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December 11, 2008

Ms. Sandi Johnson
Senior Consultant
College Compensation and Appointments Council
2 Carlton Street, Suite 1102
TORONTO, Ontario
M5B 1J3

RECEIVED BY
DEC 16 2008
THE COUNCIL

Dear Ms. Johnson:

Re: O.P.S.E.U., Local 124 v. Lambton College of Applied Arts and Technology;
Classification Grievance of Alec Ip

I enclose my arbitration Award in the above case.

Yours very truly,



Ian A. Hunter

iah:nh

enclosure

Mediation/Arbitration Professionals

e-mail address: iahunter@sympatico.ca

IN THE MATTER OF A CLASSIFICATION ARBITRATION

BETWEEN:

ONTARIO PUBLIC SERVICE EMPLOYEES UNION, LOCAL 124
(hereinafter called the Union)

- and -

LAMBTON COLLEGE OF APPLIED ARTS AND TECHNOLOGY
(hereinafter called the College)

- and -

CLASSIFICATION GRIEVANCE OF MR. ALEC IP
(hereinafter called the Grievor)

ARBITRATOR
Professor Ian A. Hunter

APPEARANCES:

FOR THE UNION: Mr. Alec Ip, Grievor and Local 124 President,
Ms. Connie Burns, Union Steward

FOR THE COLLEGE: Mr. Guy Bertrand, Director of Human Resources
Ms. Colleen Charlton, Manager, Staff and Labour Relations

AN ARBITRATION WAS HELD AT LAMBTON COLLEGE
IN SARNIA, ONTARIO ON NOVEMBER 26, 2008

AWARD

(1) Introduction

The grievance of Alec Ip is dated April 26, 2007 and alleges improper classification.

The hearing was originally scheduled for March 28, 2008 but the Grievor became ill, and the hearing was then adjourned to November 26, 2008.

As required, I was provided in advance with detailed, helpful briefs by both the Union and the College. A classification arbitration hearing was then held at Lambton College on November 26, 2008.

(2) Arbitration Data Sheet

The parties are agreed on all job factors except Experience. Consequently, the following factors are agreed.

<u>Job Factor</u>	<u>Regular/Recurring</u>	<u>Occasional</u>	<u>Points</u>
1A. Education	4		48
1B. Education	2		12
3. Analysis and Problem Solving	3		78
4. Planning/Coordinating	3		56
5. Guiding/Advising Others	4	Level 5 (3 pts)	44
6. Independence of Action	3		78
7. Service Delivery	3		51
8. Communication	4		110
9. Physical Effort	2	Level 3 (6 pts)	32
10. Audio/Visual Effort	1		5
11. Working Environment	2	Level 3 (9 pts)	47

(3) Agreed Facts

- 1) The Grievor, Alec Ip, graduated from the Mechanical Technologist program at Lambton College.
- 2) In 1980, he worked part-time as a Mechanical Technician, and then following his graduation he worked part-time for Lambton College and part-time in the private sector.
- 3) After approximately one (1) year he applied for, and obtained, a full-time position at Lambton College as Mechanical Technician.
- 4) In subsequent years, the position was called Technologist II, Technologist C, and Mechanical Technologist.
- 5) In 1986 the position was analysed and a P.D.F. was prepared. The 1986 P.D.F., signed by Dr. R.A. Rothenbury, Director, Technology Division, rated "Training/Experience/Skill" as "At least 8 years experience in a related field".
- 6) The position was analysed and a new P.D.F. was prepared in 1996. The 1996 P.D.F. signed by W. Riddell, Chair, Technology & Industrial Training, described "Experience" as "up to 8 years in a related field".
- 7) The current P.D.F. dated February 20, 2007 and signed by Maike Luiken (then) Dean, School of Technology, Applied Science and Apprenticeship and School of

Fire Sciences, described "Experience" as "Minimum of three (3) years in a related field".

(4) The Evidence

The Mechanical Technologist position plans, tests, and implements a variety of laboratory procedures. Mr. Ip is involved with starting groups of students in the laboratory, and assisting them where necessary. He insures that proper laboratory and other procedures are carried out, and he provides specialized technical services. He is involved in monitoring budgets, purchasing new equipment (although this is rare in these times of budget restraint) and supplies. He fabricates, maintains and repairs specialized mechanical equipment.

The P.D.F. breaks down the duties and responsibilities, and allocates times to each, in this way (Mr. Ip testified that the description and time allocation was generally accurate).

	Approximate % of time annually*
Demonstrates to and assists students in the operation and application of laboratory equipment and techniques.	15%
Assists faculty, students and research personnel with difficulties related to experiments and projects.	21%
Performs maintenance of equipment. Diagnoses faults, repairs and calibrates equipment and system as required.	20%
Develops instructional and maintenance procedures, recommends and installs new equipment.	18%
Initiates requisitions for supplies, maintains a complete inventory of all materials, files and issues instruction manuals and technical literature.	7%

Offer other departments, program areas and research projects expertise and participate in the selection of mechanical equipment.	3%
Oversees the day-to-day activities of Co-op and EBAT students during their work terms, as well as Mechanical Technician and Part Time Technician as required.	9%
Monitors the accounts and reports on the status of budgets.	4%
Performs any other duties.	3%

Mr. Ip explained to me that the Mechanical Technologist is involved in an array of specialized processes - pneumatic; hydraulic; fluid mechanic; inspection - and that some years of experience is required in each of these processes to handle the minimum competencies required. That is why, he maintained, that the two (2) prior P.D.F.'s (1986 and 1996) had set the experience requirement at eight (8) years, and that is why the Union maintains that eight (8) years should be the minimum experience requirement today.

The College submitted that the "8 years" standard in the former P.D.F.'s was "set too high". The 1996 job evaluation system was based on Job Families; the College formerly determined that the Technologist C position which allowed "up to 8 years experience", was the "closest fit" to this particular position. However, in reviewing positions for the "new" classification system the College looked again at all factors, including Experience, and concluded: "... a person with a three (3) year diploma/degree (as required) and three (3) years of related experience is well-prepared and able to perform the responsibilities of the position with a short on-the-job orientation".

The College employs six (6) other technologists with a variety of job titles. I note that the "Experience" required for each of these positions ranges from a minimum of three (3) years (Implementation and Control Technologist) to five (5) years (Chemical

Technologist). None of the other technologist positions require a minimum of eight (8) years experience.

Maike Luiken, the Grievor's Supervisor who was involved in preparation of the current P.D.F., did not testify before me (she has since moved to a new position as Dean of Innovation, Sustainability and Applied Research) but I was provided with a memo she wrote on April 1, 2007 disputing the Grievor's suggestion that eight (8) years experience should be maintained; Ms. Luiken wrote: "It is my position that both Education and Experience reflect the minimum level that is needed at the point of hire and do not necessarily reflect the education and experience of the incumbent or what it was when the incumbent was initially hired into that position". She goes on to say that three (3) years experience is sufficient.

(5) Decision

The Job Evaluation Manual defines "Experience" this way:

"This factor measures the typical number of years of experience, in addition to the necessary education level, required to perform the responsibilities of the position. Experience refers to the time required to understand how to apply the knowledge described under "Education" to the duties of the position. It refers to the minimum time required in prior positions to learn the techniques, methods and practices necessary to perform this job. This experience may be less than the experience possessed by the incumbent, as it refers only to the time needed to gain the necessary skills."

The Manual specifically states: "This factor does not measure the actual experience of the incumbent."

Mr. Ip described his position to me at some length. He is obviously a knowledgeable and valued employee of Lambton College, and he has been performing the duties of the position for nearly three (3) decades. There is no doubt that his extensive work experience enables him to perform all facets of this variegated job.

I accept his evidence that the Mechanical Technologist position requires some experience in various processes (specified earlier) in which the incumbent must be involved. I agree with the Union that this places a premium on experience, and I accept that the Mechanical Technologist position requires no less practical experience than other College technologists. Therefore, I reject the College's rating of Experience as Level 4 - i.e. Minimum 3 years.

However, I also reject the Union's rating at Level 6 - Minimum 8 years. This seems to me to overstate the experience requirement (as previous P.D.F.'s in 1986 and 1996 did). I agree with the College that the introduction of the new classification system in 2007 allows the College to consider afresh all the elements that go into job evaluation and to correct past excesses. Consequently, I hold that there was nothing inherently wrong with the College changing the rating on Experience, although based on the evidence put before me, I find that the College's proposed rating (minimum 3 years) undervalued the experience required to competently perform the variegated duties and responsibilities of the Mechanical Technologist.

Having considered and weighed all of the evidence, I have concluded that Experience should be rated Level 5 - Minimum 5 years - 69 points. I have attached a completed Arbitration Data Sheet incorporating this change.

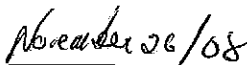
The grievance of Mr. Alec Ip is allowed. The position of Mechanical Technologist, Lambton College is to be evaluated at 630 points, Payband I.

ARBITRATION DATA SHEET

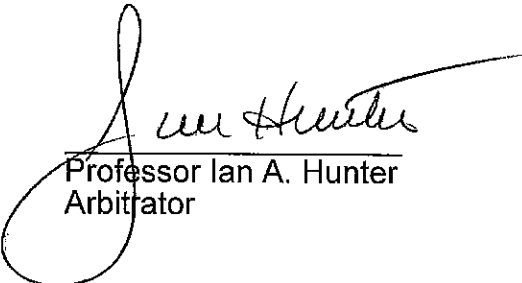
College: LambtonIncumbent: Alec IpSupervisor: Ms. Maïke Luiken

<u>Job Factor</u>	<u>Arbitrator</u>		<u>Occasional Level</u>	<u>Points</u>
	<u>Regular/Recurring Level</u>	<u>Points</u>		
1A. Education	4	48		
1B. Education	2	12		
2. Experience	5	69		
3. Analysis and Problem Solving	3	78		
4. Planning/Coordinating	3	56		
5. Guiding/Advising Others	4	41	5	3
6. Independence of Action	3	78		
7. Service Delivery	3	51		
8. Communication	4	110		
9. Physical Effort	2	26	3	6
10. Audio/Visual Effort	1	5		
11. Working Environment	2	38	3	9
Subtotals	(a)	612	(b)	18
Total Points (a) + (b)		630 points		
Resulting Payband		I		


 (Arbitrator's Signature)


 (Date of Hearing)

Dated at the City of St. Thomas this 11th day of *DECEMBER*, 2008.



Professor Ian A. Hunter
Arbitrator