

Is Health Facility's Ban on Moonlighting a Valid COVID Safety Measure?



After the pandemic broke out, an adult treatment and rehab provider banned employees from working for other employers. Just complete your shift and go straight home, stated the directive. The provider offered to ensure union workers guaranteed shifts to make up for the income losses. When the union didn't object, the provider thought it had a deal. But a week later, the union filed a grievance. The Nova Scotia arbitrator found the provider violated the collective agreement but still tossed the grievance. Normally, employers can't tell employees what to do in their spare time; but during a pandemic, the directive was a valid safety measure. Even so, the provider didn't consult with the union the way the collective agreement required. But at the same time, the union's conduct gave the provider a reasonable belief that it accepted the directive. Consequently, it was 'estopped,' i.e., banned in the interest of fairness from grieving the directive [*CUPE, Local 3513 v Breton Ability Centre*, 2020 CanLII 93886 (NS LA), December 1, 2020].