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IN THE MATTER OF A FORMAL ARBITRATION:

BETWEEN:

THE CANADIAN UNION OF POSTAL WORKERS

(The Union)

and

CANADA POST CORPORATION

(The Employer)

RE: *Paris, S.* (The Grievor)

CUPW No. 096-03-01542

BEFORE: Innis Christie, Arbitrator

HEARING DATE: February 1, 2007

AT: Halifax, N.S.

FOR THE UNION: David Roberts, Counsel

Doug Smith, Union Representative

Lori Stacey, Nova Local

FOR THE EMPLOYER: Terry Roane, Counsel

Erin Weiss, Counsel

Joanne Harrington, Labour Relations Officer

Jim Dunsworth, Manager Plant Operations

Ibrahim Orengo, Superintendent, Dartmouth Delivery
Centre

Sharon Simpson, Superintendent Mail Operations

DATE OF AWARD: February 3, 2007

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Union grievance, submitted on August 18, 2006, on behalf of the Grievor alleging breach of the Collective Agreement between the parties bearing the expiry date January 31, 2007, in that the Employer violated Article 10 and all other related provisions by discharging the Grievor without just, reasonable or sufficient cause. The Union requests an order that the Grievor be fully reinstated and be compensated for all lost earnings and benefits and that all letters, reports and documents relating to the basis upon which he was discharged be removed from her personal file. The Union reserved the right to seek additional redress, including, but not limited to, damages and interest at the Bank of Canada rates.

At the outset of the hearing the Parties agreed that I am properly seized of this matter and that I should remain seized after the issue of any Award in this matter to deal with any issues arising directly from its application.

AWARD

The Grievor was discharged by a letter dated August 14, 2006, for being absent without leave. In the course of the hearing the parties agreed on the following terms of this award, “without prejudice or precedent to any position the Parties have taken or may take in identical or similar circumstances”, which are intended to give the Grievor a last chance to retain her job with the Employer:

TERMS AND CONDITIONS

1. These terms and conditions shall be in effect 24 months from the date of this Award.

2. The Grievor shall provide the Employer with a medical certificate for each and every absence for which illness or injury is claimed as a cause. Any such medical certificate shall include a statement respecting whether the absence is believed to be related to drugs or alcohol. To maintain appropriate confidentiality, any such medical certificate shall be provided to the plant manager of the facility in which the Grievor is employed. The Grievor shall provide any such medical certificate on the first day of return to work and shall seek immediate medical attention at the outset of any illness or injury that requires absence from work.
3. If she is unable to report to work the Grievor shall comply strictly with the notice requirements of Article 20.05 of the Collective Agreement.
4. The letter of discharge issued by the Employer to the Grievor on August 14, 2006 shall be removed from her personal file and she shall be reinstated, provided the following conditions are first fulfilled:
 - (a) The Grievor has provided to Dr. Kent Pottle of Medisys medical certification, to the satisfaction of Dr. Pottle, of her fitness to return to work on a full-time basis,
 - (b) The Grievor has completed a drug/alcohol use assessment conducted by Pharmatox Inc., the results of which shall be provided to her, the Union and the Employer, which shall include:
 - (i) a review of her relevant history and treatment to date,
 - (ii) assessment of her current status prior to reinstatement, and
 - (iii) recommendations for future treatment.

5. The Grievor shall comply with the treatment recommendations of professionals who have examined her and Pharmatox Inc. A positive result on any test ordered pursuant to paragraph 4 above shall be conclusively deemed a breach of these terms and conditions.
6. Any breach of these terms and conditions will result in the termination of the Grievor's employment and such termination shall be deemed to be for just cause.
7. Upon reinstatement the Grievor shall be paid all wages and benefits effective the day after the cessation of her Employment Insurance benefits. If the Grievor has not returned to work in accordance with these terms and conditions one month from the date of this Award she shall continue to be paid all wages and benefits prior to reinstatement only if the delay is not in any way hers or the Union's fault. The onus will be on the Employer to prove such fault.
8. I retain jurisdiction over this matter, including jurisdiction to deal with any breach of these terms and conditions, but I shall not have jurisdiction to modify the penalty.

I so order.

Innis Christie
Arbitrator

A handwritten signature in black ink, appearing to be 'IC' or 'Innis Christie'.