

IN THE MATTER OF AN ARBITRATION

BETWEEN:

**Saskatchewan Government and General Employees' Union
and Twyla Mitchell (Grievor)**

- and -

**Saskatchewan Institute of Applied Science and Technology
(SIAST)**

AWARD

BEFORE:

MERRILEE RASMUSSEN, Q.C., Arbitrator

Heard in Saskatoon and Regina, Saskatchewan on January 27 to 29 and April 17, 2010

Larry Dawson, for the Union
David Stack, for the Employer

Award dated at Regina, Saskatchewan, August 3, 2010

INTRODUCTION

[1] This arbitration hearing arises from the dismissal of the Grievor, Twyla Mitchell, from her position as a Welding Instructor at the Kelsey Campus of SIAST in Saskatoon. It was agreed that I was properly appointed as Arbitrator and had jurisdiction to hear the grievance. It was also agreed that any applicable time limits would be waived. The hearing was convened in Saskatoon from January 27 to 29, 2010. Written arguments were exchanged by February 3, 2010. Oral argument and further written briefs were submitted by the parties on April 17, 2010 in Regina. During the course of the hearing, evidence was provided on behalf of the Employer by the current Dean of SIAST's Industrial Training Division, Dennis Johnson, the Program Head for the Welding and Steel Fabrication Department, Warren White, SIAST's Conflict Resolution Facilitator, Val Morrissey, and Human Resources Consultant, Anita Kerr. The Grievor, Twyla Mitchell, and Union Steward, Joce Hobday, testified on behalf of the Union and the Grievor. A list of exhibits filed in the order of their filing, as well as in chronological order, along with key events, is contained in the appendix to this decision.

FACTS

[2] The Greivor commenced her employment as a Welding Instructor in January 2004 on the SIAST Palliser Campus in Moose Jaw. Her initial employment was a contract position for a period of one academic term. A performance evaluation was completed at the end of the term, in April 2004.¹ In all areas, the Grievor either met or exceeded standards. The Grievor was appointed to subsequent terms and further performance evaluations were completed in

¹Exhibit 42U.

December 2004² and March 2005³. The December 2004 evaluation is not as stellar as the evaluation from the previous April. Amongst other things, the Grievor did not turn up for the meeting with her supervisor, she missed the last day of the course, and she failed to turn in keys and other materials promptly. Her overall assessment is rated below standard. Specific items that were assessed at below standard included time management skills and interpersonal skills. Her March 2005 evaluation had improved, but she was still not meeting standards in relation to her attitude to students, co-operation with other staff and students, and consultation to get advice to deal with equity situations. Her supervisor commented that “with more experience and [if she is] able to keep [an] open mind, Twyla will become a good instructor”.

[3] Each of these performance evaluations is completed using a standard form prepared for the purpose. At the bottom of the second page of the form, just under the point where the evaluator is asked to provide an overall assessment of the employee, there is a notation in capital letters, bold faced and double-underlined. The notation reads, “If an instructor’s overall assessment does not meet standards, there should be a clear strategy developed to deal with the concerns”. The December 2004 form rates the Grievor as not meeting standards but no such strategy was developed. The April 2005 form notes that the Grievor is deficient in the areas described above, but doesn’t actually provide an overall assessment. There was no strategy developed to deal with the deficiencies observed at that time either.

²Exhibit 43U.

³Exhibit 44U.

[4] It is my understanding that the Grievor continued to work as a welding instructor at both Kelsey and Woodlands Campuses on a term by term basis until July 1, 2007, when she obtained a one-year contract at Kelsey Campus in Saskatoon. Warren White became the Program Head at Kelsey on that same date. The Grievor said she was treated well at the other SIAST campuses where she had worked, but that things were awkward at Kelsey. She said a few of the instructors wouldn't even say hello to her. She felt unwelcome and somewhat ostracized. She talked to the Program Head and the Dean at the time and she said they listened to her and tried to encourage her. Her view was that she was treated differently because of her gender.

[5] Mr. White had worked at SIAST since 1981, although not continuously. He described the job of the Program Head as being to make sure the department is functioning smoothly and delivering quality programming. This involved selecting staff, curriculum development, mentoring instructors and resolving conflict, among other things. He said staff are in close physical contact with one another, as there is a lack of space, so good interpersonal relationships are critical to the smooth functioning of the department.

[6] Prior to becoming Program Head, Mr. White was an Instructor and he was personally aware of what he described as the ongoing conflict revolving around the Grievor and several other instructors. When he was an instructor he said he tried to distance himself from this conflict, but as Program Head he knew that he had to attempt to do something about it. In his evidence he candidly stated that he thought many of the conflicts were childish and minor and

mature people should have been able to resolve them themselves. Nevertheless, they could not or did not. Logically, it would appear, either the individuals involved were not mature people or the conflicts were not minor. I should mention that Mr. White stated that he had not used the term “childish” at the time to any of the persons involved. I note, however, that he did use the term “minor”. One of the Grievor’s complaints about the conflict in general is that her concerns were “trivilaized” and the use of the term “minor” could have reinforced that perception.

[7] The Grievor testified, however, that she was pleased when Mr. White became Program Head. She had shared an office with him as an instructor and she liked and admired him. She felt comfortable talking to him. In a conversation with him shortly after his appointment, she said she told him things had to change or she would leave. She said he told her that he didn’t know how she had put up with it to that point and he didn’t want to lose her as an instructor.

[8] After he became Program Head, Mr. White observed that the conflicts involving the Grievor continued. While he described them in his December 7, 2007 synopsis (more fully described below) as “numerous minor conflicts”, two particular incidents are identified in that document. The first of these was a report by students to the Grievor that other instructors were plotting to remove her and the second was a sexist comment made in the shop.

[9] Mr. White testified that the so-called “plotting” incident was a typical conversation among SIAST instructors speculating on their chances of being appointed to a permanent

position. It is not clear to me how or why this incident was included on the action plan that Mr. White made in December 2007, since it apparently related to an incident that had occurred in late 2005, almost two years earlier. While Mr. White concluded that the report was unsubstantiated in the sense that the two male instructors who were overheard were not plotting to get rid of the Grievor, it was substantiated in the sense that a student overheard their conversation and reported it to the Grievor. It would appear that the student thought that the conversation she heard was directed towards the Grievor, because if she did not it would make no sense to report the conversation to her.

[10] The sexist comment incident occurred in November 2007. One of the male instructors made a comment to the effect that “old female teachers are grouchy because they aren’t getting laid”. Apparently, this comment was made about a situation completely outside SIAST and was not directed at the Grievor. However, she overheard it and assumed that it was because she was the only female instructor in the welding department. The employer’s submissions focussed on the use of the word “teacher” rather than “instructor” to show that the Grievor should have realized at the time that the comment was not directed at her. However, given the charged nature of this environment, that distinction may be too subtle. This is not to say that the comment was about the Grievor, only that it may not be surprising that she thought so.

[11] Mr. White attempted to deal with this continuing conflict by calling a staff meeting to address it. The meeting was held on December 7, 2007. All staff were present, as well as Anita Kerr, from SIAST Human Resources, and union representation. Mr. White prepared a

document he called a “Staff Conflict Plan of Action”.⁴ It outlines a series of meetings which were to be held between various staff persons and himself or human resources personnel during the week of December 17, 2007. It concludes with what turned out to be an overly-optimistic statement, “And they all lived happily ever after”. Unfortunately, this was not to be.

[12] Mr. White also prepared a document called “A Synopsis of the Current Staff Conflict Environment”, which is dated December 7, 2007 and was distributed at the staff meeting.⁵ The document sets out Mr. White’s view of the situation at the time. The opening paragraph in the document includes the following note:

Any staff member has the right to challenge the contents of this document. Corrections to dates and other incidental details are encouraged. Any staff member that wishes to submit a dissenting view is encouraged to do so.

Unfortunately, however, the document was retrieved from all who attended, except for one instructor as noted below, so it is difficult to understand how these corrections were intended to happen. The copy of the document provided in evidence at the arbitration hearing is redacted by blacking out names. It is my understanding that these names were not blacked out when the document was circulated in the welding department. It is clear with the benefit of having heard the whole of the testimony that it is the Grievor’s name that is blacked out throughout the document.

⁴Exhibit 4E.

⁵Exhibit 5E.

[13] The Grievor said she was the last one to arrive at the December 7 meeting, and she sat down in the front of the room, with everyone else sitting behind her, and read the document. Mr. White read it out loud to the group. The Grievor said she saw that only her name was mentioned in the document and she felt humiliated and singled out. She described her emotional state as “agitated”. One of the instructors with whom the Grievor had had conflict, Jerry Andreas, asked if he could take a copy of the document away with him and Mr. White allowed him to. Everyone else, including the Grievor, returned their copy of it and left the meeting. The Grievor went to talk to Mr. White in his office immediately afterward and he told her he thought she could handle it. In the Grievor’s view, the document served to escalate the conflict, not reduce it. She described it as a “turning point”.

[14] Mr. White said he had the assistance of human resources in preparing the document and it was not his intention to single the Grievor out. I accept that that was not his intention, but by referring to the Grievor by name and to all others as “the male staff,” he actually set up two camps amongst the instructors. In his evidence he did acknowledge that it would have been more sensitive to refer to “female staff” and “male staff” rather than to single out the Grievor by name. The implication of this acknowledgment is that there were issues relating to gender at the centre of the conflict.

[15] Mr. White testified that the action plan never did get implemented because the parties involved, including the Grievor, did not co-operate in attending meetings and carrying out the actions identified in the plan. As a result, by the end of December 2007, nothing much had

changed. At this point, SIAST's Regina-based conflict resolution facilitator, Val Morrissey, was brought in to assist.⁶

[16] On January 24, 2008 a further incident occurred in the shop involving another instructor, Bill Salt, taking the Grievor's flash screen, which she had also been using as a posting board for communication with her students. Shortly thereafter, the Grievor observed one of Mr. Salt's students incorrectly moving a cylinder. When Mr. Salt did not intervene, she did. The student left the cylinder in the middle of the shop, went back to Mr. Salt and his group of students, who laughed. The Grievor said that the student "mouthed off" at or about her. When she sent a complaint to Mr. White by email, he said he would investigate. In his evidence Mr. White said that he had investigated the matter and found it to be unsubstantiated. He said the students who were laughing had nothing to do to her. Mr. White testified that in his opinion:

The problem arose from her conclusion that this was another case of harassment and it wasn't. These things are non-issues in my mind, they happen all the time. That's the nature of the workplace. You must learn to deal with these things with other instructors on a one to one basis.

It is not clear to me from the evidence how he came to the conclusion that this was not "another case of harassment," although I have no doubt that he did.

⁶Exhibit 22E. There had been a facilitator in Saskatoon, and that person had been brought in in early 2007 to provide assistance in relation to specific issues that were not central to this grievance, but constitute the background to it. I understand the Saskatoon position had been vacant for several months prior to Ms Morrissey's involvement.

[17] Mr. White attempted to arrange a meeting between the Grievor and Mr. Salt, but this did not happen because the Grievor was not available at the times he suggested and did not offer an alternative time.⁷ This communication between them occurred in a series of emails on February 5, 2008, which concluded with an email from Mr. White to the Grievor stating, “Please come and see me when you have a few minutes”.

[18] Between January 28 and 30, 2008, there was also a series of emails primarily between the Grievor and Val Morrissey, although various other individuals were copied with them. In this series of emails, Ms Morrissey is asking the Grievor if she is prepared to meet with two of the male instructors face to face in an effort to resolve their differences, with herself as a facilitator. At this point, the Grievor said she couldn’t see the point, that nothing would change, and that she felt she was being asked to put everything behind her and, to put it in the vernacular, let them off the hook. She also indicated that she wanted to proceed with a formal harassment complaint under the SIAST harassment policy.

[19] Also on January 28, 2008 there was an exchange of emails between the Grievor and Anita Kerr about a possible leave of absence. The Grievor raised the subject in an email directed to Mr. White and copied to Ms Kerr, which concluded with the following:

So, I’m wondering being the stress and discomfort are too great for me and I don’t feel I’m wanted around there. I’m considering a leave of absence and I want to know how much time I require to get it if I want it??? I am very interested in teaching welding, but only in an environment free of abuse and

⁷Exhibit 8E.

harassment and one that is fair to all. At least I know most of the students around here love me and appreciate my help.⁸

Ms Kerr's response was to provide the information relating to leaves of absence and advised the Grievor to give careful thought to her course of action.

[20] On February 7, 2008, the Grievor came to Mr. White's office and was to his observation extremely agitated. She was pacing the floor and making gestures. She told him she was fed up with dealing with one of her students who she said was disobedient and not teachable. Mr. White also spoke with the student, who was also very upset and so frustrated he was "visibly trembling and nearly incoherent".⁹ He told Mr. White that the Grievor was never around to help him and that she was screaming at him for making "excessive" noise. Mr. White had to leave to attend a graduation ceremony out of town and arranged for the student to talk to another instructor that day and met with the student himself for two hours the next morning. Mr. White's assessment of the student was that she was a "cordial student of less than average ability". Also on February 8, 2008, the Grievor came to Mr. White's office at about 11:45 am to complain about this student and one other, who she said were wasting her time and were disrespectful. He told her he couldn't talk to her that day. She also sent an email to Mr. White about an interaction she had just had with three of her students. This was a Friday, just before noon. She said she told them she was "done with" them and concluded:

⁸Exhibit 33E.

⁹Exhibit 10E.

Sorry, but I can not do anything for these lippy boys. I would not hire any of those 3 or waste any time with them. I will suffer a heartattack another moment with them.¹⁰

Mr. White forwarded this email to Anita Kerr, in the Human Resources Department, Val Morrissey, the conflict resolution facilitator, and Dalton Mervold, the then Acting Dean. Ms Kerr advised Mr. White that they would have to meet first thing on Monday morning, as Mr. Mervold was going to be away the next week, and Mr. White said he would advise the Grievor that she was required to attend a meeting at 8:00 am. Ms Kerr asked him to also advise the Grievor that it was recommended that she bring union representation. On Saturday, February 9, Mr. White emailed the Grievor to direct her to attend a meeting with himself, the Dean and Human Resources on Monday, February 11 at 8:00 am. He also advised that Joyce Hobday, a union representative, had been invited to be present.¹¹ On February 10, 2008, Mr. White prepared a written summary of the events of February 7 and 8.¹² The Grievor responded at some length to Mr. White's Saturday email on Sunday night, February 10, 2008.¹³ She says that she asked him for help in dealing with these students on Wednesday, but did not get it and by Friday their conduct had become intolerable. She had also asked for help in dealing with these students in an earlier email on January 17, 2008.¹⁴ She said she had had trouble with this

¹⁰Exhibit 9E.

¹¹Exhibit 20E.

¹²Exhibit 10E.

¹³Exhibit 49U.

¹⁴Exhibit 47U.

particular group of students since they started working with her on January 14.

[21] The Grievor did not attend the meeting on February 11. She said she was very stressed out and she called Mr. Mervold, who told her to take the week off and see a doctor. She sent an email to Joyce Hobday to say that she wouldn't be at the meeting because the stress of the situation had made her physically ill.¹⁵ She was then placed on sick leave effective February 15, 2008, until she obtained leave to work at the Apprenticeship Commission.

[22] On February 26, 2008 Mr. White sent an email around to everyone in the welding department, including the Grievor who, by this time, was on sick leave. The email references "noise reduction ideas" and states, among other things, that grinding in the welding booths will no longer be allowed. The email then contains the following sentence in bold face type:

This would return us to the good old days when men were men and welders were welders.¹⁶

Mr. White testified that before he sent this email he actually thought twice about it and decided that he needn't be that "sensitive". The Grievor forwarded this email to Ms Kerr the next day with the question, "how can I not take offence to that?". Ms Kerr dismissed the comment as just "one of those old sayings" and advised the Grievor not to "take it to heart". At this point, the Grievor responded to Ms Kerr (no copies to anyone else) and took issue with her

¹⁵Exhibit 50U.

¹⁶Exhibit 35E, also included in Exhibit 17E.

assessment of the situation and her characterization of Mr. White's actions. She repeated a claim that Mr. White had said to her that he was "good, but he was getting laid" and said she could no longer think of him as a friend, but as a "snake". Ms Kerr expressed the wish that the Grievor would "get past" the negative feelings and to look ahead positively.

[23] On the same day, February 27, 2008, the Grievor sent an email to Mr. Mervold, apparently responding to a request for information concerning her sick leave. She says in the email that she has a doctor's note keeping her off work until the 3rd (this would be March 3, 2008) at which time she would start the job at the Apprenticeship Commission, "unless Warren ruined that opportunity for me this aft". She goes on to express her "disgust" for his actions.¹⁷

[24] On March 8, 2008 the Grievor sent an email to Mr. Mervold, with a copy to Mr. White, asking, "What if I wanted my job back?" Mr. Mervold responded, "You will get your job back at the end of your leave (June 30th) or if you check with Anita [Kerr] there is some option to return earlier but I am not exactly sure about the process". The email suggests that the Grievor saw Mr. White the previous day, March 7, and had asked him questions about her position at SIAST, which he apparently did not answer.¹⁸

[25] On May 1, 2008, Dennis Johnson became Dean of Industrial Training. He had worked

¹⁷Exhibit 36E.

¹⁸Exhibit 37E.

as a carpentry instructor in Ontario and in other roles in Thompson Rivers University in British Columbia, before coming to Saskatchewan for the appointment as Dean. The Industrial Training Division of SIAST provides the majority of trades training in Saskatchewan and has a majority of the apprenticeship students. The Dean's position supervises 28 staff Program Heads, each with up to a dozen or more employees, and participates in the executive out of scope management group for SIAST.

[26] On June 4, 2008 a job posting was placed on the SIAST website for the position of Instructor in the welding department for a one-year term from July 1, 2008 to June 30, 2009.¹⁹ The Grievor is named as the incumbent in the position, according to the posting. The closing date for the posting was June 13, 2008. Late in June, the Grievor was advised by Anita Kerr that she would not be appointed to the position, but was not told why. Shortly thereafter, she received the July 2, 2008 letter from the new Dean, Dennis Johnson, indicating that she was terminated from her position. Joyce Hobday, a union representative, testified that three end-dated positions in the welding department were converted to permanent under the collective agreement in October 2008. When positions are converted, the incumbent in the position is awarded the position, unless a more senior person bids on it. This is unlikely to occur because more senior persons are generally already in permanent positions. According to the seniority list as at June 30, 2007²⁰, the Grievor would have obtained the third position based on her seniority.

¹⁹Exhibit 56U.

²⁰Exhibit 58U.

[27] Mr. Johnson testified that in June 2008 he learned that the Grievor was looking to be named the incumbent in the Welding Instructor position effective July 1, 2008. He said he reviewed the information available to him at that time, which included a large number of emails, and concluded that SIAST could no longer employ the Grievor. He wrote a letter of dismissal dated July 2, 2008 terminating her employment immediately.²¹ Mr. Johnson did not meet with the Grievor and provided her no opportunity to give her explanation of the conduct that was alleged to constitute just cause for dismissal. He said in his evidence that he got his information from the emails he reviewed and other staff with whom he discussed the matter. He said he did not rely on the Harassment Report that was prepared in relation to the Grievor's formal complaints of harassment, which was released on June 23, 2008.²² The grievance was filed on July 4, 2008.²³

PRELIMINARY ISSUE

[28] The Harassment Report that was issued on June 23, 2008 as a result of the Grievor's formal complaint concerning harassment in the workplace was tendered as an exhibit in this hearing. The Union objected to the introduction of the Harassment Report into evidence on the basis that the content and conclusions of the harassment complaint investigator are not binding on me in this arbitration. The Employer argued that it was not relying on those findings in this arbitration and that its decision to dismiss was not based on the report. More

²¹Exhibit 2A.

²²Exhibit 3E (for identification only).

²³Exhibit 1A.

specifically, the Employer argues that whether or not there was harassment in the workplace is not relevant. Instead, the Employer submits that the report provides part of the background leading up to dismissal, and shows what the Employer knew and when, as well as what it relied on in coming to its decision to dismiss. In its written brief, the Employer submitted that the report is evidence to show that the SIAST did all it could to address the conflict in the workplace but “is not offered by SIAST as a ground for cause”²⁴. I reserved my decision on whether the report was admissible until the conclusion of the hearing.

[29] Clause 25(2)(c) of *The Trade Union Act* authorizes an arbitrator to admit evidence that would not necessarily be admissible in a court, as long as the arbitrator considers it “proper”. Neither the Employer nor the Union has provided me with any submissions directed to the manner in which they believe I ought to determine whether the admission of a document is “proper”. I note that Brown & Beatty states the general rule pertaining to admissibility of evidence as follows:

As a general and overriding principle, unless issue estoppel or abuse of process applies, or unless it is precluded by the collective agreement or statute, any evidence tendered that is relevant to the matter in dispute will be admitted and received into evidence by the arbitrator. . . . Thus, where evidence is arguably relevant, the usual approach is for the arbitrator to receive the evidence and reserve the ruling as to its relevance, then disregard it if ultimately it is determined not to be relevant.²⁵

However, evidence that is prejudicial, unreliable or costly, may be excluded. In this case, the

²⁴SIAST’s Brief of Law dated February 3, 2010 at para. 13.

²⁵Brown & Beatty at para. 3:4201.

Harassment Report is obviously relevant, since it deals with many of the same events that are at the centre of this grievance, it is reliable and it is not costly. Arguably, it is prejudicial to the Grievor because it dismisses her harassment complaints. However, the Employer has stated that it did not rely on the report as part of its decision to dismiss and it does not argue that I must accept the findings contained in the report. On that basis, I conclude that it is proper for me to admit the Investigation Report.

ISSUES

[30] The issue to be addressed in this grievance is therefore the question of whether or not the Employer had just cause to dismiss the Grievor. In accordance with Article 23.10 of the Collective Agreement, the Employer is limited to its reasons for dismissal as stated in the dismissal letter of July 2, 2008. Article 23.10 provides as follows:

In cases of reprimands, suspension and dismissals, the burden of proof shall rest with the employer. Evidence shall be limited to the grounds stated in the suspension or dismissal notice.²⁶

POSITIONS OF THE PARTIES

The Employer

[31] The Employer argues that summary dismissal is appropriate in a wide range of situations and that progressive discipline is not necessarily required. In particular, the Employer says dismissal has been upheld in cases where an employee has made seriously

²⁶Exhibit 60A.

disparaging remarks about the employer and colleagues,²⁷ in cases where an employee has accessed unauthorized information,²⁸ in cases of aggressive verbal behaviour and threats,²⁹ or in cases where the employee is incorrigible.³⁰

[32] The Employer submits that in this case summary dismissal was justified on several grounds. The Grievor demonstrated disrespect for and libel against a superior, being Warren White, her Program Head, in statements she made about him in emails to Anita Kerr subsequent to the events of February 2008 when she went on leave (Exhibits 35E and 40U) and to Val Morrissey (Exhibit 29E) and to the Dean (Exhibits 36E, 37E and 53E), and to a former student (Exhibit 16E), and that these statements constitute insubordination of a nature sufficient to justify dismissal.

[33] The Employer also submits that the Grievor exhibited contempt for her colleagues in emails and comments to Val Morrissey in the context of her attempts at conflict resolution, to her Union representative Joyce Hobday, and to the acting Dean (Exhibits 25E, 52E, 26E, 28E and 53E) that they were conspiring against her.

²⁷*Alberta v. Alberta Union of Provincial Employees*, [2008] A.G.A.A. No. 20; *Chatham-Kent (Municipality)* (2007), 159 L.A.C. (4th) 321).

²⁸*Brown & Beatty*, at para. 7:3330.

²⁹*Brown & Beatty*, at para. 7:3430; *Cancoil Thermal Corp. v. United Food and Commercial Workers Union, Local 175* [2007] O.A.A. No. 17; *Woodstock (City)* (2007), 167 L.A.C. (4th) 2181; *Hendrickson-Spring, Stratford Operations* (2008), 175 L.A.C. (4th) 376.

³⁰*UFCW (Canada), Local 1288P v. B & N Hospitalities Inc.*, [2006] N.B.C.A. 29.

[34] The Employer also submits that these same emails (and some others: Exhibits 24E, 7E, 6E) demonstrate that the Grievor's whole attitude towards her colleagues was tinged by confrontation and threats and that she was quick to accuse SIAST of appointing a colleague based on gender. (Exhibit 6E).

[35] In addition, the employer says that the Grievor's handling of her students in early February 2008 was aggressive and one of her students was so affected by her manner of handling the conflict between them that he went to see the Program Head and was “trembling and incoherent” (Exhibit 10E).

[36] The employer says the Grievor also made highly inappropriate comments about guns and referred to her colleagues and students as “boys” or “little boys,” which indicates a disturbing level of contempt.

[37] Finally, the employer submits that the Grievor frustrated the conflict resolution process by refusing to meet and discuss issues with colleagues and indicated in several emails that she would never forgive any of them for their actions. She refused to participate in any of the employer's efforts to address the conflict in the workplace, except for her own formal harassment complaint. The employer argues that the Grievor's termination was justified because she refused to even attempt to create a civil working relationship with her colleagues, she blamed others and was unapologetic for her actions, and that, because she frustrated the conflict resolution process, progressive discipline was not required.

The Union

[38] The Union argues that the infractions referred to the dismissal letter of July 2, 2008 are either unfounded or insufficient to warrant termination. The allegation that the Grievor made threats against staff is unsupported. The references to guns in the emails produced were made in relation to difficulties the Grievor was having in building her house and were not directed to staff. Furthermore, the solicitation of emails from other instructors in March 2008 about the alleged comments more than a year after they were made and then failing to provide the Grievor with an immediate opportunity to respond to them indicates malice. The notion that the employer “could not take the chance that it was true” is not supportable. The persons who are reported to have recalled her comments were not called to give evidence and the Grievor's termination cannot be justified on a hearsay allegation.

[39] The Union also submitted that there was no evidence that the Grievor abused her position at the Apprenticeship Commission or that she was disciplined in that regard by the Commission. The Grievor did not frustrate the conflict resolution process, she requested assurances that her perspective of events would be respected, and she wanted a Union representative to be present. She was not able to attend the February 11 meeting because she was ill. She was justified in her responses by the Employer's clumsy attempts to address issues that had in fact resulted in making the conflict worse: trivializing her complaints as “minor”, and singling her out by name in a synopsis of events.

[40] In addition, the Union argues that the Employer failed to properly investigate prior to

dismissing the Grievor, failed to warn the Grievor that her actions might be subject to discipline, including dismissal, failed to give her proper notice of the allegations against her and an opportunity to respond,³¹ failed to use progressive discipline,³² failed to discipline the Grievor in a timely manner,³³ and, finally, that important elements of the Employer's case rested on hearsay evidence only.³⁴

ANALYSIS

General Arbitral Jurisprudence

[41] In a case of dismissal, the burden of proof is on the employer to show that the actions of the grievor are of such a nature as to give rise to discipline and that, in all of the circumstances of the case, dismissal is the appropriate disciplinary sanction.³⁵ In this case, the Collective Agreement authorizes dismissal only where "just cause" is proved.³⁶ It is also generally accepted that progressively increasing the severity of disciplinary sanctions is the

³¹Brown & Beatty, at para. 7:2110.

³²*Ocean Paving Ltd. and I.O.U.E. Local 721* (1997), 64 L.A.C. (4TH) 82; *Galco Food Products Ltd. and Amalgamated Meat Cutters & Butchers Workmen of North America Local P-1105* (1974), 7 L.A.C. (2d) 350; *Re City of Vancouver and Vancouver Municipal and Regional Employees Union*, (1983) 11 L.A.C. (3d) 121; *Wm. Scott & Co. Ltd. and Canadian Food & Allied Workers Union, Local P-162*, [1977] 1 Can.L.R.B.R. 1; *London Police Services Board and London Police Assn. (Re)*, (2001) 66 C.L.A.S. 249; *Toronto Board of Education and U.A. Local 46 (Re)*, (1993) C.L.B. 13555.

³³*Maritime Life v. Saskatchewan River Bungalows*, [1994] 2 S.C.R. 490; *Canadian Liquid Air Ltd. and E.C.W.U.* (1990) 20 C.L.A.S. 14.

³⁴Brown & Beatty, at para. 3:4310.

³⁵Brown & Beatty, at para. 7:0000.

³⁶Exhibit 60A, article 23.8.

fairest and most efficient way of achieving the aims of discipline, being deterrence, correction and rehabilitation. However, the principle of progressive discipline may not be applicable in situations where an employees's misconduct is especially egregious.³⁷

[42] Discipline must also be meted out in a reasonably expeditious manner in order to ensure that the employee is not prejudiced by the employer's procrastination. Delay can make it more difficult for the employee to remember the events that occurred and, in my view more importantly, delay signals to the employee that their behaviour is acceptable or at least that it has been condoned.³⁸

The Grounds Alleged

[43] Because of Article 23.10 of the Collective Agreement, the Employer is limited to the grounds stated in the notice of dismissal to establish just cause for a dismissal. In this case, the dismissal letter identified the following issues as the reasons why the Grievor was dismissed:

- her behaviour was not professional nor respectful because it was confrontational;
- she completely resisted moving through any conflict resolution process by missing meetings, not participating in candid discussions and dismissing the perspectives and points of view of others;

³⁷Brown & Beatty, at para. 7:4422.

³⁸Brown & Beatty, at para. 7:2120.

- she made legal threats and comments of violence against staff members and others;
- she made defamatory comments about other members of the welding department, including the Program Head; and
- she directed hostility to students.

[44] In his testimony, Mr. Johnson provided further explanation of the Grievor's actions to which he was referring in the letter. In that context, he said her activity continued even when she worked at the Commission, and in that regard he said she looked into confidential Commission files to find information in relation to her colleagues and she emailed former students to urge them to make comments on her behalf. He said there was already a process in place,³⁹ but she continued to escalate the situation and made defamatory comments against SIAST on a number of occasions. He said he would have considered progressive discipline, but that at the point when he became involved he didn't believe that progressive discipline would have any impact and he was concerned about the effect the Grievor's return to the workplace would have on other staff. In cross examination, Mr. Johnson stated that he had no evidence that the Grievor abused her position at the Commission and was not aware if the Commission had taken any action against her. He had not personally dealt with the former student but had Mr. White's report of those events. The reference to threats of violence was to three emails brought to his attention by Mr. White, but he did not talk to the Grievor or

³⁹I understand this to be a reference to the formal harassment investigation that was being conducted by an independent investigator and perhaps to the engagement of the SIAST conflict resolution facilitator.

conduct any other investigation to determine the accuracy of the information reported in those emails. He said the Grievor's refusal to work with two or three students was amply documented in her own emails. He said there had been some attempts to find resolution and the Grievor had avoided them. While he couldn't speak to the decisions made prior to his taking the position of Dean, he thought that what had happened after she left SIAST on leave was sufficient to justify outright dismissal, rather than any form of progressive discipline.

Lack of Warning/Timeliness of Discipline

[45] In reviewing the evidence in relation to the specific events and behaviour that led the Employer to make the decision to dismiss, I note a number of factors, in addition to the evidence of Dean Johnson, that lead me to conclude that the Employer gave no indication to the Grievor that her actions could lead to discipline or dismissal. The Union argues that as a result the Grievor was lulled into a false sense of security. This characterization implies a deliberate and concerted effort on the Employer's part to make the Grievor act to her detriment. I do not believe that there was anything deliberate in this sense in the Employer's actions. In my opinion it is more accurate to say that the failure to provide the Grievor with any warnings that her behaviour could be disciplinable suggests that it wasn't, in the Employer's view at the time. In other words, it was only in hindsight, with the prospect of the Grievor's returning to the workplace at the end of her leave, that the Employer collected together past events that it did not think warranted any discipline when they occurred to support its decision to dismiss.

[46] For example, the Employer says that one of the reasons why the Grievor was dismissed is because she made “comments of violence”. However, when the Grievor sent an email to Warren White on December 7, 2008 in which she says, “It’s a good thing I don’t have a gun”, Mr. White’s email reply is, “Are you at home? Take care. See you next week”.⁴⁰ Nothing else was said about this to the Grievor until she received the dismissal letter. The only other evidence that might constitute “comments of violence” is the emails solicited by Mr. White from other instructors in March 2008 relating to comments the Grievor apparently had made about a year earlier.⁴¹ Obviously, when the Grievor purportedly made the comments, no one thought much about them because no one did anything about them. Thus, in the case of the “comments of violence” as a reason for dismissal, the Employer is relying on events that occurred six to 12 months earlier and about which nothing was said or done at the time, other than a comment that Mr. White, as a fellow instructor at the time, may have made that her comments were “inappropriate”.⁴² Mr. White, who did testify, said that he “vaguely” recalled this conversation. He did not mention in his testimony that he made this comment, but he did say that later in this conversation he “determined that she had a gun”. It is not clear to me how he came to that determination. I note that the Grievor testified that she does not own a gun.

⁴⁰Exhibit 54E.

⁴¹I have come to this conclusion about the timing based on the fact that the author of the email at Exhibit 12E stated that the comment was made a couple of days after numerous students were shot in West Virginia. According to Wikipedia, the Virginia Tech massacre was a school shooting that took place on Monday, April 16, 2007 on the campus of Virginia Tech in Blacksburg, Virginia.

⁴²This was reported in one of the solicited emails (Exhibit 12E). The author of the email did not testify.

Mr. White testified that he was concerned that she might be violent because she still had her keys and knew the combination lock to the office and he was receiving information about her having made threats. However, as described above, the “threats” were comments made six months to a year earlier.

[47] Another reason given for the Grievor’s dismissal is that she made “legal threats”. In a January 24, 2008 email from the Grievor to Warren White, which was copied to Val Morrissey, the Grievor says, “The boys just got away with everything I have brought up as abuse and harassment. I guess my next appointment will be with a lawyer”.⁴³ Mr. White responded later that day indicating he was giving serious thought to the situation, but he made no mention of her reference to a lawyer. In an email from the Grievor to Acting Dean Mervold on February 27, 2008, the Grievor said, “if it wasn’t for the union my lawyer would step right in”.⁴⁴ There is no reply to this email, at least none was provided in evidence. In an email from the Grievor to Mr. Mervold, copied to her union representative Joyce Hobday, the Grievor said, “What do I do. They have been proved to wrong me and we have never dealt with it. Now we are whatever it takes, human rights, union and a lawyer”. Despite being ill, Mr. Mervold responded to this email very quickly, but made no reference to this comment. In my opinion, these comments do not constitute “threats”. They indicated that the Grievor might seek to exercise her rights. An employee cannot be disciplined for stating that she will seek legal advice or take advantage of various complaint processes that may be legally available to

⁴³Exhibit 7E.

⁴⁴Exhibit 36E.

her, but even if this were disciplinable conduct, the Employer did not take issue with these comments at the time and the comments were made five or more months before she was dismissed.

[48] Another reason for dismissal is that the Grievor was not prepared to participate in the conflict resolution process because she refused to attend meetings. It is worthy of note that the email from Val Morrissey to the Grievor asking if she is prepared to meet with one of her colleagues with whom she had had run-ins in the past is titled “Re: Water under the bridge”,⁴⁵ which implies that even the facilitator thought such a meeting was pointless. In addition, the SIAST Harassment Policy encourages informal resolution, if possible, but does not deny the complainant the right to pursue a formal complaint.⁴⁶ The Grievor’s response to this email was that she wanted to initiate the formal harassment complaint process, which it was her right to do and which was a process in which she did participate fully. How she might have responded to the report that was eventually released on June 23, 2008 is not known, since she was dismissed at that point in time. The Grievor said she refused to meet with another colleague because she felt that she was being asked to simply let him say, “sorry” and then everyone would move on. Again, the Employer took no issue with any of this at the time these events occurred, which was months before the Grievor was dismissed.

[49] The dismissal letter also stated that the Grievor was confrontational, which indicated

⁴⁵Exhibits 26E, 27E and 28E.

⁴⁶Exhibit 21E.

disrespect and lack of professionalism, and that she had made defamatory comments about her colleagues and the Program Head in emails to SIAST staff, students and others outside SIAST. In this regard, the Employer submits that in emails to SIAST staff the Grievor referred to Mr. White as a “snake” and stated that he said to her, “I’m good, but I’m getting laid” and that his reference to “the good old days when men were men and welders were welders” indicated that he thought there was no place for women in welding. The Employer says in its written submissions that virtually every email to her colleagues is “confrontational and angry”⁴⁷ and that she was quick to accuse SIAST of appointing a colleague to a position on the basis of his gender. Without detailing every one of these emails, I note that in no case did anyone to whom any of these emails were addressed ever make any suggestion to her that she was behaving in an unacceptable manner, let alone that she was behaving in a manner that could result in discipline.

[50] In fact, the feedback the Grievor received was just the opposite. Anita Kerr told her on February 5, 2008, “just remember . . . I will support you in any way that I can”.⁴⁸ Warren White told her on February 7, 2008, “SIAST in general and this department have always been supportive of people who wish to take leaves.”⁴⁹ Anita Kerr on February 12, 2008 said, “I do

⁴⁷Brief of Law dated February 3, 2010 at para. 48.

⁴⁸Exhibit 39U, email from Anita Kerr to Twyla Mitchell, re how’s things?.

⁴⁹Exhibit 48U, email from Warren White to Twyla Mitchell, re seniority when resigning.

think you need to take care of you first and foremost.”⁵⁰ Dalton Mervold told her on March 8, 2008, “You will get your job back at the end of your leave (June 30th)”.⁵¹

[51] There was only one possible warning in all of the many exchanges between the Grievor and her superiors and representatives of the Human Resources department at SIAST and this is a notation contained in Mr. White’s December 7, 2007 “synopsis” at the bottom of the second page that the Grievor’s “use of profanity . . . is unacceptable and opens the door to SIAST disciplinary process”. However, this is the document that Mr. White required everyone to return to him before they left the meeting. Given the Grievor’s evidence of how that document affected her in the meeting, and the fact that she returned her copy before she left, it is not surprising that she may not have particularly noted these statements. Mr. White said in his testimony that “it looks like” he spoke to the Grievor about this on the day before the meeting, as is noted in the document. This suggests that he didn’t specifically recall the conversation. The Grievor denies that Mr. White spoke to her the day before the meeting. Whether this conversation occurred or not, Mr. White acknowledged that this is the first time he raised this issue with her. Perhaps more importantly, “profanity” is not listed in the dismissal letter as a ground for her dismissal. I can understand that use of profanity could constitute lack of professionalism or disrespect or hostility, but those arguments were not made by the Employer, and the Employer does not point to instances of profanity to justify her dismissal.

⁵⁰Exhibit 40U, email from Anita Kerr to Twyla Mitchell, re hey...how are you?.

⁵¹Exhibit 37E, email from Dalton Mervold to Twyla Mitchell, re what if..

[52] I am therefore driven to conclude that any of the internal emails from the Grievor to other SIAST staff up until at least March 8, 2008 when Dalton Mervold told her she would get her job back when she returned from leave, some of which are detailed above, cannot be considered as grounds for dismissal for a variety of reasons. They occurred long before dismissal was contemplated, they were not considered disciplinable when they occurred, the delay in acting on them is prejudicial to the Grievor, and her behaviour was accepted or condoned by the Employer. I appreciate that the Employer was not happy with the state of affairs in the welding department, and there is no doubt that something had to happen to resolve that conflict. However, the report of the harassment investigator was necessary to do so. If the investigator had substantiated one or more of the Grievor's harassment complaints, the situation would have unfolded differently. Once the investigator had determined that the complaints were not well founded, it was possible for the department to move forward, with or without the Grievor. However, the Grievor was not provided with that opportunity. I should emphasize that it is not the mere fact of delay in responding to the Grievor's conduct that is now described as objectionable that is problematic, but the fact that there is no explanation provided for this delay. That is, the Employer did not delay while it carried out an investigation to determine the facts and all of these events occurred before the Grievor went on leave.

[53] In addition, while it is possible that the making of disparaging remarks about an employer and colleagues could constitute just cause, this determination is fact-dependent. The

Employer cites the arbitration decision in *Alberta v. Alberta Union of Provincial Employees*⁵² as a case in point. The grievor in that case had maintained a personal blog in which she had made seriously disparaging remarks about some of her colleagues and management, although she used pseudonyms. She did not tell her co-workers about the blog, except for one who also maintained a blog. She was summoned by the employer to a meeting without notice at which she was confronted with the contents of her blog and was dismissed. The Board concluded:

It is the Board's decision to deny the grievance. While the Grievor has a right to create personal blogs and is entitled to her opinions about the people with whom she works, publicly displaying those opinions may have consequences within an employment relationship. The Board is satisfied that the Grievor, in expressing contempt for her managers, ridiculing her co-workers, and denigrating administrative processes, engaged in serious misconduct that irreparably severed the employment relationship, justifying discharge.⁵³

[54] In coming to this conclusion, the Board also referred to the decision in *Chatham-Kent (Municipality)*,⁵⁴ a case also referred to by the Employer in the present grievance. *Chatham-Kent* also involved an employee who was dismissed for making disparaging comments about the employer in a blog. In both these decisions, it was not just the nature of the comments made, but also the fact that they were posted publicly on the internet, that led to the conclusion that the dismissals were warranted. It is clear from the *Alberta* decision itself that differences in these facts can lead to differing disciplinary results. In *Alberta*, the Union had argued that another employee who had also maintained a blog was only suspended for two days and

⁵²[2008] A.G.A.A. No. 20.

⁵³*Ibid*, at para. 97.

⁵⁴(2007), 159 L.A.C. (4th) 321.

therefore the grievor should not have been dismissed. This difference in disciplinary consequences was justified by the Board on the basis that the second employee had made fewer and less offensive comments in her blog and had immediately removed it when confronted, and apologized to her colleagues. I note also that the *Alberta* decision was quashed on judicial review as a result of the fact that the employer had failed to give notice to the grievor that the meeting she was summoned to was disciplinary in nature, contrary to the provisions of the applicable collective agreement.⁵⁵

[55] In the present case, the Grievor did not maintain an internet blog accessible by the public. She made the majority of her comments directly to the people to whom the comments related. Her comments about Mr. White were made to the Conflict Resolution Facilitator, the Human Resources Consultant and the Acting Dean in the context of her harassment complaints. When an employee is complaining of harassment they must be able to communicate to the persons who participate in the harassment process what those complaints are, otherwise how could any harassment allegations ever possibly be demonstrated? The only communication by the Grievor with anyone outside the complaint resolution process was with the former student. However, even so, this communication related to gathering evidence related to the harassment complaint.

[56] The Employer also argues that the Grievor engaged in threats and aggressive behaviour and points to several cases in support of the principle that summary dismissal can be justified

⁵⁵[2009] A.J. No. 368 (Q.B.); affirmed on appeal [2010] A.J. No. 747 (C.A.).

in such situations without having to rely on progressive discipline. The New Brunswick Court of Appeal came to this conclusion in *UFCW (Canada), Local 1288P v. B & N Hospitalities Inc.*⁵⁶ and refused to set aside the arbitrator's dismissal of the grievance. However, neither the decision of the Court of Appeal, nor the decision of the Court of Queen's Bench that was appealed from, indicates what the facts were that resulted in this conclusion.

[57] In *Cancoil Thermal Corp. V. United Food and Commerical Workers Union. Local 175*⁵⁷ the grievor became incensed when he was criticized by his supervisor, yelling and screaming and swearing at him "in his face" so that the supervisor felt physically threatened and had to back away. The grievor was dismissed for this and past incidents of aggressive behaviour. These past incidents had also resulted in grievances, which had been settled on the basis that they were withdrawn and all discipline was to be removed from the grievor's file. The Board held that it could not refer to these past incidents.⁵⁸ Similarly, the Board held that other incidents that had occurred but in respect of which no discipline had been imposed could also not be relied upon.⁵⁹ The employer was required to prove just cause on the basis of the most recent incident alone. However, the Board went on to hold that a single incident can justify dismissal even in the face of a "clean" disciplinary record, under the right circumstances:

⁵⁶[2006] N.B.C.A. 29.

⁵⁷[2007] O.L.A.A. No. 171.

⁵⁸*Ibid*, at para. 38.

⁵⁹*Ibid*, at para. 40.

Despite the well entrenched requirement for progressive discipline and, the ever increasing trend in industrial relations for arbitral intervention and reduction of penalties, there are still numerous first offences for which dismissal is deemed appropriate. Dishonesty in the banking and financial fields and patient abuse in the health care industry are two that instantly come to mind.

In this larger picture, in all industries, abusing a supervisor is still treated as a major workplace offence which can warrant dismissal:

In *Cancoil* the Board held that the grievor's attack on his supervisor was "violent and threatening" and could have been more serious if another employee had not intervened. As a result, the Board held that the dismissal was justified.

[58] In *Woodstock (City)*⁶⁰ an employee was dismissed for hostile behaviour towards summer students in the workplace. As the Board described it:

Mr. Pihowich made the decision to terminate the grievor's employment because in his view Mr. Greene exhibited a pattern of behaviour that was not amenable to correction. He refused to answer questions at the investigation meeting and was indignant at the suggestion he had used profanity and given the one-finger salute. He appeared to be a man on a mission who was upset with the results of the vote and continued to brood upon it the following day and at the investigation meeting four days later. He was acting out his frustrations on almost half the student workforce and as a result both students and parents were frightened and shaken. His earlier three-day suspension for harassing his assistant supervisor had not had a curative effect.⁶¹

[59] The Board went on to find that the grievor's conduct was designed to and did

⁶⁰ (2007), 167 L.A.C. (4th) 281.

⁶¹ *Ibid*, at para. 12.

intimidate the students because he took a list of their names and addresses from a bulletin board and he refused to admit that he did anything wrong even after being advised by his Union president to be forthright and honest in the grievance meeting. Under these circumstances, the grievor's dismissal was upheld.

[60] In *Hendrickson Spring, Stratford Operations*⁶² the grievor was dismissed after threatening to report safety violations to government officials if he didn't get a leave of absence or a shift change, an action which would constitute a contravention of the provisions of the applicable occupational health and safety legislation and which the Board described as an act of defiance and challenge to the company. The grievance was dismissed.

[61] From these cases, it would appear that where the conduct of the grievor is unlawful (assault, breach of provincial safety legislation) or the circumstances are such that they give rise to a reasonable fear of personal harm (taking a list of names and addresses after a series of confrontations) that immediate dismissal without progressive discipline can be warranted. In the present case, the alleged threats to which the dismissal letter was referring all occurred long before the dismissal and were not directed at the persons who heard or received them. The reactions of the recipients in doing nothing at the time also leads to the conclusion that they did not perceive them as threats at the time.

[62] The Grievor was also told in her dismissal letter that she was hostile to students. From

⁶²(2008), 175 L.A.C. (4th) 376.

the evidence of Mr. Johnson I understand this to be a reference to the events that came to a head on February 8, 2008, which led to the Grievor's going on sick leave. I note that on February 12, 2008, Joyce Hobday reported by email that she had arranged a meeting with Acting Dean Mervold, which was "not a disciplinary meeting". This meeting was held on February 15 and the Grievor said the Acting Dean repeated this statement in the meeting. He recognized that she was not well and in addition that she may have required some assistance in handling students of this type. Mr. White testified that as Program Head he was only able to make recommendations about discipline, but at the time he was prepared to recommend that she be suspended for two days. However, Mr. Mervold did not pursue disciplinary action, apparently on the basis that the Grievor needed a medical leave and perhaps assistance in dealing with difficult students. Under the circumstances, the Employer cannot rely on this incident as a basis for discipline. Not only was there a delay of almost five months since the events had occurred to which the discipline, in part, relates, but the Grievor was told at the time that she would not be disciplined. I appreciate that the explanation provided by the Employer for the delay in the imposition of discipline in this and all other instances of the conduct so far described is that it does not deal with discipline issues while an employee is on leave. However, in respect of the incident of the students, the Employer had already advised the Grievor that it was not pursuing discipline and the other incidents all occurred before the Grievor went on leave.

Incidents potentially supporting discipline

[63] This leaves for consideration events after March 8, 2008, of which there are two: the

Grievor's contacting of a former student in relation to her formal complaint of harassment against her colleagues and the Program Head, and statements made or information provided to the Apprenticeship Commission by the Grievor while she worked there during the period from March 3 to June 30, 2008.

[64] On June 13, 2008, Mr. White reported by email to Human Resources that he had received a phone call from a former student who had been contacted by the Grievor and that the student would be providing "documentation indicating unsubstantiated claims by Twyla Mitchell".⁶³ These are Mr. White's words, not the student's. Later that afternoon, the student forwarded an email she had received from the Grievor on March 17, 2008, which read as follows:

I have been ousted out of the dept. and they are making up stories saying that all 10 heard that and the other thing. I invite you to send a copy of that statement without hassle to dalton.mervold@siast.sk.ca he is completely on my side. He is the Dean. Warren is now making sexual harassment comments. After he got me out he stated in an email, back to the good old days where men were men and welders were welders.

A, I need every ounce of help I can get.

thanks⁶⁴

[65] Mr. White forwarded this email to Human Resources with a note stating that the student had left a voicemail saying there were other emails, one of which is alleged to have

⁶³Exhibit 15E.

⁶⁴Exhibit 16E.

contained profanity, but she had not retained them. The student was not called to give evidence.

[66] The email from the Grievor was originally sent to the student about two or three weeks before her formal harassment complaint was finally formalized. There had been a significant delay in formalizing the complaint due to a policy requirement that the conflict resolution facilitator meet with the Grievor to explain the policy to her. At this point in time, there was no facilitator in Saskatoon, and the facilitator based in Regina was dealing with the matter. At least one meeting was delayed by weather, and scheduling the meeting was more difficult because the Grievor's Union representative was not available until after March 13, 2008.

[67] The student was interviewed by the harassment investigator who investigated the Grievor's formal harassment complaints. The investigator would have spoken to the student at some point between April 8, 2008, when the formal complaint was filed, and June 23, 2008, when the final report was made. In other words, at about the same time that the student contacted Mr. White and forwarded the Grievor's email to him. The investigation report states that the student told the investigator about the "plotting" incident that had occurred in the fall of 2005. The report also states that Mr. White "checked it out with the Student in question following the instructors meeting of December 7, 2007".⁶⁵ Thus, it would appear, that in a relatively short period of time, the student was contacted by Mr. White, the Grievor and the investigator in relation to this old incident.

⁶⁵Exhibit 3E at p. 9.

[68] The Employer submits that the reference to “sexual harassment” by Mr. White in the Grievor’s email is defamatory and false, and thus constitutes grounds for dismissal. It should be remembered that at this point in time the Grievor was seeking to initiate her formal harassment complaint and to obtain evidence in support of it. Given the wording of the email, I think a reader would conclude that the “sexual harassment” that was being referred to was the comment, “when men were men and welders were welders”, and nothing else. Mr. White did make this comment, although its characterization as “sexual harassment” is the Grievor’s.

[69] The Grievor’s position at the Commission apparently gave her access to files relating to the qualifications of welding instructors at SIAST. Anita Kerr testified that on March 10 or 11, 2008, she met with the Grievor who told her that she had seen files at the Commission that indicated that some of the welding instructors were not qualified because documents she had seen had been doctored. The Grievor says she does not remember this conversation, but does not deny that it may have occurred. It is unclear to me what the context of this meeting was. The Grievor was on leave and had commenced employment with the Commission on March 3. She raised the question of her return with the Acting Dean by email on March 8, 2008, because she wasn’t earning as much as she had expected to and didn’t think she would be able to make ends meet. The Acting Dean responded that she should “check with Anita” about returning earlier.⁶⁶ It would appear that this is what the Grievor did and that these comments from the Grievor were made in the context of that conversation. Ms Kerr said that she and Mr. Mervold discussed the matter and concluded nothing could or should be done

⁶⁶Exhibit 37E.

unless the Grievor actually produced documents, which never occurred.

[70] In late June 2008, while working for the Commission, the Grievor was in the welding shop to invigilate exams. Two students gave her a document that they had been provided at the beginning of the course relating to preparation for the interprovincial welding exam. The Grievor mentioned the document to Rob Johns, a colleague at the Commission, and she said a couple of weeks later she went through her own materials from Kelsey and found the document, which she gave to him.⁶⁷ Mr. Johnson and Mr. White both referred to this incident in their testimony. Mr. White testified that he had to meet with officials of the Commission to explain the documents the Grievor had given to Mr. Johns. Ms Kerr testified that in her view this was a conflict of interest. However, the Grievor was on leave from SIAST and invigilating interprovincial welding exams for the Commission. Her actions were for the purpose of protecting the integrity of the examination process, which was in the interest of both the Commission and SIAST. In an exchange of emails with Mr. Johns, the Grievor expressed concern that Mr. White would know that Mr. Johns had obtained the document from her. He reassured her that “you completely and honestly did the right thing”.⁶⁸

[71] The question then arises as to whether the email contact with the former student and/or the incidents relating to the allegation of forged qualifications constitute conduct that could be subject to discipline, and, if so, whether dismissal is the appropriate response. In

⁶⁷Exhibit 45U.

⁶⁸Exhibit 46U.

considering the contact with the former student, a related issue arises and that is the question of whether the report by Mr. White that the former student told him of the existence of other emails besides the one introduced in evidence can be taken into account. The suggestion that there are other emails is contained in the report made by Mr. White that the student left him a voicemail to that effect. I do not doubt Mr. White's evidence, but in the absence of the production of other emails and in the absence of the testimony of the student, it is impossible to say whether the statement in her voicemail is correct.

[72] "Hearsay" is a statement made by a person who is not testifying that is tendered as proof of its truth. While the specific email that was forwarded to Mr. White speaks for itself, the statement made by the student that there were other such emails and that she was bothered by them is hearsay. While hearsay evidence is admissible in an arbitration proceeding, generally little weight attaches to it and arbitrators will usually not base a critical finding on hearsay evidence.⁶⁹ Given that the student had been contacted by Mr. White, the Harassment Investigator, and the Grievor in a relatively short period of time in relation to an incident that occurred more than two years earlier, and given the Investigator's statement that the student said she did not want to participate in the harassment investigation, it seems to me to be possible that it was not the Grievor's actions that resulted in the student contacting Mr. White, but the Investigator's. The Grievor sent her email on March 17, but the student didn't call Mr. White until almost two months later, on June 13, which is more likely to be the time when she was interviewed by the Investigator. It appears at least to be possible that student was

⁶⁹Brown & Beatty, at para. 3:4310.

“bothered” by continually being dragged into this matter, rather than being specifically bothered by the Grievor. All of this is speculative because the student was not called to testify. In the absence of that testimony, I am not prepared to make any conclusion in this regard. Nevertheless, I am left to consider the email that the Grievor did send.

[73] The Employer objects to the email because the Grievor states in it that Mr. White is “making sexual harassment comments” and that she was “ousted” out of the department, which was not true because she was on leave. However, these are the very issues that the harassment investigation was intended to address. If the harassment complaints had been upheld, it could have been argued that she was forced out of the department by those events – a situation akin to constructive dismissal. The “men were men” comment stands on its own. It was ill-advised, regardless of Mr. White’s intentions when using it. I realize that the Harassment Investigator concluded that the comment was not directed specifically at the Grievor. However, Mr. White testified that he thought twice before sending it because of the Grievor’s sensitivity to gender-based issues, and then sent it anyway. I conclude from this that even Mr. White appreciated that his action could be perceived as provocative. The Investigator also concluded that the comment was not gender-based and, while I accept that Mr. White did not intend the comment to have that meaning, it would not be surprising for it to be understood that way and, in the context of an allegation of harassment, his intention is really not relevant. There are many old expressions that are no longer acceptable because we are now sensitive to the discriminatory stereotypes on which they were originally based.

[74] However, the Grievor was seeking information from the student in support of her harassment complaint. The “men were men” comment was the most recent incident that had occurred. The tone of her email is not particularly angry or vitriolic; it may be a little desperate. The Employer argues that there was “absolutely no justification to provide this student with the false sexual harassment allegations against the Grievor’s superior”. I don’t agree with this characterization. As previously described, the Grievor said, “Warren is now making sexual harassment comments” and then refers to the “men were men” statement, which Mr. White did make. Of course, with the benefit of hindsight, it can be said that it would have been better if the Grievor had not mentioned any details in her email and had just said she had made a harassment complaint and required this information, but even if the email is sufficient evidence of disrespect and lack of professionalism, I am not convinced that, by itself, it amounts to behaviour that justifies discipline. And even if it did, I do not think it justifies dismissal.

[75] The remaining incident relates to the Grievor’s working for the Apprenticeship Commission. There was certainly a fear by the Program Head that her perception of the welding department at Kelsey would affect the department in the eyes of the Commission. The reference in the conversation with Anita Kerr to falsified qualifications is puzzling. The Grievor says she does not recall saying this. I accept the evidence of Ms Kerr that the Grievor did make these comments, especially since the Grievor did not deny it. I would describe these comments by the Grievor as ill-advised also. However, there is no proof that the Grievor conducted herself inappropriately while at the Commission. Indeed, the email from Rob Johns

in relation to the interprovincial welding exam presents a friendly, collegial relationship with the Grievor.

[76] However, I do agree with the overall findings of the Harassment Investigator that the Grievor is hyper-sensitive to every interaction with her colleagues in the welding department at Kelsey and, if an unfavourable interpretation can be put on an email communication or personal interaction, she does so. I am also struck by the volume of communication in the department that occurs by email, at all hours of the day and days of the week, which, by its nature, encourages communication to be blunt, even terse, and is notoriously susceptible to misinterpretation.

Summary

[77] In its written submission, the Employer argues that dismissal of the Grievor is justified because she made inappropriate and disrespectful comments about SIAST and SIAST staff and students, she engaged in aggressive behaviour towards SIAST employees and students, and she lacked contrition and willingness to reconcile with her colleagues through conflict resolution. I have concluded that the majority of the incidents that the Employer points to in order to justify dismissal occurred long before she was dismissed and cannot be relied on because the Employer's failure to take disciplinary action in a timely manner encouraged the Grievor to understand that her behaviour was acceptable or condoned. However, even if events that occurred as much as a year prior to her dismissal can be taken into account, they do not support dismissal.

[78] The comments made by the Grievor that are described by the Employer as inappropriate and disrespectful were comments made in the context of dealing with her complaints of harassment. They were not made outside the institution, or behind anyone's back, or posted publicly on the internet. The Grievor's comments to Ms Kerr and Mr. Mervold about falsified qualifications were discussed and not acted upon by the Employer, and there is no evidence that the Grievor did access confidential information. The provision of documents to the Commission relating to the interprovincial exam was for the purpose of ensuring the integrity of the exam and there was no evidence provided that the Grievor had in any way maligned the welding department at Kelsey in doing so. The incident regarding the Grievor's email to the former student is not sufficiently egregious to justify summary dismissal in the absence of progressive discipline, and I have struggled with whether it is conduct that should attract discipline at all. The Grievor was gathering information in relation to her harassment complaint, the statement attributed to Mr. White was a statement he did in fact make, and the only aspect of the email that is problematic is the absence of the word "alleged" in the reference to "sexually harassing comments".

[79] The Grievor's "blow-up" with students on February 7 and 8, 2008 came after she had requested assistance in dealing with them on at least two occasions and in respect of which she was told by the Acting Dean to go on medical leave and she would not be disciplined.

[80] Nor do I agree that the Grievor failed to participate in conflict resolution. While the harassment policy certainly attempts to resolve complaints in an informal manner, those

involved are not required by the policy to participate in the informal process. Furthermore, a complainant has a right to proceed to make a formal complaint if not satisfied with the informal process. The formal process was not completed until the production of the final report on June 23, 2008, and the Grievor was given no opportunity to accept the findings of the Harassment Investigator, instead she was dismissed.

DECISION

[81] For all of the reasons set out above, the grievance is upheld. I heard a great deal of evidence going to the question of whether or not it was possible for the Grievor to be reinstated. However, I was asked by the parties to reserve my decision in respect of remedy and I think it would be inappropriate for me to comment in relation to reinstatement without having heard all of the evidence and arguments on this point. I will therefore remain seized of this matter in respect of remedy if the parties are unable to resolve it between them.

Dated at Regina, Saskatchewan, this 3rd day of August, 2010.



Merrilee Rasmussen Q.C.
Arbitrator

APPENDIX

SIAST & SGEU Twyla Mitchell Grievance

Exhibit List

Note: emails are identified by the persons listed as to and from at the top of the first page of the email chain. Other persons may have also been copied on many of these emails.

- 1A Grievance claim form dated July 4, 2008
- 2A Termination Letter dated July 2, 2008
- 3E Harassment Complaint - Welding Department, Report dated June 23, 2008
- 4E Staff Conflict Plan of Action - document prepared by Warren White, Program Head, dated December 15, 2007
- 5E Synopsis of Current Staff Conflict Environment - document prepared by Warren White, Program Head, dated December 7, 2007
- 6E Email from Warren White to Twyla Mitchell, December 16, 2007, 3:35 pm
- 7E Email from Warren White to Twyla Mitchell, January 24, 2008, 11:46 pm
- 8E Email from Warren White to Twyla Mitchell, February 5, 2008, 2:18 pm
- 9E Email from Anita Kerr to Warren White, February 8, 2008, 2:19 pm
- 10E Synopsis of Student – Instructor Interactions of Thursday Feb. 7 and Friday Feb. 8, document prepared by Warren White, Program Head, dated February 10, 2008
- 11E Email from Warren White to Dalton Mervold, dated February 15, 2008, 12:31 pm
- 12E Email from Warren White to Dalton Mervold, dated March 12, 2008, 1:51 pm
- 13E Email from Warren White to Dalton Mervold, dated March 12, 2008. 4:22 pm
- 14E Email from Warren White to Anita Kerr, dated March 12, 2008, 3:22 pm
- 15E Email from Warren White to Celia Caswell, dated June 13, 2008, 3:09 pm
- 16E Email from Warren White to Anita Kerr, dated June 13, 2008, 4:20 pm

- 17E Email from Twyla Mitchell to Anita Kerr, dated February 27, 2008, 10:05 am
- 18E Email from Warren White to Anita Kerr, dated June 16, 2008, 11:08 am
- 19U Email from Twyla Mitchell to Warren White, dated December 6, 2007, 7:51 am
- 20E Email from Warren White to Twyla Mitchell, dated Saturday, February 9, 2008, 9:03 pm
- 21E SIAST Anti-Harassment Policy, dated January 20, 2006
- 22E Email from Lynette Usselman to Val Morrisey, dated December 17, 2007, 2:16 pm
- 23E Meeting Notes, Common Themes - document prepared by Val Morrissey re January 18, 2008 meeting
- 24E Email from Twyla Mitchell to Val Morrisey, dated January 24, 2008, 2:27 pm
- 25E Email from Twyla Mitchell to Val Morrisey, dated January 29, 2008, 12:13 pm
- 26E Email from Twyla Mitchell to Val Morrisey, dated January 30, 2008, 1:24 pm
- 27E Email from Twyla Mitchell to Val Morrisey, dated January 30, 2008, 1:25 pm
- 28E Email from Twyla Mitchell to Val Morrisey, dated January 30, 2008, 9:02 pm
- 29E Email from Twyla Mitchell to Val Morrisey, dated February 11, 2008, 3:27 pm
- 30E Email from Anita Kerr to Val Morrisey, dated February 12, 2008, 3:45 pm
- 31E Email from Twyla Mitchell to Val Morrisey, dated February 22, 2008, 8:58 am
- 32E Email from Joyce Hobday to ValMorrisey, dated February 26, 2008, 12:05 pm
- 33E Email from Anita Kerr to Twyla Mitchell, dated January 28, 2008, 1:45 pm
- 34E Email from Twyla Mitchell to Val Morrisey, dated January 29, 2008, 12:13 pm
- 35E Email from Twyla Mitchell to Anita Kerr, dated February 27, 2008, 3:38 pm
- 36E Email from Twyla Mitchell to Dalton Mervold, dated February 27, 2008, 3:32 pm
- 37E Email from Twyla Mitchell to Dalton Mervold, dated March 8, 2008, 7:42 pm

- 38U Email from Anita Kerr to Twyla Mitchell, dated December 6, 2007, 12:53 pm
- 39U Email from Anita Kerr to Twyla Mitchell, dated February 5, 2008, 4:34 pm
- 40U Email from Anita Kerr to Twyla Mitchell, dated February 12, 2008, 10:02 am
- 41U Email from Twyla Mitchell to Anita Kerr, dated February 12, 2008, 11:09 am
- 42U Performance Evaluation April 2004
- 43U Performance Evaluation December 2004
- 44U Performance Evaluation March 2005
- 45U Welding Interprovincial Test
- 46U Email from Bob Johns to Twyla Mitchell, dated July 22, 2008
- 47U Email from Twyla Mitchell to Warren White, dated January 17, 2008, 12:03 pm
- 48U Email from Warren White to Twyla Mitchell, dated February 7, 2008, 8:54 am, plus other documents relating to leave (pp 1 to 9 from tab 13 of Union binder)
- 49U Email from Twyla Mitchell to Warren White, dated Sunday, February 10, 2008, 10:11 pm
- 50U Email from Twyla Mitchell to Joyce Hobday, dated February 11, 2008, 7:54 am
- 51U Email from Twyla Mitchell to Val Morrissey, dated February 26, 2008, 11:32 am
- 52E Email from Twyla Mitchell to Warren White, dated December 17, 2007, 11:12 am
- 53E Email from Twyla Mitchell to Dalton Mervold, dated March 18, 2008, 6:32 am
- 54E Email from Twyla Mitchell to Warren White, dated December 7, 2007, 2:32 pm
- 55E Email from Twyla Mitchell to Joyce Hobday, dated February 11, 2008, 3:22 pm
- 56U Job Posting for Welding Instructor, dated June 4, 2008 with closing date June 13, 2008
- 57U Email from Joyce Hobday to Don MacDonald, dated June 28, 2008, 10:27 am

- 58U Seniority list as at June 30, 2007
- 59U Letter re other discipline case, dated June 15, 2009
- 60A Collective Bargaining Agreement
- 61A Grievance Claim form re Bentley Wiebe and job posting at Woodland Campus, dated March 11, 2008

SIAST & SGEU
Twyla Mitchell Grievance

Chronology of Events and Exhibits

Notes:

Emails are identified by the persons listed as “to” and “from” at the top of the first page of the email chain that constitutes the exhibit. Other persons may have also been copied on many of these emails. Portions of some email chains occur in more than one exhibit.

Exhibits are numbered sequentially. Exhibit numbers followed by an “A” were provided by agreement, those followed by an “E” were tendered by the Employer, and those followed by a “U” were tendered by the Union.

Times are expressed by reference to 24-hour clock.

January 2004	Grievor commences employment as welding instructor at Palliser
April 2004	42U Performance Evaluation re January to April 2004 at Palliser
December 2004	43U Performance Evaluation re October to December 2004 at Swift Current
March 2005	44U Performance Evaluation re March to June 2005 at Kelsey
Fall 2005	Student reports to Grievor that she overheard other instructors plotting to get Grievor fired
January to June 2006	Grievor works as welding instructor in Melfort
September 2006	Grievor returns to Kelsey
January 20, 2006	21E SIAST Anti-Harassment Policy
February 2007	Incident with Grievor’s student removed from program; other instructors take complaints about the Grievor to Program Head and Dean; SIAST Kelsey conflict resolution facilitator engaged

June 2007 approx	Grievor allegedly makes a comment after hanging up the phone to the effect that she wished she had a gun so she could shoot someone
July 1, 2007	Grievor appointed as welding instructor at Kelsey for one year term; Warren White appointed Program Head
November 28, 2007	comment by colleague that old female teachers are grouchy because they're not getting laid.
December 6, 2007-7:51	19U Email from Twyla Mitchell to Warren White; "would like to talk to Anita" "she's going to connect me (WW) with new conflict resolution person"
December 6, 2007-12:53	38U Email from Anita Kerr to Twyla Mitchell; "I would really enjoy spending some girl time"
December 7, 2007	5E Synopsis of Current Staff Conflict Environment - document prepared by Warren White, Program Head presented to morning staff meeting; contains notation that Grievor's use of profanity identified to her on December 6, 2007 as possible grounds for discipline
December 7, 2007-14:32	54E Email from Twyla Mitchell to Warren White; "good thing I don't have a gun"; refers to issues with house and repairs to car
December 7, 2007	Warren White calls meeting of all welding staff and presents Synopsis 5E; Jerry Andreas is allowed to take a copy, all others, including Grievor, turn it in
Mid-December	Warren White contacts former student about alleged "plotting" incident
December 15, 2007	4E Staff Conflict Plan of Action - document prepared by Warren White, Program Head
Mid-December 2007	Another instructor is appointed to an extension position, which is ultimately grieved as a failure to post
December 16, 2007-15:35	6E Email from Warren White to Twyla Mitchell, re why Scott was appointed to the extension class at Woodlands (grieved by staff there); Grievor says "I should have been a

boy”

December 17, 2007-11:12 52E Email from Twyla Mitchell to Warren White re rj; “His students are ALWAYS looking fo rthen and always asking me . . . salesmen”

December 17, 2007-14:16 22E Email from Lynette Usselman (EA to Dean) to Val Morrissey re Kelsey Welding Program; “time to meet re an issue we are currently experiencing in our Welding program at Kelsey Campus”

January 17, 2008-12:03 47UEmail from Twyla Mitchell to Warren White, re sch meeting; “I am requesting that Friday morning we sit 2 of these little boys from Group C down and straighten them out”

January 18, 2008 23E Meeting Notes, Common Themes - document prepared by Val Morrissey

January 24, 2008 -14:27 24E Email from Twyla Mitchell to Val Morrissey, re Bill Salt and flash screen; “I have had ENOUGH!!!!!!!!!!!!!!”

January 24, 2008 - 23:46 7E Email from Warren White to Twyla Mitchell, re back slide; response to previous email at 24E

January 28, 2008 -13:45 33E Email from Anita Kerr to Twyla Mitchell, re issues and providing information about leaves of absence

January 29, 2008 - 12:13 34E Email from Twyla Mitchell to Val Morrissey, re issues; “I get it”

January 29, 2008 - 12:13 25E Email from Twyla Mitchell to Val Morrissey, re issues; same as 25E but with earlier emails in the chain, starting with email from Warren White indicating that because everyone was accusing him of being unfair he was in fact fair

January 30, 2008 - 13:24 26E Email from Twyla Mitchell to Val Morrissey, re water under the bridge; “I want my union rep”

January 30, 2008 - 13:25 27E Email from Twyla Mitchell to Val Morrissey, re water under the bridge; “Do you all want me gone?”

January 30, 2008 - 21:02 28E Email from Twyla Mitchell to Val Morrissey, re water

under the bridge; “Can we arrange a phone meeting to go over the policy (for filing a formal harassment complaint)

February 5, 2008 - 14:18 8E Email from Warren White to Twyla Mitchell, re meeting; “Please come and see me when you have a few minutes”

February 5, 2008 - 16:34 39U Email from Anita Kerr to Twyla Mitchell, re how’s things?; “just remember . . . I will support you in any way that I can”

February 7, 2008 - 8:54 48U Email from Warren White to Twyla Mitchell, plus other documents relating to leave (pp 1 to 9 from tab 13 of Union binder), re seniority when resigning; “SIAST in general and this department have always been supportive of people who wish to take leaves”

February 8, 2008 - 14:19 9E Email from Anita Kerr to Warren White, re leejessegrant; meeting arrangements for February 11, 2008 “bring along union representation”

February 9, 2008 - 21:03 20E Email from Warren White to Twyla Mitchell, re Conference Monday 8:00 AM; “failure to complete your responsibilities as an instructor” in spite of extenuating circumstances

February 10, 2008 10E Synopsis of Student – Instructor Interactions of Thursday Feb. 7 and Friday Feb. 8, document prepared by Warren White, Program Head

February 10, 2008 - 22:11 49U Email from Twyla Mitchell to Warren White, re Conference Monday 8:00 am; responding to 10E

February 11, 2008 Grievor goes on sick leave later leave of absence to June 30, 2008

February 11, 2008 - 7:54 50U Email from Twyla Mitchell to Joyce Hobday, re not in; “I am not well”

February 11, 2008 - 15:22 55U Email from Twyla Mitchell to Joyce Hobday, re not in; “he said that it is a non-disciplinary meeting”

February 11, 2008 - 15:27 29E Email from Twyla Mitchell to Val Morrissey, re Update; “He said, I’m good, but I’m getting laid”

February 12, 2008 - 10:02	40U Email from Anita Kerr to Twyla Mitchell, re hey...how are you?; "I do think you need to take care of you first and foremost"
February 12, 2008 - 11:09	41U Email from Twyla Mitchell to Anita Kerr, re hey...how are you?; further emails in the exchange; purpose of stress leave
February 12, 2008 - 15:45	30E Email from Anita Kerr to Val Morrissey, re weather; reference to meeting with Twyla on February 14
February 15, 2008, 12:31	11E Email from Warren White to Dalton Mervold, re Report to Staff Feb 15; advising staff that Twyla on sick leave
February 22, 2008 - 8:58	31E Email from Twyla Mitchell to Val Morrissey, re Saskatoon on Monday; "I would prefer if we were both there together"
February 26, 2008 - 11:32	51U Email from Twyla Mitchell to Val Morrissey, re meet; "when your union rep comes back"
February 26, 2008 -12:05	32E Email from Joyce Hobday to Val Morrissey, re meet; "I will be back on March 13"
February 27, 2008 - 10:05	17E Email from Twyla Mitchell to Anita Kerr, re noise reduction ideas; "how can I not take offence to that?"
February 27, 2008 - 15:32	36E Email from Twyla Mitchell to Dalton Mervold, re loa; "unless Warren ruined that opportunity for me this aft"
February 27, 2008 - 15:38	35E Email from Twyla Mitchell to Anita Kerr, re noise reduction ideas; "Even the boss is doing it now, you call him a friend?"
March 8, 2008 - 19:42	37E Email from Twyla Mitchell to Dalton Mervold, re what if...; "You will get your job back at the end of your leave (June 30th)"
March 10 or 11, 2008	Grievor meets with Anita Kerr and Dalton Mervold and refers to falsified qualifications
March 11, 2008	61A Grievance Claim form re Bentley Wiebe and job posting at Woodland Campus

March 12, 2008 - 13:51	12E Email from Warren White to Dalton Mervold, re Twyla Mitchell; "I personally have heard Twyla threaten to shoot someone"
March 12, 2008 - 15:22	14E Email from Warren White to Anita Kerr, re Twyla; "I am fed up with you"
March 12, 2008 - 16:22	13E Email from Warren White to Dalton Mervold, re observations; "there would be dead people around"
March 18, 2008 - 6:32	53E Email from Twyla Mitchell to Dalton Mervold, re ww response; "Thank you for dealing with this"
April 8, 2008	The Grievor files formal harassment complaints
June 4, 2008	56U Job Posting for Welding Instructor with closing date June 13, 2008
June 13, 2008 - 15:09	15E Email from Warren White to Celia Caswell, re conversation with past student; "she will be providing documentation indicating unsubstantiated claims made by Twyla Mitchell"
June 13, 2008 - 16:20	16E Email from Warren White to Anita Kerr, re Mitchell R emails?; "AR has indicated that there were more emails received and sent"
June 16, 2008 - 11:08	18E Email from Warren White to Anita Kerr, re T Mitchell AR; "contact from Twyla Mitchell in the form of complaints about Kelsey staff and solicitations to support her in the current harassment investigation"
June 23, 2008	3E(ID) Harassment Complaint - Welding Department, Report
June 28, 2008 - 10:27	57U Email from Joyce Hobday to Don MacDonald, re KC 5045; "an incumbent is being denied a posting"
July 2, 2008	2A Termination Letter
July 4, 2008	1A Grievance claim form
July 22, 2008	46U Email from Bob Johns to Twyla Mitchell, re carpenters;

“you completely and honestly did the right thing”

no date

45U Welding Interprovincial Test

June 30, 2007

58U Seniority List

June 15, 2009

59U Letter re other discipline case

60A Collective Bargaining Agreement