

**EMPLOYER VIOLATED COLLECTIVE AGREEMENT BY PAYING BONUS TO EMPLOYEES WHO WORKED DURING A STRIKE**

*Canadian Health Care Guild v. Bethany Care Society (Care West)*, an unreported decision of Arbitrator Jolliffe dated November 17, 1999

**Facts**

The Employer unilaterally decided to award a bonus to its employees. The unilateral introduction of a bonus was not grieved. However, before the bonuses were paid, an illegal strike took place. Due to the strike, the Employer decided it could not afford the bonuses. However, the Employer paid bonuses to each employee who worked through the strike. The Union filed a grievance alleging that the Employer's unilateral act violated the Collective Agreement. Specifically, the Union alleged that the bonus itself was in violation of the Collective Agreement, and additionally argued that the Employer discriminated against Union members by awarding the bonus only to employees who did not participate in the strike.

**Held**

Arbitrator Jolliffe found that the Employer was entitled to decide whether to pay or not pay the bonus, since the Union had not grieved the unilateral introduction of the bonus. However, Arbitrator Jolliffe found the Employer violated the Collective Agreement in awarding a bonus only to the employees who did not participate in the strike. The Arbitrator found that the bonus plan violated the Wage Schedule in the Collective Agreement, and also that the Employer had undermined the Union's role as exclusive bargaining agent for Union members.

Arbitrator Jolliffe issued a declaration that the Employer had violated the Collective Agreement, but did not award monetary damages.