

Interpretation of Collective Agreements



A. Intention of the Parties

The object of interpretation is to discover the intention of the parties.

1. It is presumed the parties have intended what they have said, and the meaning given to the words used by them should be viewed in their normal or ordinary sense.
2. In searching for the intention of the parties, it is important to consider the purpose of the particular provision.
3. Where there are French and English versions, the parties' intention may be clarified by comparing both texts. Many PSAC agreements contain the provision that both texts are official.
4. Also, the context in which the words appear is an important source of their meaning. The words being considered should be read in the context of the sentence, section or collective agreement as a whole. Headings as well help to give meaning to the section or sections that fall under them, provided that the collective agreement does not state that headings are not to be used as a guide to interpretation.
5. A preamble may also be used as a guide to interpretation, but it is important to note that a preamble is not a source of entitlements or obligations.

B. Aids to Collective Agreement Interpretation

There are a variety of sources to aid in the interpretation process.

1. Although they do not create binding precedent, rulings of arbitrators with respect to prior grievances can be an important aid to interpretation. When grievances are referred to the courts, arbitrators are bound by court rulings, unless they can find a way to distinguish the court decision from the case before them.
2. The Brown and Beatty text, *Canadian Labour Arbitration* (Canada Law Book Inc.) is an excellent resource and provides a useful summary of arbitral jurisprudence in Canada. Others are *Collective Agreement Arbitration in Canada* by Earl Edward Palmer (Butterworths) and *Canadian Labour Law* by George Adams (Canada Law Book Inc.). The best known resource in French is the Rodrigue Blouin and Fernand Morin text, *Arbitrage des griefs* (Les éditions Yvon Blais Inc.).
3. Dictionaries are often used as a reference to confirm the meaning of certain words. *Labour Law Terms: A Dictionary of Canadian Labour Law* is a specialized dictionary by Jeffrey Sack and Ethan Poskanzer.
4. Collective bargaining takes place within a legislative framework, and related statutes are often used to help determine the meaning of words used in the collective agreement.
5. Bargaining history may also be relied upon to clarify the intention of the parties by comparing the old language with the wording in the current agreement, and examining the reasons for the change.
6. Extrinsic evidence can only be used by an arbitrator if s/he finds that the clause in question is ambiguous and there is a need for extrinsic evidence to resolve the ambiguity. A common example of extrinsic evidence is past practice.