

Office of the Umpire
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October 3rd, 1997

RECONSIDERATION
OF
UMPIRE BEATSON'S MAY 26TH, 1997 ASSIGNMENT
FOR
.MULTIPURPOSE, FREE STANDING SUPPORTS
SUNCOR PLANT #25 GENERAL MECHANICAL CONTRACT
FORT MCMURRAY, ALBERTA
PCL INDUSTRIAL CONSTRUCTORS INC. CONTRACTOR

DISPUTING TRADES

United Association of Journeymen and Apprenticeship of the Plumbing Pipefitting
Industry of the United States and Canada, Local 43, Edmonton International Brotherhood
of Electrical Workers, Local 424 Edmonton

International Association of Bridge, Structural and Ornamental Iron Workers,
Local 720, Edmonton

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DEFINITION OF THE WORK

The description of the work involved in the dispute was supplied by the contractor, PCL Industrial Constructors Inc. (PCL).

Thirty-four (34) Free Standing Multi Purpose Supports of five (5) different types.

- Types 1,2 and 5 up single leg tee supports.
- Types 3 and 4 are two legged interconnected style.

All supports have horizontal bracket attached to each side-

The evidence was inconclusive on what was to be supported by the different types of supports.

NATURE OF THE RECONSIDERATION

The International Association of Bridge, Structural and Ornamental Iron Workers, Local 720 (IW) in their May 30th, 1997 letter are protesting Umpire Beatson's May 26th, 1997 ruling "to award the Multi-Purpose Free Standing Supports to the UA/IBEW."

The contractor, PCL. in its March 21st 1997 Final Jurisdictional Work Assignment had assigned the work to the IW. PCL reconfirms this assignment in their April 14, 1997, letter to the IBEW, UA and IW.

To this dispute. Umpire Beatson applied the same ruling e did in his January 30th, 1996 ruling on the matter of (2) multi-purpose supports which upheld The Fluor Constructors Canada Ltd. Assignment on the Dupont Canada Phase II Expansion at Gibbons, Alberta to the UA/IBEW

It should be noted the IW requested of the JAPlan a reconsideration of Umpire Beatson 's award in their March 27th, 1996 letter (after being granted a time extension by the JAPlan Administrator. The JAPlan took no action on this Reconsideration request to Umpire Beatson's ruling on the Fluor Dupont Project

Umpire Weir is extremely concerned this was allowed to occur. As well, it has taken over three months to act on this Reconsideration.

AUTHORITY

The authority of the umpire to hear the Reconsideration is based on:

- The undated Jurisdictional Assignment Plan of the Alberta Construction Industry (JpLn). It is noted that both the Memorandum of Agreement and the Letter of Understanding are dated August 15th 1995. It is assumed they were both signed on that date.
- His appointment as umpire of the LAPlan;
- The IW reconsideration request and documentation submitted by the IW'
- The IBEW and UA joint submission and documentation;
- Adhering to the JAPlan Procedural Rules

Exceptions Noted:

- All parties had waived the time requirements
- Written documentation was received from PCL consisting of:
 - ◇ August 19th, 1997 PCL letter supporting the IW submission and expressing PCL's concerns with Umpire Beatson's May 6th. 1997 ruling
 - ◇ August 22nd and August 29th, 1997 PCL letters advising the number, type and configuration of the multiple purpose free standing supports, and that the Umpire's directive.
- Properly constituted Hearings of August 21st and September 23rd, 1997

EVIDENCE

Assuming the evidence presented at this Reconsideration was basically the same as originally presented to Umpire Beatson for the Fluor/Dupont Project, then I concur with his statement.

"Unfortunately, the evidence provided does not deal clearly with the problem and is not always helpful".

I did, however, find helpful the UA summaries presented at the September 23rd, 1997 hearing by Mr. Kinsey and Mr. Shaughnessy. I did not accept the hearsay evidence contained in the summaries

After a detailed review of all the written evidence presented and a review of my notes of the oral evidence at the hearing, I will comment as follows:

1. There are no Decisions of Record or Agreements of Record that apply to the disputed work.
2. Disputes on this work are not new to the construction Industry. The evidence showed contractor(s) had previously requested the Unions involved to resolve this matter between themselves. This appears to not have happened. This request was also made to the UA and IW on this current dispute but to no avail.
3. It is clear that free standing supports for more than one purpose are defined as multi purpose.
4. The October 1st, 1956 UA?IW Mutual Agreement signed by L.O. Hickingbottom and S. Senio states, amongst other things, "Free standing pipe support to be fabricated, assembled and installed by members of the United Association."

There is no doubt that this means free standing supports that support pipe only is the work of the UA. The Agreement is silent on multi purpose free standing supports.

5. The August 23rd, 1963 UA-IBEW Memorandum of Understanding titled Supports for Piping and Wiring, signed by Gordon M. Freeman and Peter T. Schoemann, is clear in its meaning and purpose. The UA argued dual purpose supports are not the same as multi purpose supports. I have already addressed this.
6. At the hearing of September 23rd, 1997 the UA stated:
 - it was common industry practice to not have final work assignments that the assignments given at the pre-job conference and jurisdictional mark up meetings are those adhered to during construction;
 - that the majority of contractors do not issue final work assignment,. PCI. Is a contractor who does

No documentation was submitted to support these statements.

7. The evidence did contain final work assignments including those of PCL

OTHER RULINGS

I agree with Umpire Beaton's comments in his January 30th, 1996 Discussion on the Fluor/Dupont matter where he states:

"The Impartial Jurisdictional Disputes Board and the Jurisdictional Assignment Umpire of B.C. have ruled on this confusing situation. In the examples provided, the rulings have been clouded with such ancillary issues to an understanding between two of the Unions and not the third, and supports installed simultaneously with structural steel.

The Jurisdictional Assignment Umpire of B.C. says that assignments of multi-purpose support have been significantly in favour of the Ironworker, and he has ruled accordingly in his area. He goes on to say, 'Review of relevant job discussions has determined that work is awarded to one trade or the other after consideration of the circumstances of the project' The circumstances referred to are purpose, type, and time of installation of the supports."

At the September 23rd, 1997 hearing there was agreement that mark ups are a "guiding tool" and site conditions may not allow all assignments to be followed "To the letter - there may be wage trade offs"

SUMMARY

The description of the work indicates that thirty four (34.) multi purpose tree standing supports of five (5) different types were in dispute.

By the time of this Reconsideration the work was already complete and had been performed by the UA in accordance with Umpire Beatson's directive of May 26th, 1997. I agree with Umpire Beatson's statement in his January 30th, 1997 ruling

"Evidence was presented to show the work has been assigned to one trade or the other depending on the circumstances"

But, I respectfully submit I do not agree with Umpire Beatson's analysis of the evidence.

After careful consideration and weighing the valid evidence I find that members of the IW rightly have jurisdiction for multi-purpose freestanding supports.

RULING

In view of the above, the March 21 St, 1997 Assignment made by PCL was correct and the May 26th, 1997 Ruling of Umpire Beatson's is overturned.

W. A. WEIR Umpire
Jurisdictional Assignment Plan of the
Alberta Construction Industry
October 3, 1997