

Work Reassignment Is A Jurisdictional Dispute

In *Brock Industrial Services, LLC v. Laborers' International Union of North America*, the Seventh Circuit Court of Appeals confirmed that a grievance that arises from the reassignment of work from one union to another is, and should be adjudicated as, a jurisdictional dispute.

In *Brock*, the Employer was party to a collective bargaining agreement with the Laborers Union that stated that most grievances should be adjudicated by a bipartite arbitration procedure involving representatives of both the Union and the Employer. However, the collective bargaining agreement also stated that jurisdictional disputes were to be resolved by a tripartite arbitration procedure involving representatives of each union as well as the employer.

Brock, the Employer, originally assigned work to the Laborers Union. However, after the collective bargaining agreement became effective, Brock re-assigned the work to the Carpenters Union. The Laborers Union filed a grievance utilizing the general bipartite grievance arbitration procedure instead of the tripartite jurisdictional grievance arbitration procedure. The arbitrator in the bipartite procedure determined that he had jurisdiction to hear the dispute and found in favor of the Laborers. Brock appealed, and the District Court upheld the arbitrator's decision, determining that because the grievance contained elements of both a jurisdictional dispute and a wrongful termination claim the bipartite general arbitration procedure was appropriate.

On appeal, the Seventh Circuit Court of Appeals reversed the decision of the District Court. It determined that the general bipartite arbitration procedure was not appropriate because the underlying dispute was ultimately a jurisdictional one. Although the grievance implicated wrongful termination and other claims, because all of the claims in the grievance arose from the reassignment of work from the Laborers to the Carpenters, the claim was jurisdictional. Because the claim was jurisdictional, pursuant to the collective bargaining agreement, the claim should have been adjudicated according to the tripartite arbitration procedure. The Court therefore vacated the decision of the arbitrator in the bipartite grievance procedure.

In short, *Brock* makes it clear that when a grievance arises from the re-assignment of work from one union to another, the grievance should be treated as a jurisdictional dispute, even if the grievance may implicate other claims. All unions should take care to use the proper grievance procedures. If there is any question as to which grievance procedure to use, or if a dispute is jurisdictional, please contact our office to consult.

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