

OK to Treat Union's Failure to Object as Approval of Disciplinary Action Extension



To ensure speedy action, a collective agreement required the employer to impose discipline within 21 days of its 'first reasonable opportunity to have knowledge of the circumstances giving rise to the discipline.' But in the past, the union had consistently agreed to requests for extensions. So, when the employer asked for an extension to figure out whether to discipline a worker for not following proper work refusal procedures, it assumed it had the union's OK even though the union never responded to the request. But the union contended that its silence didn't connote approval and said the 75 demerit points the worker received for the incident was invalid because the decision came after the 21-day deadline. The Ontario arbitrator disagreed, finding that given the union's past practice, it was reasonable for the employer to assume that the union had agreed to the extension and faulting the union for not speaking up if it had an objection to an extension in this case [*Algoma Steel Inc. v United Steelworkers, Local 2251*, 2021 CanLII 26444 (ON LA), March 31, 2021].