

OUTSTANDING DECISIONS FOR MEMBERS OF UCCO-SACC-CSN

On Monday, January 29, 2018 the Federal Public Sector Labour Relations and Employment Board released two outstanding decisions argued by UCCO-SACC-CSN in the Pacific Region.

In the case of *Stann v. Deputy Head* (Correctional Service of Canada), 2018 FSPLREB 5, the dispute was over the imposition of a one-day fine due to alleging being abusive toward a correctional manager (disrespectful email and a comment in a following meeting). The issue started when the CM invited the grievor to attend a National Attendance Management Program (NAMP) meeting to discuss his sick leave. The grievor refused politely by email quoting policy and previous decisions from the Labour Relations Board. The CM and her manager took exception to the email. In a subsequent meeting, the grievor was asked by the CM if he respected her. The grievor answered politely that he did not.

This is a very interesting decision because the adjudicator spent quite some time to assess the credibility, of lack of, of the managers. The adjudicator found that both managers were bias, not credible (due to their non-verbal communication during their testimony, inconsistencies between their testimonies and the written evidence and recordings and filing of their OSOR more than 10 days after the fact). With respect to the comment the grievor made, the adjudicator stated: "Furthermore, Ms. McLean

asked the grievor directly whether he respected her or not. No doubt, he should have refused to answer the question, with all due respect, but likewise, she should not have asked such question if she did not want the answer. She could not have expected that he would respond in some dishonest or disingenuous manner, to appease her ego. The answer was of no consequence to anything other than their working relationship, which has since been severed, as he no longer reports to her". The adjudicator concluded that because the entire disciplinary process was flawed, the discipline had to be overturned.

In the case of *Enger v. Treasury Board* (Correctional Service of Canada), 2018 FPSLREB 6, at issue was a dispute over the right of the ERT instructors to be pay both the ERT allowance (43.06) and the Instructor allowance (article 43.05) when an ERT member provides training to the ERT members. CSC had only granted one of the allowances. CSC also argued that SDS was not programmed to grant both allowance, therefore, this must be because the collective agreement did not allow for both. The adjudicator rejected this argument. The adjudicator found that both allowances were compensating different purposes and that the grievor was entitled to both allowance. The decision's implication is that CSC has to grant both premium to ERT members acting as instructors during ERT training.