Regular/ Recurring |        | Occasional |        | Regular/ Recurring |        | Occasional |        |
|                                 | Level              | Points | Level      | Points | Level              | Points | Level      | Points | Level              | Points | Level      | Points |
| 1A. Education                   | 4                  | 48     |            |        | 4                  | 48     |            |        | 4                  | 48     |            |        |
| 1B. Education                   | 3                  | 21     |            |        | 4                  | 30     |            |        | 3                  | 21     |            |        |
| 2. Experience                   | 6                  | 86     |            |        | 6                  | 86     |            |        | 6                  | 86     |            |        |
| 3. Analysis and Problem Solving | 4                  | 110    |            |        | 4                  | 110    | 5          | 9      | 4                  | 110    |            |        |
| 4. Planning/Coordinating        | 3                  | 56     |            |        | 4                  | 80     |            |        | 3                  | 56     |            |        |
| 5. Guiding/Advising Others      | 4                  | 41     |            |        | 4                  | 41     |            |        | 4                  | 41     |            |        |
| 6. Independence of Action       | 3                  | 78     | 4          | 9      | 4                  | 110    | 5          | 9      | 4                  | 110    |            |        |
| 7. Service Delivery             | 3                  | 51     |            |        | 4                  | 73     |            |        | 4                  | 73     |            |        |
| 8. Communication                | 3                  | 78     | 4          | 9      | 4                  | 110    |            |        | 3                  | 78     |            |        |
| 9. Physical Effort              | 1                  | 5      | 3          | 6      | 1                  | 5      | 3          | 6      | 1                  | 5      | 3          | 6      |
| 10. Audio/Visual Effort         | 3                  | 35     |            |        | 3                  | 35     |            |        | 3                  | 35     |            |        |
| 11. Working Environment         | 2                  | 38     |            |        | 2                  | 38     |            |        | 2                  | 38     |            |        |
| <b>Subtotals</b>                | (a)                | 647    | (b)        | 24     | (a)                | 766    | (b)        | 24     | (a)                | 701    | (b)        | 6      |
| <b>Total Points (a) + (b)</b>   | 671                |        |            |        | 790                |        |            |        | 707                |        |            |        |
| <b>Resulting Payband</b>        | L                  |        |            |        | L                  |        |            |        | K                  |        |            |        |

**Signatures:**

S. KUSARAK  
 (Grievor)

\_\_\_\_\_  
 (Date)

CAROL HICKSON  
 (College Representative)

\_\_\_\_\_  
 (Date)

MARK RAE  
 (Union Representative)

\_\_\_\_\_  
 (Date)

Jane Hunter  
 (Arbitrator's Signature)

JUNE 11/09  
 (Date of Hearing)

JUNE 29/09  
 (Date of Award)