

**Ontario Labour  
Relations Board**

505 University Avenue  
2nd Floor  
Toronto, Ontario M5G 2P1  
Telephone: 416-326-7500  
Facsimile: 416-326-7531

**Commission des relations  
de travail de l'Ontario**

505, avenue University  
2<sup>e</sup> étage  
Toronto (Ontario) M5G 2P1  
Téléphone: 416-326-7500  
Télécopieur: 416-326-7531



Our File Number/Numéro de dossier: 2567-10-U

July 21, 2011

TO THE PARTIES LISTED ON APPENDIX "A"

Dear Sir/Madam:

**Denis Rancourt v. Allan Rock, University of Ottawa and  
Association of Professors of the University of Ottawa (APUO)**

Attached is a copy of the Board's Decision dated July 21, 2011 in the above matter which is being sent to you by facsimile, regular mail, courier or e-mail.

Sincerely,

A handwritten signature in black ink, appearing to read "Peter Gallus".

Peter Gallus  
Registrar (Acting)

PG/dac  
Enclosure

## ONTARIO LABOUR RELATIONS BOARD

**2567-10-U** Denis Rancourt, Applicant v. Allan Rock, **University of Ottawa** and Association of Professors of the University of Ottawa (APUO), Responding Parties.

**BEFORE:** Caroline Rowan, Vice-Chair.

**DECISION OF THE BOARD:** July 21, 2011

1. This is an application filed under section 96 of the *Labour Relations Act, 1995*, S.O. 1995, c.1, as amended (the "Act"), in which the applicant, Denis Rancourt, alleges that the responding parties, Allan Rock, the University of Ottawa (the "University") and the Association of Professors of the University of Ottawa (APUO) (the "Association"), breached section 56 and 76 of the Act.

2. The applicant's complaint concerns the University's alleged failure to follow the grievance procedure set out in the collective agreement between the University and the Association (the "Collective Agreement") by holding a Step 1 resolution-attempt meeting within the stipulated ten (10) day period when processing the three grievances (G25, G26 and G27) he filed following the termination of his employment. By way of remedy, the applicant requests that the responding parties be ordered to convene a Step 1 resolution-attempt meeting foreseen by the Collective Agreement for each of the three grievances in issue and that they be ordered to participate in good faith in those meetings.

3. The factual background to the applicant's complaint and his position that the responding parties breached section 56 and 76 of the Act as set out in the amended application are summarized as follows.

4. The applicant was a tenured professor whose employment with the University was terminated in April 2009. Since 2005, the applicant has filed twenty-seven (27) grievances against the University. Step 1 resolution-attempt meetings with respect to each of those grievances were either held or were waived by mutual agreement with the exception only of the three grievances in issue. Under the terms of the Collective Agreement, the applicant, and not the Association, has legal standing in the grievance process up to and including the Step 1 process. The last Step 1 resolution-attempt meeting to be held was for the applicant's dismissal grievance filed in April 2009. That dismissal grievance remains outstanding and no arbitration date has yet been set.

5. Grievances G25, G26 and G27 were filed in October or November 2009, months after the University terminated the applicant's employment. They however relate to events which are alleged to have taken place while the applicant was still employed as a tenured professor. The applicant seeks to access the intended Step-1 resolution process for grievances G25, G26 and G27 in order to attempt resolutions in good faith so that the matters can be either partly or fully resolved without need of arbitration. According to the applicant, if his three grievances cannot be resolved, it is possible that their subject matter will enter the dismissal grievance arena but only at a significantly later time.

6. Although the University had made a commitment to proceed with the Step 1 meeting for grievance G25, the University and Mr. Rock later advised by e-mail dated December 8, 2009

that a Step 1 meeting will not be scheduled in light of the University's position that the grievance is inarbitrable. The University takes the position that, if the applicant's dismissal is upheld at arbitration, grievances G25, G26 and G27 will not be arbitrable because the applicant was not an employee in the bargaining unit at the time they were filed.

7. The applicant contends that the responding parties' failure to respect the procedural requirements of the Collective Agreement relating to the processing of grievances G25, G26 and G27 and in particular the requirement to hold a Step 1 resolution-attempt meeting within the prescribed time amounts to a violation of section 56 of the Act. The applicant also claims that the responding parties have engaged in intimidation and coercion within the meaning of section 76 of the Act intended to compel him from refraining from exercising his rights under the Collective Agreement and the Act regarding the filing and processing of grievances G25, G26 and G27 and future grievances. The applicant refers in this regard to the University's alleged unjustified use of his dismissal to block grievances, to the University's termination of his employment in April 2009, and his alleged unjustified suspension and physical banning from campus in the four month period prior to his termination. The applicant also contends that the University's response to grievance G25 in which it takes the position that the grievance is inarbitrable constitutes "intimidation".

8. The applicant suggests that the Association is contributing to this intimidation by remaining silent to the University and refusing to support his requests for the Step 1 meeting for grievances G25, G26 and G27. The applicant contends that the Association is collaborating with the University and Mr. Rock to disregard his rights. The applicant refers in this regard to his belief that the Association may have violated its agreement to abide by his instructions not to communicate with the University during all times when the applicant has standing in any of his private grievances and before the Association assumes such grievance. He also refers to his belief that the Association has not promptly conveyed to the applicant all communications from Mr. Rock and the University about grievance matters for which the applicant has/had standing.

9. In their responses to the application, the responding parties, Mr. Rock and the University, request that the application be dismissed on a preliminary basis without a hearing for failing to disclose a *prima facie* case of a breach of sections 56 and 76 of Act and/or for the remedies requested. In the alternative, they request that the Board exercise its discretion to dismiss the application without a hearing as no labour relations purpose would be served by processing it. In this regard, they argue that the proper interpretation of the grievance procedure in the Collective Agreement and the remedies requested by the applicant are within the proper jurisdiction of an arbitrator and therefore that the proper forum for hearing the applicant's complaint is grievance arbitration. In the alternative, they submit that the Board should defer the application to the grievance process.

10. While the applicant has already filed submissions in his amended application which appear to be in reply to the Response filed by Mr. Rock, the applicant should be afforded an opportunity to file any additional submissions he wishes to make in response to the responding parties' requests that his application be dismissed summarily. The applicant is therefore directed to file with the Board (and copy to the other parties) any additional submissions he wishes to make (if any) within **ten (10) working days** from the date of this decision concerning the requests that the application be dismissed for failing to disclose a *prima facie* case and/or that the Board should exercise its discretion under section 96 of the Act not to inquire into it at this time. The other parties shall have **five (5) working days** thereafter to file any reply submissions.

---

"Caroline Rowan"  
for the Board