

**IN THE MATTER OF a Complaint of Unjust Dismissal,
Division XIV – Part III, CANADA LABOUR CODE, R.S. 1985, c. L-2;**

**AND IN THE MATTER OF an Adjudication under section 240 of
the CANADA LABOUR CODE, R.S. 1985, c. L-2;**

BETWEEN:

HARPREET BAWA

Complainant

- and -

ROYAL BANK OF CANADA

Respondent

SUPPLEMENTARY AWARD - REMEDY

Written submissions received from:

Harpreet Bawa for himself

Michael G. McFadden for Royal Bank of Canada

BACKGROUND:

I adjudicated this unjust dismissal complaint brought under section 240(1) of the *Canada Labour Code*, and determined that Mr. Bawa had been unjustly dismissed from his employment at RBC. I did not order the Bank to reinstate Mr. Bawa to his employment, and determined that he was entitled to the equivalent of nine months of wages, including applicable bonuses and benefits.

The second to last paragraph of my decision, dated April 16, 2013, states as follows:

Further, I order the Bank to advise the Ontario Securities Commission that Mr. Bawa has been determined to have been unjustly dismissed. Whatever is required to reverse the actions taken at the time of his termination should be undertaken, so that his status reverts back to what it was prior to his termination from RBC in October 2011. Finally, I order the Bank to issue a letter of recommendation outlining the positions held by Mr. Bawa at RBC, and stating that he performed them in a satisfactory manner.

I also remained seised of the matter in the event that the parties had difficulty implementing any of the remedies awarded. I was subsequently advised that the parties were able to agree on the amount of compensation to be paid to Mr. Bawa. While there was initially some dispute regarding the part of my Order requiring RBC to advise the OSC of my determination, I have now been advised that the parties have reached an agreement on all issues related to Mr. Bawa's mutual fund licence.

REMAINING ISSUES:

Mr. Bawa has raised three further issues relating to the remedies awarded.

In an email message sent to counsel for the Bank (and myself) he requested that RBC provide him with a letter of recommendation outlining the positions he held at RBC, and stating that he had performed them in a satisfactory manner. He also requested the names and contact information of "two supervisory/managerial referrals", explaining that he

required these for reference checks by potential future employers. Finally, he requested that RBC remove any reference to him having been dismissed for cause from its internal records, kept by its Human Resources department. He explained that he was applying for jobs in the financial industry, and expected that potential employers would contact the Bank to inquire into the reason for his leaving RBC.

I requested that Mr. Bawa clarify the nature of his second request. He advised that he was looking for “two actual references of managers”, including their names and contact information. He also specified that he did not want references from the managers who were “actually there at the time of my employment with RBC.”

Bank's response

Counsel for the Bank responded to these requests by letter dated January 8, 2014.

Mr. McFadden repeated the Bank's position, communicated in writing a few weeks after my decision was issued, that the Bank was prepared to issue an ‘employment confirmation letter’ to Mr. Bawa. He advised that RBC's practice is to issue such a letter to all former employees, whether their employment is terminated with or without cause, and that it does not, as a matter of general practice, issue letters of recommendation to former employees.

Counsel included a copy of a draft letter that the Bank was prepared to issue with his correspondence. It contains the dates of Mr. Bawa's employment with RBC, and specifies the periods during which he held the two positions he occupied. It also advises that while employed as an Account Manager, Mr. Bawa was “at times highly rated, and in 2010 was nominated by his Branch Manager for a top performer's award for his geographic region.”

Mr. McFadden's letter also makes clear that the Bank is not prepared to provide the managerial references sought by Mr. Bawa. He explained that RBC's practice is to direct all inquiries from potential employers to its Human Resources Service Centre, and that

the information they provide is restricted to the former employee's dates of employment and positions held. Counsel also submitted that Mr. Bawa's request that references be provided by managers with whom he has never met or worked with is unreasonable.

Finally, the letter also advises that the Bank is not prepared to accede to Mr. Bawa's request that it amend its internal records to remove any reference to him having been dismissed with cause. Counsel noted that this is not contemplated by my Award, and raises the question of whether I have the jurisdiction to require RBC to do so. He states that no such amendment is necessary in any event, given that neither the employment confirmation letter nor the information that may be provided by the Bank's HR Service Centre makes reference to his employment having been terminated for cause.

RULINGS:

I do not find it necessary to reconvene the hearing to hear further evidence or arguments from the parties on these issues. My rulings on each of the three requests raised are as follows:

Reference Letter

In my earlier decision I ordered the Bank to issue a letter of recommendation "outlining the positions held by Mr. Bawa at RBC, and stating that he performed them in a satisfactory manner". The Bank is prepared to issue a letter that satisfies the first criteria, but resists the part requiring them to express the view that he performed them in a satisfactory manner. Instead, the proposed wording of its draft letter states that Mr. Bawa was a highly rated employee at times, and was nominated for a top performer's award in his region in 2010.

I find the wording of the draft letter submitted by the Bank to be acceptable, and in keeping with the spirit of my earlier Order. Given Mr. Bawa's admission that the confession that he had provided to Mr. Puri was false, I can appreciate the Bank's hesitation to state that he had performed all of his duties in a satisfactory manner. On the other hand, his accomplishments as an effective Account Manager and a top salesperson

should not be ignored in this context. By describing Mr. Bawa as a highly-rated employee and referring to his nomination for the award described, the text of the letter actually goes beyond what was mandated in the decision.

The Bank should draft a letter on RBC letterhead, with the proposed text, and have it signed by the appropriate person. An original copy of the letter should then be provided to Mr. Bawa within thirty days.

Managerial Referrals

I decline Mr. Bawa's request for additional references from two RBC managers. He has specified that he is seeking references from managers with whom he had not worked. I find this to be an unreasonable request, and am puzzled by the inference that a manager could provide him with a reference despite the fact that they had not worked together.

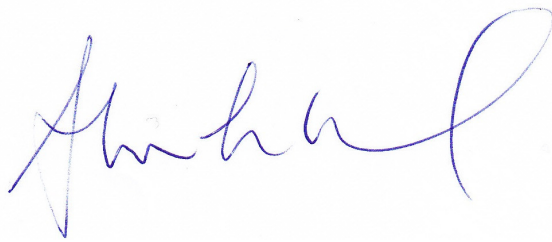
Amendment to RBC records

Mr. Bawa is effectively asking for the removal of any reference to his employment having been terminated for cause from RBC's internal records. The reason provided for this request is that he is in the course of applying for jobs in the banking and financial services industry, and feels that potential employers will inquire into his reasons for leaving RBC. Given my finding that his dismissal was unjust, I assume that he is concerned that incorrect information may be provided.

Counsel for the Bank has explained that the only information that RBC will ever provide to a potential employer who contacts the Bank and asks about Mr. Bawa will be the dates of his employment and the positions he held. I take that to mean that no mention will be made of his employment having been terminated for cause. While I appreciate that this may be the Bank's policy, the policy is likely carried out by many different individuals at different times. It is not inconceivable that circumstances may arise in which more information is divulged than the policy dictates.

A fair resolution of this issue would be to require the Bank to include a copy of my decision finding his dismissal to have been unjust in its records relating to Mr. Bawa's employment at RBC. The reality is that the Bank did terminate his employment for cause. He then filed an unjust dismissal complaint under the *Code*, which was upheld. In the interests of transparency, this important chapter in his relationship with RBC should form part of his employment file and should be added to the Bank's internal records and systems within thirty days.

DATED AT TORONTO, ONTARIO THIS 31 DAY OF JANUARY, 2014.



Shari L. Novick
Adjudicator