

**IN THE MATTER OF AN ARBITRATION UNDER
LABOUR RELATIONS CODE, RSBC 1996, c.244**

BRITISH COLUMBIA AND POWER AUTHORITY

-and

CANADIAN OFFICE AND PROFESSIONAL EMPLOYEES UNION, LOCAL 378

ARBITRATOR: Ken Saunders

APPEARANCES: Laura Mills, for the Employer
Barbara Junker and Cheryl Popeniuk, for the Union

DATE of AWARD: May 12, 2017

AWARD

This award concerns a difference between the parties concerning the remedy for a breach of Section 38 of the Memorandum of Agreement dated February 17, 2017 (MOA). This difference was submitted to me for an expedited resolve based on the submissions of the parties.

The relevant factual background is not in dispute. Under Section 38 of the MOA the Employer is required to communicate an election on or before April 30, 2017. I find that the Employer did not meet the deadline due to unforeseen circumstances. Further, I find the Employer acted in good faith. The circumstances are such that the reasons for the Employer's breach were not within the reasonable contemplation of the parties when the MOA was negotiated. Moreover, I find the Union and its members are not materially prejudiced by the Employer missing the deadline and delaying its election to June 30, 2017. I have reached this conclusion in view of the fact that the Union's members need not make decisions influenced by the Employer's election until September 2017 at the earliest.

In view of the foregoing circumstances, taken individually and as a whole, I conclude that a bare declaration of a breach is a sufficient remedy. This declaration is issued on the condition that the Employer meets its commitment to the revised deadline of June 30, 2017. I retain jurisdiction to resolve any issue concerning the interpretation, application, implementation or alleged violation of this award.

Dated at the City of Burnaby in the Province of British Columbia this 12th day of May, 2017.



Ken Saunders