IN THE MATTER OF AN ARBITRATION

BETWEEN:

KWANTLEN UNIVERSITY COLLEGE

(the "Employer")

AND:

KWANTLEN FACULTY ASSOCIATION

(the "Union")

(Article 1.05(e) Regularization)

ARBITRATOR:	Vincent L. Ready
COUNSEL:	Colin G.M. Gibson for the Employer Lesley Burke for the Union
WRITTEN SUBMISSIONS:	October 30, 2007 and November 16, 2007
HEARING:	November 28, 2007 Vancouver, BC
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The issue before me is a grievance filed on behalf of the grievor, Ms. Laurie Detwiler, alleging that the Employer's improper interpretation of Article 1.05(e) has led to a failure to regularize the grievor.

Article 1.05(e) reads as follows:

Entitlement to Conversion to Regular Status

The conversion of status from non-regular to regular will occur when the faculty member has a workload of 50% or greater for each of two (2) consecutive appointment years of work, provided that:

(i) there is a reasonable expectation of ongoing employment at a workload level of at least 50% in each of two semesters within the appointment year subsequent to that in which the entitlement to conversion arises or there is a reasonable expectation of an ongoing workload assignment of at least 50% on an annualized basis within the appointment year subsequent to that in which the entitlement to conversion arises, and

(ii) the employee is qualified for the work in question, as determined by the Search Committee at the time of initial hire or subsequent review, and

(iii) the employee's most recent evaluation for regular employment within the preceding twelve (12) month period has been satisfactory. The employee will be deemed to have received satisfactory evaluation if one has not been undertaken by the employer. The employer may evaluate a non-regular employee at least once each 12 month period and the employee may request an additional evaluation not more often than once in each 12 month period.

Nothing in the section above prohibits the employer's rights to regularize any position as it deems necessary.

The Union alleges that the grievor should be regularized as she has two years of consecutive work at greater than 50% and she has been offered ongoing work: 80% NRT2 work for the 2007-08 academic year. The Employer

does not dispute that the grievor has worked greater than 50% over the past two years, but argues that the 2007-08 assignment is "replacement work" and thus not "ongoing work". As a result, the Employer submits that the grievor is not entitled to conversion to regular status under the terms of the Collective Agreement.

During the process of submissions and hearing of this case, the parties reached a without prejudice settlement of the individual circumstances of Ms. Detwiler's grievance. However, the issue of the inclusion of replacement hours in the calculation for conversion to regular status under Article 1.05(e) remains outstanding.

BACKGROUND

Previously, Kwantlen College was a two-year community college, offering citations, certificates, and diplomas in trades, career/vocational and preparatory programs. It also offered academic courses that could lead to diplomas and/or two year associate degrees for the purpose of transfer to university four year degree programs. In 1995, Kwantlen became a university college and developed and offered several applied degrees between1997 through 2002. In approximately 2003, the Employer began developing four-year non-applied Bachelor's degree programs in its academic divisions.

The development of degree programs has significantly expanded the College's focus. Currently, about 65% of Kwantlen's approximately 17,000 students are now registered in degree programs, compared to approximately 27% in 2000-2001. Kwantlen also has a mandate under the *College and Institute Act* to offer Master's degrees and is currently reviewing options and operational models in support of a Faculty of Graduate Studies.

In terms of bargaining, the Employer has, in the past, participated in sector-wide, common bargaining. For example, in the 1998 round of collective

bargaining, 16 of the 22 institutions in the sector elected to participate in common table bargaining, including Kwantlen and the Kwantlen Faculty Association ("KFA"). The resulting 1998-2001 Common Agreement was accompanied by agreements at the local level, with the same term as the Common Agreement.

One of the issues at the 1998 common table negotiations was the concept of regularization. At the time, some of the institutions participating in the common table negotiations had agreed to such language locally while others had not. The outcome of the common table negotiations on this issue was Article 6.1 in the Common Agreement, entitled "Employee Security and Regularization".

The thrust of Article 6.1 was to ensure that by April 1, 2000, provisions relating to employee security and regularization of employees were to be established within each local collective agreement and provide that current and future employees who qualified for regularization under the provisions of Article 6.1 would be regularized. The Article set out parameters for employee security and regularization. Article 6.1.3(b) of the 1998 Common Agreement provided as follows:

> Amendments to existing employee security and regularization provisions must include:
>
> (i) (1) entitlement to regularization after a period of time worked of at least two consecutive appointment years of work at a workload of fifty (50%) percent or greater for each of two (2) consecutive appointment years and where there is a reasonable expectation of ongoing employment for which the employee is qualified at a workload of at least fifty (50%) percent or greater for two semesters in the next appointment year;
>
> or

(2) entitlement to regularization after the employee has performed a workload at least one hundred and twenty (120%) percent of an annualized workload over at least two (2) consecutive years and there is a reasonable expectation of an ongoing workload assignment for which the employee is qualified, of at least fifty (50%) percent on an annualized basis over the immediately subsequent appointment year

(ii) requirements that an employee receive a satisfactory evaluation prior to regularization. An employee will be deemed to have received a satisfactory evaluation if one has not been undertaken by the employer. The employer may evaluate a non-regular employee at least once each 12 month period and the employee may request an additional evaluation not more often than once in each 12 month period.

Under Article 6.1.4, each local union was required to advise its local employer whether it agreed to retain, without alteration, the existing local employee security and regularization provisions without any changes, or whether it wished to commence a process for amending those provisions to make them consistent within the parameters set out in Article 6.1.3. Where the latter option was selected, the local parties entered into negotiations to amend their local collective agreement and, failing agreement, the matter was referred to a Joint Administration and Dispute Resolution Committee ("JADRC"). If the joint committee did not reach agreement on a resolution to the dispute, the final step, under Article 6.1.5(b), was to submit the outstanding issues to interest arbitration before Arbitrator Don Munroe.

The first parties to appear before an arbitrator were Malaspina University College and its faculty unions, resulting in an award issued on January 18, 2000: *Re Malaspina University College* [2000] B.C.C.A.A.A. No. 100 (Munroe). Kwantlen and the KFA were the next parties to appear before Mr. Munroe resulting in the decision *Re Kwantlen University College* [2000] B.C.C.A.A.A. No. 218 (Munroe).

The Employer and Union bargained their 1998-2001 and 2001-2004 Collective Agreements under the Common Agreement/local agreement structure; however, when bargaining for the 2004-2007 Collective Agreement commenced in 2004, only eight of the 22 institutions governed by the *College and Institute Act* elected to participate in multi-institute bargaining at a common table. The remainder of the institutions, including the Employer, bargained a single Collective Agreement at the local level, covering all terms and conditions of employment. Put another way, the parties agreed to "harmonize" the terms of the former Common Agreement and their local agreement into a single integrated Collective Agreement. In the 2006-2007 round of collective bargaining, the parties again did not bargain at a sectoral level and negotiated a renewal of their "harmonized" Collective Agreement. In doing so, the Employer and Union negotiated Article 1.05(e) as the only provision in the Collective Agreement that deals with entitlement to regularization.

The Employer made extensive submissions about the process of securing qualified, regular faculty within the University and its departments through a national and/or international search process. According to the Employer, once the available regular positions are identified, it is up to the Dean to look at the sections that are left over and decide how they should be packaged and offered. Typically, these available sections fall into one of three categories:

- Sections that are available because a regular faculty member is on leave or has received a full or partial time release;

- Sections that could not be assigned to regular faculty members because of the specialized nature of the work, or because of timetabling conflicts; and

- Sections that form part of the ongoing educational plan, but have not yet been assigned to regular faculty.

The present dispute relates to the entitlement of non-regular employees to become regular faculty under Article 1.05(e) in the context of replacement work and the Employer's need to manage its educational and institutional requirements as a university college.

RES JUDICATA

The Union argues that the issue of exclusion of replacement work from the measurement of workload for the purposes of regularization is *res judicata* or, at the very least, is an abuse of process for the Employer to repeatedly "shop" for the answers it wants between adjudicators. The Union relies on *Re Telus Communications Inc. v. Telecommunications Workers Union* [2005] B.C.J. No. 378 (B.C.S.C.) to support the use of the principle of *res judicata* in labour arbitration.

Counsel for the Union says that both the parties and the issues in this case are the same as those in *Re Kwantlen (Munroe), supra*, and further, there is no fundamental error in principle in that case nor is there a cogent, urgent and pressing reason for departing from that award. It is Ms. Burke's submission that a finding of *res judicata* will avoid inconsistency of result and protect the purpose of certainty and finality.

For its part, the Employer submits that *res judicata*, and the related doctrines of issue estoppel and abuse of process, are equitable remedies that are designed to protect against injustice and are not applicable in the case at hand. Put another way, Mr. Gibson contends that simply because the necessary prerequisites are satisfied in a given case does not automatically give rise to the application of these doctrines. Rather, it is the position of the

Employer that the arbitrator has discretion to decide whether or not the principles ought to be applied, to achieve fairness according to the entirety to the circumstances of the case. To that point, the Employer relies on *Re Danyluk v. Ainsworth Technologies Inc.* [2001] SCC 44, at para. 63.

Mr. Gibson argues that Section 82(2) of the British Columbia *Labour Relations Code* provides that arbitrators must have regard to the real substance of the matters in dispute and the respective merit of the positions of the parties, and that arbitrators are not bound by a strict legal interpretation of the issue in dispute. As such, the Employer submits that common law principles such as *res judicata* cannot bind an arbitrator as a matter of law (see *Re Board of School Trustees, School District No. 57* [1977] 1 CAN LRBR 45; *Re Cariboo Pulp & Paper Company* (2006) 155 L.A.C. (4th) 19 (Moore), at p. 7 (QL).

The position of the Employer is that the Munroe award was an interest arbitration, arising under Article 6.1 of the 1998 Common Agreement and not an interpretation of the application of Article 1.05(e) of the present agreement. Put another way, Arbitrator Munroe's jurisdiction was set out in Article 6.1.6 of the Common Agreement and his mandate was to establish new language for the parties' local collective agreements. In the result – and consistent with his mandate under Article 6.1.6(c) – Mr. Munroe awarded language similar to that contained in Article 6.1.3(b)(i) of the 1998 Common Agreement. The Employer contends that *Re Kwantlen (Munroe), supra*, contains no attempt to define "ongoing employment" or "ongoing workload assignment" and makes no reference to the requirement that regular positions must meet the employer's "ongoing needs", including budgeting and/or work allocation.

In sum, the Employer argues that the doctrines of *res judicata*, issue estoppel and/or abuse of process have no application in the current proceeding, because the Munroe award arose out of a proceeding that was

brought for a different purpose; the issue was different; the arbitrator's mandate and jurisdiction were different; the decision did not provide a final and conclusive answer to the issue currently in dispute; comments made by the arbitrator on the issues were collateral to the decision; and, Mr. Munroe's award did not provide the parties with the answers they needed on the very important issue of the definitions of "ongoing employment" and "ongoing workload assignment".

POSITIONS OF THE PARTIES

Counsel for the Union submits that, at Kwantlen University College, the regularization provisions have evolved to provide a mechanism under which non-regular faculty have gained the right to obtain regular faculty positions without having to compete for them through a posting or selection process. Ms. Burke submits that the current provisions flow from Article 6 of the 1998-2001 Common Agreement, which provided a process for the negotiation and final and complete resolution of regularization language at each institution that was, at that time, party to the Common Agreement.

In the submission of the Union, the intent and purpose of Article 6 of the Common Agreement was to ensure that current and future employees who qualified for regularization under the provisions of that article "will be regularized". The Employer, in this case, negotiated Article 1.05(e) with the Union in the place of Article 6 of the Common Agreement as part of the harmonized Collective Agreement.

In addition to *Re Kwantlen (Munroe), supra,* the Union relies on a number of cases, all of which deal with the issue of regularization, to support its position that the grievor should be regularized: *Re Malaspina University College v. Malaspina Faculty Association* [2000] B.C.C.A.A.A. No. 100 (Munroe); *Re Kwantlen University College v. Kwantlen Faculty Association* [2005]

B.C.C.A.A.A. No. 148 (Ready); and *Re British Columbia Institute of Technology and B.C.I.T. Faculty and Staff Association* [1998] B.C.C.A.A.A. No 463 (Munroe).

The Union argues that the Employer's interpretation of "ongoing" to exclude replacement work from the measurement of workload for regularization purposes will have the effect of submerging the entitlement of employees to regularization because such a large proportion of the work done by non-regular faculty is replacement work. Put another way, it is the position of the Union that over the last three academic years there has been the equivalent of at least 135 FTE's in replacement work and access to regularization would be seriously curtailed were faculty denied the ability to include this work in the measurement of workload for regularization purposes under Article 1.05(e). In other words, the Union contends that the Employer's interpretation of the language would render the regularization language in the Collective Agreement meaningless for many non-regular faculty.

In sum, Ms. Burke says that the Collective Agreement mandates that conversion from non-regular to regular status will occur when two conditions are met: qualified faculty members reach/exceed their workload quota over the two previous years; and there exists ongoing work (including replacement work) in the conversion year and into the subsequent year.

The Union asks that I find in favour of the Union's interpretation of Article 1.05(e).

For its part, the Employer submits that the Union's argument cannot be sustained, as it is inconsistent with the nature of regular faculty positions at Kwantlen. Mr. Gibson further argues that the Union is seeking to read the word "ongoing" out of Article 1.05(e)(i).

The position of the Employer is that the Collective Agreement language creates an initial threshold that a non-regular faculty member must meet in order to be eligible for potential regularization. Specifically, the faculty member must have had a workload of 50% or greater for each of two consecutive years of work. This language does not place any limitations on the nature of the workload the employee works in the two consecutive appointment years in order to meet the threshold and, as a result, the Employer agrees that any bargaining unit work is sufficient to meet the threshold.

However, the Employer takes the position that the same is not true of the qualifications after the initial qualifier. Mr. Gibson argues that once a non-regular faculty member has met the initial threshold, contained in the preamble, Article 1.05(e) goes on to describe three additional criteria that must all be met before the faculty member will be entitled to regularization:

- First, there must be a reasonable expectation of ongoing employment or workload for the non-regular faculty member in the third qualifying year, that meets the requirements of Article 1.05(e)(i);

- Second, in subsection (ii), the non-regular faculty member must be qualified for the work available in the third qualifying year; and

- Third, the faculty member's most recent evaluation for regular employment must have been satisfactory, as per Article 1.05(e)(iii).

The Employer submits that the language in subsection (i) is unlike the language in the preamble to Article 1.05(e) in that it places a limitation on the

nature of the work that must be available in the third qualifying year. Specifically, it is the position of the Employer that available work must not only be at a level that is 50% or greater, but it must also be “ongoing employment” or “an ongoing workload assignment”. In other words, the Employer says that one would have to eliminate the word “ongoing” from Article 1.05(e)(i) in order to find in favour of the Union’s argument.

The Employer argues that it is a fundamental principle of collective agreement interpretation that all words in a collective agreement should be given meaning, if possible. Mr. Gibson therefore submits that the word “ongoing” in Article 1.05(e)(i) cannot be ignored, but rather must be given meaning.

The Employer points to the use of “ongoing” throughout Article 1.05 – in Article 1.05(a), 1.05(c)(i), 1.05(d)(i) and 1.05(d)(ii) – and argues that to ensure that the provisions of the Collective Agreement are read harmoniously, the word “ongoing” in Article 1.05(e) must be interpreted as a requirement that available work in the third qualifying year meets the College’s ongoing needs or structural requirements if it is to be used to qualify a non-regular faculty member for regularization. In that respect, the Employer relies on *Re Open Learning Agency* [2003] B.C.C.A.A.A. No. 281 (Germaine).

It is the submission of Mr. Gibson that the Employer’s “ongoing needs” are defined by each department’s short and long term education plans and must take into account not only work that is available in the upcoming academic year, but also the department’s needs and the anticipated availability of work moving forward. The Employer argues that, to determine whether available work is “ongoing”, there must be an analysis of:

- The nature and anticipated extent of the work;

- The reason the work is available; and

- How the work fits into the department's short and long term education plans.

The Employer submits that, by definition, to qualify as "ongoing" the work must be projected to continue "without termination or interruption".

The Employer acknowledges that in a few of these departments the faculty qualifications and experience may be sufficiently interchangeable that replacement work that continues to become available from year to year could be considered "ongoing work" for the purpose of creating one or more additional regular positions. Mr. Gibson submits that the Counselling Department is an example of this because qualifications and experience in the department are more generally adaptable to the range of work expectations.

However, the analysis becomes much more difficult, in the submission of Counsel, in departments that have Bachelor's degree offerings and the support and development of those degrees requires regular faculty in the department have the appropriate academic credentials and expertise to teach both specialist courses at the upper level and generalist courses at the lower level. If a non-regular faculty member replacing an incumbent regular faculty member is regularized on the basis of this work, when the incumbent returns from leave, the Employer submits that the department will either have too many regular faculty members with the same expertise; or (more commonly) have a regular faculty member who does not have the expertise to meet the department's ongoing needs, and/or who is qualified to teach only general courses.

In sum, the Employer's position is that, because of its Bachelor degree programs, the faculty in most academic departments are far less interchangeable because the range of courses offered requiring specialist expertise is dramatically expanded. This, contends Mr. Gibson, requires a much more sophisticated analysis to be undertaken to determine whether or not available work in a department meets an "ongoing need".

Further, the Employer suggests that the result of accepting the Union's arguments will be costly layoffs of regular faculty requiring notice and severance pay under the terms of the Collective Agreement. Counsel points out that the Ministry does not provide Kwantlen with the additional funding to pay for these obligations and the Employer would therefore be required to find the funds in its existing budget. This would, of necessity, come from funds available for the delivery of educational programs to students, potentially leading to further layoffs.

In addition, Counsel submits that it is unfair to a non-regular faculty member to make him/her regular in circumstances where a regular position cannot be sustained. This would be inconsistent with the reasonable expectations of the faculty members who receive such positions that they will have some job security, in the submission of the Employer.

In conclusion, the Employer seeks a ruling that the words "ongoing employment" and "ongoing work assignment" in Article 1.05(e)(i) refer to work that meets its ongoing needs, consistent with Article 1.05(e). As such, some of the replacement work that may be available to be assigned to non-regular faculty members will not fall within this definition.

DECISION

In *Re Kwantlen (Munroe), supra*, the arbitrator addressed the "conversion process from non-regular to regular status". His finding was that the

provisions of the local agreement at the time did not fully satisfy the requirements of Article 6.1.3(b) of the Common Agreement. Arbitrator Munroe awarded new language in the parties' Agreement.

The language further evolved with the award in *Re Kwantlen University College v. Kwantlen Faculty Assn.* [2005] B.C.C.A.A.A. No. 148 (Ready), where the matter of regularization was dealt with, beginning at para. 23:

> "Regularization" refers to a mechanism under which non-regular faculty gain the right to obtain regular faculty positions without having to compete for them through a posting/selection process. Put simply, when coupled with the definition of a non-regular position and the right to access additional non-regular work as per the Collective Agreement, it puts non-regular faculty on a continuous stream towards becoming a regular faculty member, subject to certain specific requirements…
>
> Article 1.04(a) of the Collective Agreement states that regular faculty positions exist or are established "to meet the ongoing needs of the Employer on a half-time basis or greater basis".

As with the Munroe arbitration, the award in *Re Kwantlen (Ready), supra*, is an interest arbitration, establishing language to be included in the parties' contract. In the end, the arbitrator rendered the following decision, at para. 69:

> I have decided the appropriate amendments I will award are tailored after the language at Malaspina. This language resulted from an arbitral award issued by Don Munroe, Q.C.: Malaspina University-College v. Malaspina Faculty Association, [2000] B.C.C.A.A.A. No. 100 Award No. A-69/00, and was refined slightly by the parties in the recent round of negotiations which, in the present circumstances, strikes a proper balance.

The resulting award provides for, more or less, the current language of Article 1.05(e) of the present Collective Agreement.

At the outset, while I accept that the award of Arbitrator Munroe in *Re Malaspina, supra*, and the awards in both Kwantlen cases are of guidance in the interpretation and application of Article 1.05(e), I cannot make a finding of *res judicata* in the present circumstances. In all three cases, notwithstanding any of the other elements of this principle or the principle of issue estoppel being present, the mandate of the arbitrator was to establish the language in the harmonized Collective Agreement through interest arbitration. That is not the issue before me in this case. Rather, in the present dispute, the parties are seeking a resolution to their dispute over the interpretation and application of the Collective Agreement language on regularization. In other words, I do not accept the Union's argument of *res judicata* and/or issue estoppel.

Turning now to the dispute at hand, the question is, put simply, whether or not replacement work in the subsequent assignment year is to be included in the calculation for the purposes of measuring whether the provisions of Article 1.05(e) have been met. I again set-out that provision, as follows:

Entitlement to Conversion to Regular Status

The conversion of status from non-regular to regular will occur when the faculty member has a workload of 50% or greater for each of two (2) consecutive appointment years of work, provided that:

(i) there is a reasonable expectation of ongoing employment at a workload level of at least 50% in each of two semesters within the appointment year subsequent to that in which the entitlement to conversion arises or there is a reasonable expectation of an ongoing workload assignment of at least 50% on an annualized basis within the appointment year subsequent to that in which the entitlement to conversion arises, and

(ii) the employee is qualified for the work in question, as determined by the Search Committee at the time of initial hire or subsequent review, and

(iii) the employee's most recent evaluation for regular employment within the preceding twelve (12) month period has been satisfactory. The employee will be deemed to have received satisfactory evaluation if one has not been undertaken by the employer. The employer may evaluate a non-regular employee at least once each 12 month period and the employee may request an additional evaluation not more often than once in each 12 month period.

The Employer forcefully submits that the words "ongoing employment" and "ongoing workload assignment" in Article 1.05(e)(i) must be given meaning. I agree, but I do not accept all of the Employer's contentions about the impact of these phrases. To be more precise, it is the phrase "reasonable expectation of an ongoing workload assignment of at least 50% on an annualized basis" in Article 1.05(e)(i) that is, in my view, the focal point of this dispute.

Assuming all the other qualifiers in Article 1.05(e) have been met, there are two ways in which a non-regular faculty member can qualify under sub-section (i). First, the language refers to "ongoing employment at a workload level of at least 50% in each of two semesters" in the subsequent assignment year. In terms of the facts in the present dispute, the Employer argues that the grievor's workload assignment, although over 50%, is not "ongoing employment". The thrust of the Employer's argument is that the work is primarily replacement work and should the non-regular employee be regularized there might exist redundancy in the future. The Employer may be able to establish this on a case-by-case basis, considering some of the factors that it presented in its arguments: e.g., the nature of the available teaching or other work to be performed; whether or not the available work has a known or anticipated termination date; and where the work is replacement work, the reason for such leave and its projected duration, the potential for other regularizations, and the like. Put another way, I would be prepared to accept

that "ongoing employment" relates to work that is projected to continue into the future without termination or interruption.

However, the language of Article 1.05(e)(i) also says that regularization can be attained where there is a "reasonable expectation of an ongoing workload assignment of at least 50% on an annualized basis". This is a less onerous qualification to achieve and only requires a "reasonable expectation" that the threshold will be met in the future on an "annualized basis". In the context of this latter wording, it is my view that the test for entitlement to conversion to regular status, as the title of the Article describes it (and presuming of course the other qualifiers are met), does not require the kind of stringent and detailed analysis being proposed by the Employer.

While the concerns of the Employer are understandable, it has other methods at its disposal to prevent the negative outcomes it suggests might flow from the regularization of non-regular faculty. The comments of Arbitrator Munroe in *Re Kwantlen, supra*, should be reinforced:

> The point, quite simply, is that the right of conversion from non-regular to regular status is not to the exclusion of the normal management right to post a position as a regular vacancy as management may decide in good faith to be necessary. (para. 27)

In other words, the Employer retains its management rights and is fully able to post and fill regular faculty positions subject, of course, to the other provisions contained in the Collective Agreement. Article 1.05(e), however, requires that, where non-regular faculty meet the listed qualifications and meet the established thresholds, regularization of such employees "will occur". As noted above, the test in sub-section (i) requires only a reasonable expectation that "ongoing employment" of 50% workload on an annualized basis be available. Replacement work can, quite reasonably, be included in the calculation of this in the third year of the qualification. As noted in *Re*

Malaspina, supra, at para. 27, albeit in the context of Article 6 of the former Common Agreement:

> Replacement Work: I disagree with Malaspina that replacement work should be excluded from the measurement of workload for regularization purposes. Leaves of absence of regular faculty requiring replacement can range up to several years' duration. The exclusion of replacement work would effectively preclude a sizeable proportion of temporary pro rata faculty from ever being regularized, and would unduly dilute the entitlement to regularization contemplated by Article 6 of the Common Agreement.

Under the test outlined above, I find, given the facts before me in this case, that the Union's grievance on an employee's entitlement to regularization under Article 1.05(e) of the Collective Agreement must succeed. As already noted, the specifics of the grievance of Ms. Detwiler have been resolved on a without prejudice basis, so no specific remedy is required.

It is so awarded.

Dated at the City of Vancouver in the Province of British Columbia this 19th day of March, 2008.

Vincent L. Ready