

Telecommunications Employees Association of Manitoba TEAM-IFPTE LOCAL 161



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OFFICIAL UNION GRIEVANCE FORM

Name of Aggrieved: TEAM-IFPTE Local 161 (the "Union")

Department: MTS Inc. (the "Company") - POLICY Grievance

Name of Immediate Supervisor/Manager: Don Rooney, Director of Labour Relations

Winnipeg, MB

Location:

Date: 2015-10-08

Grievance #:

T2015-10-08

Description of Grievance (indicate contract articles violated):

The Company fills permanently vacated positions with Acting Appointments instead of following Article 8 of the TEAM CBA, and contrary to the provisions of Article 9.

In Article 9.01 of the TEAM CBA, the definition of an "Existing Vacancy" speaks only to situations where there is an expectation that the position incumbent will return to the position at some point in the future:

"Existing Vacancy" shall mean a vacancy in an existing position of a non-permanent nature for reasons such as sick leave, vacation relief, workers compensation or leave of absence."

Situations where the position incumbent does not intend to return are not included in this definition.

As such, TEAM does not consider a vacancy resulting from a permanent departure to be an "Existing Vacancy".

Nor, based on the wording of Article 9.01, would it be considered a "Temporary Vacancy":

"Temporary Vacancy shall mean a newly created position of a non-permanent nature for reasons such as a special project or assignment."

Therefore, if it is neither an "Existing Vacancy" nor a "Temporary Vacancy", it cannot be filled by means of an "Acting Appointment" pursuant to Article 9.

For example: In August 2015, the Company assigned an employee (**Constant**) to an Acting Appointment in the permanently vacated position of "**Constant Constant**", replacing the previous position incumbent (**Constant**) who retired. The Company categorizes this assignment as an "Existing Vacancy".

In doing so, without excluding any other statute or regulation or any other applicable provision of the collective agreement, the Union asserts that the Company is in violation of articles 8 and 9 which together require a posting of this job opportunity. Laterally, the Company is not acting reasonably, fairly, or in good faith in interpreting and applying the provisions of article 9.01 and article 8, and is therefore in violation of article 18.04.

Listed below are more instances where the Company filled permanently vacated positions with Acting Appointments:

Vacated Position Title	Name of Previous Incumbent			Name of Assigned Actor		

TEAM intends to rely on and hereby requests by way of preliminary motion, production of all documents and records and full particulars that deal with the above stated facts and allegations from the Company.

Settlement Desired:

- 1. An order declaring MTS violated the 2013-2016 Collective Agreement as alleged.
- 2. An order requiring MTS cease and desist from violating the Collective Agreement.
- 3. An Order directing the Company to comply with the letter and spirit of articles 8 and 9.
- 4. Damages, including punitive damages or such other head of damages as the Arbitration Board determines appropriate, payable to TEAM, for the Company's failure to post.
- 5. Any other remedy necessary to place TEAM and affected TEAM members in the position they would have been but for the violations.
- 6. Any other remedy which is just and equitable under the circumstances.

Signed:

(Aggrieved Employee)

Signed:	
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(TEAM Representative)

Date:

At TEAM we recognize and respect the importance of privacy. Personal information collected will be used for the purposes of administering the terms of the Collective Agreement (CA); communicating with the membership; operating/managing and organizing our business; investigating and determining whether the Employer is in compliance with the requirements of the CA and relevant federal and provincial legislation; and handling grievances. For additional information regarding TEAM's privacy policy, view TEAM Website at www.teamunion.mb.ca or contact the TEAM Office at 204-984-9870.