

– reading a – COLLECTIVE AGREEMENT



1

Words are given their ordinary or plain meaning.

As a general rule, clear words should be given their ordinary or plain meaning. It is the plain, everyday meaning that is given the most weight, and arbitrators do not want to look for meaning outside of the plain meaning of the agreement.

2

The collective agreement must be read as a whole.

The interpretation in one article should not cause another provision to be meaningless or absurd. An interpretation that requires you to avoid words or sections is usually incorrect.

3

The same words should be given the same meaning, and different words should be given different meanings.

When a different phrase or word is used, we should not assume it has the same meaning as a similar phrase or word.

4

The specific overrides the general.

When reading a collective agreement, make sure to look for any other language that might be more specific. Collective agreements as a whole are an example of this, as they typically contain a “managements rights” article, but the remainder of the language in the agreement seeks to limit those rights in specific instances. A more specific example is vacation pay, where we have a general article that discusses vacation pay but also articles that change those rules for certain types of employees, like casuals.

5

Watch for discretionary words.

Phrases like “meaningful discussion” can allow the Employer to escape from having to live up to what the Union intended when they agreed to the clause. If a clause says the Employer “shall not unreasonably deny” authorization after-the-fact for overtime worked in unforeseeable circumstances, the definition of “reasonable” is called into question and is left up to an arbitrator to decide. Similarly, if a clause says that the “Employer shall endeavor to minimize the use of mandatory overtime,” it does not prevent the Employer from mandating overtime; rather, it merely means the Employer will try to minimize the use of mandatory overtime.

6

Know the difference between “must,” “shall,” and “may.”

Generally, when we want to clearly establish that an Employer has a duty, we insist on bargaining words “must,” “shall,” or “will” rather than “may”. The word “may” leaves the Employer with a choice.

MAY – Discretionary and permissive

MUST – Always mandatory

SHALL OR WILL – Mandatory in most instances