

IN THE SUPREME COURT OF NOVA SCOTIA

Citation: United Steel Workers of America v. Corbett, 2005 NSSC 45

Date: 20050224
Docket: 181723
Registry: Sydney

Between:

United Steel Workers of America

Applicant

- and -

Thomas Corbett, David Jenkins, John Gale, Melvin Covey,
Duncan MacIntyre, Gus Postlewaite, Ralph Allen, Bernard
Doucette, Francis MacEachern, The Estate of Gordon Dalton,
Alex Kennedy, Adrain MacDonald, Wally Peters

Respondents

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Judge: The Honourable Justice Frank Edwards

Heard: February 7, 2005, in Sydney, Nova Scotia

Subject: Labour Law; Application pursuant to CPR 14.25(1) and 5.04(2)(a) to have Defendant International removed as a Defendant in an action against Union Local and International Union for breach of duty of fair representation.

Issue: Whether it was “plain and obvious” that there was no reasonable cause of action against the Defendant International.

Result: Application dismissed. While the duty of fair representation usually resides solely with the Union Local as certified bargaining agent, it is necessary in each case to examine the relationship between the local and the international. Here, the following facts as pleaded support a claim of a breach of duty of fair representation between the Plaintiffs and the Defendant International:

1. The Constitution which governs the relationship between the International and the Local, and provides the foundation for the establishment and conduct of the Local, requires that the International be a party to all collective agreements;
2. The International actively participated in negotiations between the employer with and on behalf of Local 1064;
3. The International is a party to the final agreements reached between the employer and the Locals with respect to the Plaintiffs' employment.

Cases Noticed:

Canadian Merchant Service Guild v. Gagnon, [1984] 1 S.C.R. 509; *Gendron v. Supply & Services Union of the Public Service Alliance of Canada, Local 50057*, [1990] 1 S.C.R. 1298; *Bovaird v. Washburn*, [1997] N.B.J. No. 219; *Re: Garcha* [2000] B.C.L.R.B.D. No. 502; *Romard v. Canadian Union of Public Employees* (2000), 188 N.S.R. 2d 31; *Hunt v. Carey Canada Inc.*, [1990] 2 S.C.R. 959;

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