

LABOUR RELATIONS CODE
(Section 84 Appointment)
ARBITRATION AWARD

CANADIAN OFFICE & PROFESSIONAL EMPLOYEES' UNION, LOCAL 378
UNION

TERASEN GAS INC.

EMPLOYER

(Re: Retirees Doing Bargaining Unit Work – Martin Pollard and Gordon Simister)

Arbitration Board:	James E. Dorsey, Q.C.
Representing the Union:	Shanti P. Reda and Stephanie T. Mayor
Representing the Employer:	Keith J. Murray and Lou L. Poskitt
Dates of Hearing:	November 23 - 24, 2010
Date of Decision:	November 25, 2010

[1] The union grieves the employer contravened Articles 1.02(a) and (b) and other articles of the collective agreement by employing Martin Pollard and Gordon Simister during the period October 2008 to February 2010.

[2] The union and employer have entered into the appended Settlement Agreement for the period February 2010 to December 2011 in which it is agreed I shall retain jurisdiction over disputes arising under it or its interpretation, application and implementation.

[3] The union and employer agree I am constituted as an arbitrator under their collective agreement and the *Labour Relations Code* with jurisdiction to finally decide the merits of the grievance with respect to Messrs Pollard and Simister.

[4] After hearing testimony, reviewing exhibits and representations by the union and employer I find there was a contravention of Articles 1.02(a) and (b) with respect to Messrs Pollard and Simister.

[5] I declare that Messrs Pollard and Simister were employed as employees covered by the collective agreement while performing services under contracts with the employer during the period October 2008 to February 2010. Messrs Pollard and Simister should have been covered by the collective agreement and entitled to the benefits of the collective agreement and the union was entitled to its rights as their exclusive bargaining agent during that period of time.

[6] Therefore, I order the employer to cease and desist and, in full resolution of the union's grievance with respect to Messrs Pollard and Simister, to pay to the union the dues required to have been remitted by Messrs Pollard and Simister for hours worked during the disputed period as if each of them had been employed in his pre-retirement pay grade (Grade 11, Step 5).

[7] I retain and reserve jurisdiction over the implementation, application and interpretation of this decision.

NOVEMBER 25, 2010, NORTH VANCOUVER, BRITISH COLUMBIA.

James E. Dorsey

James E. Dorsey