

Employer Didn't Have to Rehire Seasonal Employee Who Wasn't Bilingual



An employer didn't offer a seasonal employee with seniority employment for the new season, hiring instead less senior workers who were fluent in French or bilingual. The employer argued that the employee's ability to communicate with co-workers was crucial for safety reasons. The union claimed the employer violated the employee's right to recall. The arbitrator noted that New Brunswick is the only province that's officially bilingual. Management does have the right to determine job qualifications. And bilingualism in the workplace, depending on the position, has an established record of acceptance as a reasonable qualification for a position in the provincial public service. Because the employee wasn't bilingual, he only qualified for a unilingual position. And other workers with more seniority had filled those positions. Thus, the arbitrator dismissed the grievance [*Canadian Union of Public Employees, Local 1190 v. New Brunswick (Department of Transportation and Infrastructure) (Deleavey Grievance)*, [2015] N.B.L.A.A. No. 2, June 17, 2015].