

DISMISSAL OF WORKER—LANE, WALKER, RUDKIN, LTD.:  
**DECISION OF EMERGENCY DISPUTES COMMITTEE**

In the matter of the Strike and Lockout Emergency Regulations, 1939.

**APPOINTMENT OF EMERGENCY DISPUTES COMMITTEE**

IN the matter of a dispute concerning the question of the justification or otherwise of the dismissal of J. K. Campbell by Lane, Walker, Rudkin Limited of Ashburton and including the question whether he should be reinstated or not and what compensation if any should be paid to him.

In exercise of the powers conferred upon him by the Strike and Lockout Emergency Regulations, 1939, the Minister of Labour doth hereby appoint the following persons to be an Emergency Disputes Committee for the purpose of deciding such Dispute, and doth refer such Dispute to such Committee accordingly:—

Workers' representative: A. B. Grant.

Employers' representative: R. O'Shea.

Chairman: J. A. Gilmour, S.M.

Dated at Wellington, this 18th day of February, 1949.

A. McLAGAN, Minister of Labour.

**DECISION OF CHAIRMAN**

The Emergency Disputes Committee appointed for the purpose of deciding the abovementioned dispute commenced its sittings at Ashburton on 1st March, 1949, and concluded on the afternoon of the 4th idem.

Mr. T. A. Gresson and with him Mr. B. McClelland appeared for the Canterbury Trades and Labour Council.

Mr. R. A. Young and with him Mr. V. W. Russell appeared for Lane, Walker, Rudkin Limited.

The members of the Committee (excluding the Chairman) after due consideration of the case notified me of their failure to agree upon a decision, and in accordance with the provisions of Regulation 8 of the Regulations, the responsibility of making the Committee's decision passes to me as Chairman.

Before dealing with the question of the "justification or otherwise" of the dismissal of J. K. Campbell by Lane, Walker, Rudkin Limited, I propose to comment briefly on certain events which in my opinion contributed materially to the creation of this dispute.

First of all the trial of Campbell as leading hand. Campbell at the time of the trial was a newcomer to the mill. He was quite inexperienced in the work and furthermore was handicapped by an eye disability which it was stated in evidence precluded him from efficiently performing certain operations which as leading hand he would be required to supervise. Workers of greater experience and length of service than Campbell were available, and it may well be that the feeling referred to throughout the evidence between Campbell and other members of the staff dated from that event.

But if inept staff management was shown in the making of this premature trial, the telephoning of Sister Wilson at the hospital by Mr. and Mrs. J. A. Lee when it was known that Campbell's case had been taken up by the Trades Council can only be described as an act of sheer industrial folly. It is fortunate for the company that Sister Wilson's evidence indicated that the Lees had no sinister motive in making the telephone calls and that their object in doing so was to ascertain whether or not Campbell had been engaged by the hospital authorities. I cannot blame the officers of the Trades Council for becoming suspicious and taking a serious view of the matter when it became known to them, and I believe that but for this rash act the dispute might not have come before the Committee.

It also appeared to me that the mill manager identified himself overmuch with the affairs of the local mill union after the date of Campbell's dismissal.

The dismissed worker also made mistakes.

His failure to fraternize with the other workers in the cafeteria at meal times may have led to misunderstandings among the men, but he said he disliked the smokeladen atmosphere of the cafeteria and absented himself on that account.

I think it unfortunate, however, that he refrained from taking a more active part in the affairs of the local mill union. Apparently he had carried out successfully the duties of branch secretary of the drivers' union for a number of years, and I think that his regular attendance at mill union meetings not only would have been helpful to the union officials because of his experience of union matters, but would also have had the effect of counteracting any feeling of resentment that may have been aroused by his seeming attitude of aloofness at other times.

Then there is the row with Melville, the cafeteria man.

Campbell's story is that he was in the yard alongside the cafeteria for the purpose of urinating. The yard is a small one, approximately 36 x 6 yards, and entrance to the cafeteria is through a door that opens into the yard. Workers are not permitted to be in the yard except at meal times or when assistance is required in the cafeteria. A lavatory is conveniently situated at the other side of the mill premises, well away from the cafeteria. Even if Campbell's explanation is accepted it is clear that he was in a prohibited place for a reprehensible and insanitary purpose having regard to the proximity of the cafeteria.

Finally, there is Campbell's frank admission that later on in the evening he wrongfully left his machine unattended for four or five minutes during working hours to enter into an altercation with Melville.

I come now to the main question submitted to the Committee for decision, namely, whether there was "justification or otherwise" for Campbell's dismissal.

Various reasons for the termination of Campbell's services were advanced during the hearing, some of them admittedly being open to the criticism that they might have been "manufactured" after the event.

Summarising his reasons for dismissing Campbell, the mill manager in evidence said:—

After examination of the leading hands and asking for reports I dismissed him for disruptive tactics, for wrecking the harmony of the room, for tale telling on his fellow men and for making a lengthy and very improper journey around to a point where he could spy on the occupants of the cafeteria.

Campbell's evidence of the reasons given by the mill manager at the final interview is as follows:—

I said 'On what grounds do I get a week's notice?' He said 'You are causing discontent among my staff and their interests are paramount to me.' Then he said 'You have reported me to the Labour Department and I won't have any interference.'

I have come to the conclusion after considering all the evidence on the point, that the real and substantial reason for the dismissal was the mill manager's awareness of friction between Campbell and other members of the staff and his apprehension of further staff trouble if Campbell remained at the mill. That this was uppermost in the mind of the mill manager at the time of the final interview is confirmed to some extent by Campbell's own evidence that the first reason given when he asked what were the grounds for dismissal was "You are causing discontent among my staff and their interests are paramount to me."

Campbell was not popular at the mill, and there is ample evidence to show that a substantial number of the workers are opposed to his return. Several instances were given of trouble with various members of the staff. Campbell himself thought that he got on well with his mates, but he admitted having rows with Cretney and Melville. Here is his own account of what he refers to as a "difference of opinion" with Cretney, an elderly and inoffensive looking man:—

Cretney was on night shift. I did have a difference of opinion with him. It was about placing work on a particular machine. I was putting wool on the back of Knight's machine. It did not concern Cretney. He kept nagging at me about it. He was a bit of a picker. I was extremely angry with him. I told him to mind his own bloody business or he would get his bloody head knocked off. No blows were struck.

Campbell was obviously capable of expressing displeasure forcibly, and I mention this incident to contrast his violent reaction to somewhat mild provocation with his stoic reception of an accusation of spying made at the time of the cafeteria incident by Melville, a much more truculent type of individual than Cretney.

About the cafeteria incident Campbell has this to say in his examination in chief:—

On the evening of Friday, 26th November, I was on night shift and Melville was attending his duties in cafeteria. Up to time of 11.20 to 11.30 p.m. smoko nothing had happened. About 12.15 a.m. I went out through back (north) door of the worsted department into the yard which adjoins the cafeteria to relieve myself in yard. I have done it before but only at night. Other workers used yard for that purpose as well. Went out through ordinary door into middle of yard near some packing cases in yard. Cafeteria would be over on right and I would pass across line of door out of cafeteria. The light over worsted department door wasn't going but light on corner worsted department building was burning. When I went out I saw Boyd and Melville in doorway of cafeteria with his back to me. These two people were of no interest or concern to me—none whatever. I relieved myself then started to go inside. I walked from packing cases to go inside. Boyd was moving towards same door to worsted department and was first to door. I walked up behind him. He put his hand on door handle, turned half round and said to me, "How long have you been there." He seemed a little surprised. I said "I have just come out." There was no further discussion with Boyd and I attached no significance to his inquiry. I then went back to my machine and resumed work. Then Melville the cafeteria man came in. He came over to me. He seemed angry and said "Which door did you go out?" I said "I went out through back door, Jack." He said "Like hell you did." He then went back to cafeteria. He plainly disbelieved me. Nothing else was said with Melville at this stage. Later on about 1.20 a.m. I saw Melville get his coat and bag. I took it that he was going to the bicycle shed to go home. I went out to the bicycle shed. I asked him what he meant by his remark earlier in the evening. He said "You were bloody well spying on me." I said "If you have a guilty

conscience Jack, I haven't." Upon that Melville broke into a few strong words. He was angry and abusive but I did not answer him back. My final remark to him was the mention of the guilty conscience. I don't know if Melville then went home. I returned to my machine. Taylor was present when I had the exchange with Melville at the bicycle shed. He didn't take any part. He did not reprimand Melville or me. No complaint was made to me on my return to my machine about my absence. I would be away from my machine for four or five minutes when I followed Melville to bicycle shed. Would be away from my machine about two minutes when I relieved myself in the yard earlier in the evening. I did not attach any significance to the blow up with Melville. I did not expect to hear any more about it. On the night of Tuesday, 30th November, the day I received a week's notice, I spoke to Melville in the cafeteria. I said to him "Thanks very much Jack." He replied "You are welcome." When I said "Thanks very much Jack" I meant to be sarcastic. I thought he was responsible for my dismissal.

In cross-examination Campbell said:—

As far as I know Cretney is the only man I have had words with except Melville. Melville said I was spying on him. He accused me of asking for biscuits and chewing gum he didn't have in stock. If you don't ask you don't get. I was not in fact spying on the man. Melville is the only man who said I was spying.

I did not time myself when I went out into yard to urinate, but would be away about 2 minutes. The south door to worsted department leads to men's conveniences. The north door leads into the yard by the cafeteria. I did not know that it was an order from the management that north door was not to be used in working hours. I would not say it was my habit to urinate among the packing cases in the yard. Others do it there. There would be lights in the mill and I should think a person coming out of the north door could be seen silhouetted in the doorway with a background of light. There was no light burning over that door. Even if evidence is given that the north door was kept under observation I still adhere to my story that I did go out of it. It would be definitely incorrect to say that I went out of the south door of worsted department and right round the outside of the mill to the cafeteria. I agree if away from machines for ten minutes it would be a serious breach of discipline and would justify dismissal. It is against rules to be away from machines except to meet demands of Nature. Absence from machines was not discussed at my interview with J. A. Lee on Tuesday the 30th. I was not with him for 15 minutes. I didn't get a chance to talk.

I was wearing light coloured trousers on the night of the 26th. Walker was also wearing light coloured trousers.

When I spoke to Melville near the bicycle shed I told him I had gone out into the yard to relieve myself. I made a mistake in my evidence yesterday. I should have said I told him I had gone out to urinate. I didn't tell Boyd I had gone out to urinate. I didn't think it necessary to tell him.

There are strict rules about drinking on the premises or bringing drink on to premises. The official men's lavatory would be further than two chains from my machine. I had relieved myself in the yard when I had argument with Melville. Not the first time I had done it. Have done it on odd occasions.

Three important points emerge from Campbell's evidence which I have considered it desirable to set out as fully as possible from my own notes.

Firstly, that Melville plainly disbelieved Campbell's statement that he came into the yard through the north door; second, that Melville was perturbed at Campbell's presence in the yard; and third, that a definite accusation of spying was made by Melville.

Melville became suspicious, he said, and came to the conclusion that Campbell was snooping or spying on him because of Campbell's frequent visits to the cafeteria to ask for things that were not in stock.

Melville insisted that he saw Campbell come to the yard from between the cafeteria and the worsted department building and go over to the packing cases. He said he had the north door under observation and was sure Campbell did not come into the yard through that door. He said that Campbell's coming up to the yard by the wall confirmed his suspicions that he was being spied upon by Campbell. He denied that Campbell had said anything about relieving himself in the yard.

When asked by the mill manager what was the trouble between himself and Campbell he said "You can have your keys. I won't be snooped on." He explained to the mill manager what had happened and this occupied about  $\frac{1}{4}$  hour.

On a careful review of the evidence as a whole and the very helpful submissions of counsel I find as follows:—

1. That there was no victimization of Campbell.
2. That the real and substantial reason for Campbell's dismissal present in the mind of the mill manager at the time of the final interview with Campbell was his awareness of friction between Campbell and other members of the staff and his apprehension of further staff trouble if Campbell remained at the mill.
3. That rumours and suspicions of spying and tale telling by Campbell had been circulating in the mill for some considerable time before the date of his dismissal.
4. That Melville had for some time harboured suspicions that Campbell was spying on him.
5. That Campbell's presence in the yard on the evening of Friday 26th November, confirmed these suspicions in Melville's mind and convinced him that he was in fact being spied upon by Campbell.
6. That there were reasonable grounds for Melville's conviction that he was being spied upon by Campbell.

7. That there were reasonable grounds for the mill manager's belief that Campbell was in the yard to spy upon Melville.
8. That there were reasonable grounds for the mill manager's belief that Melville would resign and that there would be further staff trouble if Campbell remained at the mill.
9. That in fact there would have been serious staff trouble if Campbell's services were retained.
10. That there was justification for Campbell's dismissal.

My decision is that there was justification for Campbell's dismissal.

Dated this 8th day of April, 1949.

[L.S.]

J. A. GILMOUR, Chairman.

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