

IN THE MATTER OF AN ARBITRATION
UNDER THE *LABOUR RELATIONS CODE*, RSBC 1996 c. 244

Between

UNIVERSITY OF BRITISH COLUMBIA

(the “University”)

-and-

UNIVERSITY OF BRITISH COLUMBIA FACULTY ASSOCIATION

(the “Faculty Association”)

(Steven Galloway Arbitration)

ARBITRATOR: John B. Hall

APPEARANCES: Eric J. Harris, Q.C., for the University
Allan E. Black, Q.C. and Jessica L. Burke,
for the Faculty Association

HEARING/MEDIATION DATES: September 11, 12, 13, 14, 15, 18, 20, 25,
27, 28 and 29, 2017; January 12;
February 13, 14, 15, 21, 22, 23, 26, 27
and 28; March 1 and 2; & April 12,
2018

AWARD: June 8, 2018

SUMMARY AWARD

I. THE GRIEVANCES

I was appointed by the parties in April of 2016 to arbitrate two grievances filed by the Faculty Association on behalf of Steven Galloway (the “Grievor”).

The first grievance is dated December 9, 2015 and was brought after the Grievor was temporarily suspended with pay by the University pending an investigation into “serious allegations” which had come to the attention of the Creative Writing program (the description is taken from a Memorandum dated November 18, 2015 addressed to faculty, staff and students in the program). The first grievance asserted, among other things, that the University’s actions had violated the Grievor’s privacy rights, and had caused him irreparable reputational damage and financial loss.

The second grievance is dated July 6, 2016 and was brought after the University terminated the Grievor’s employment as a tenured Associate Professor effective June 21, 2016. In addition to challenging the termination of employment, the second grievance asserted there had been substantial procedural violations by the University’s administration; it was further alleged that the content of the University’s communications regarding the termination had been misleading and had caused both serious reputational damage and ongoing personal suffering to the Grievor.

The University agreed on a without prejudice basis that I would have jurisdiction to determine all of the matters raised by the two grievances, including the Faculty Association’s various claims on behalf of the Grievor for damages.

II. THE HEARING AND PARTIAL RESOLUTION

While the initial letter of appointment estimated the arbitration would take five days, counsel later agreed that two weeks should be scheduled in March of 2017. Regrettably, due to unanticipated procedural developments, an adjournment could not be avoided and three weeks were then arranged in September of 2017. Those dates were not sufficient, and an additional twelve (12) hearing days were scheduled to begin in February of this year. Part way through that phase, the parties agreed to a revised process for determining the outstanding issues in order to reduce the number of days that would otherwise have been required to complete the case.

As part of the revised process, the Faculty Association withdrew its claim on behalf of the Grievor for reinstatement, as well as the claims for compensation for lost income and benefits. Consequently, the issue of whether the University had cause to dismiss the Grievor was no longer contested as part of the arbitration.

All remaining issues remained before me for determination; however, it was understood those differences would be subject to a period of mediation in accordance with the *Labour Relations Code*. If the mediation was not successful, then the arbitration would resume and my resulting award would be issued in summary form, and would be without precedent and without prejudice to the parties' positions in any other proceeding.

III. THE REMAINING ISSUES

Unfortunately, while the contemplated mediation was partially productive, a third party determination of the remaining issues is still required. In accordance with the revised process, my award is being issued in summary form.

I have considered the record before me -- particularly, the extensive documentary materials tendered by both parties -- in light of the representations by counsel. I find that

certain communications by the University contravened the Grievor's privacy rights and caused harm to his reputation. He should accordingly be compensated with an award of damages. I have decided to set the amount at \$167,000.00 after taking into account all of the relevant and countervailing considerations.

Finally, in accordance with the Consent Order dated March 23, 2017, the entirety of the proceeding before me continues to be strictly confidential and will not be disclosed unless required by law, except for matters recorded in this award. Consistent with that Order, no party will comment on the proceeding or the reasons for the Grievor's dismissal. Should any party intend to make a public disclosure which might be contrary to the confidentiality terms, it will provide reasonable advance notice to the other parties and any disagreement will be referred to me for a binding determination before the disclosure is made public.

I retain jurisdiction in the event of any difficulty implementing this award on a timely basis.

DATED and effective at Vancouver, British Columbia on June 8, 2018.

A handwritten signature in black ink, appearing to read "John B. Hall". The signature is written in a cursive style with a large, looping initial "J".

JOHN B. HALL

Arbitrator