

IN THE MATTER OF REFERENCE UNDER ARTICLE 46 OF THE MEMORANDUM OF AGREEMENT OF AGREEMENTS FEBRUARY 17, 2017 (THE MOA)

Between:

BC HYDRO & POWER AUTHORITY

And:

MOVEUP

(CANADIAN OFFICE AND PROFESSIONAL EMPLOYEES UNION, LOCAL 378)

The Parties referred an issue under Article 46 of the MOA concerning the INTERPRETATION of Article 22 of the MOA. The substance of the issue in dispute pertains to what extent the Employer may rely on the contents of the personnel files transferred to them under Article 22 for the purpose of administering its Attendance Support Program (ASP) and discipline.

Pursuant to Article 46 an expedited arbitration hearing was convened. The Parties provided oral submissions regarding the above noted issues. On that basis, I issued the following ruling:

1. In determining placement in the BC Hydro ASP, the Employer will not rely on the Attendance Management Program (AMP) documents issued by Accenture and contained in the transferred personnel files. However, the Parties may rely on the Accenture AMP documents and the Employer's personnel files for the purpose of determining whether an employee has maintained a satisfactory attendance record and whether there is reasonable prospect for improvement.
2. The Parties agree that the personnel files transferred to the Employer and the Union under Article 22 of the MOA are subject to the 2 year sunset provision found under Article 17.02(a) of the former collective agreement between Accenture Business Services of BC Limited Partnership and the Union which reads as follows:

Letters or details related to complaints, reprimands or discipline involving an employee which are more than 2 years old shall not be considered in any assessment of the employee's record and shall be removed from the employee's personnel file by the Employer, provided there has not been further infraction.

Note – if a "further infraction" occurs after May 1, 2018, then the current BC Hydro sunset provision under MOU 11 will apply to all discipline.

It is so ordered.

  
Ken Saunders

Dated in Burnaby this 17<sup>th</sup> day of December, 2018.