

IN THE MATTER OF AN ARBITRATION

BETWEEN:

GOVERNMENT OF THE NORTHWEST TERRITORIES
as represented by the Minister responsible
for the *Public Service Act*

Employer

- and -

THE UNION OF NORTHERN WORKERS

Union

Grievance re: Joseph Bailey Discharge

A W A R D

BEFORE: Thomas Jolliffe, Q.C.
FOR THE EMPLOYER: Bradley Patzer
FOR THE UNION: Jacek Janczur
HEARING LOCATION: Yellowknife, Northwest Territories
HEARING DATES: January 29, 30, 31, and February 1, 2008 (Evidence)
June 13, 2008 (Argument)

Date Award Issued:
December 18, 2008

Our File: 51,986 TJ

This matter concerns the grievance filed by the Union on behalf of Senior Recreation Development Officer (Senior RDO) at the Department of Municipal and Community Affairs (MACA), Joseph Bailey, following issuance of a dismissal letter on June 14, 2005. Therein the Deputy Minister alleged that the grievor recently had attended the Mackenzie Recreation Association (MRA) meetings in Inuvik where he “again acted in an inappropriate and unprofessional manner by speaking in an aggressive tone, using profanity and challenging the integrity of some MRA members”, which the Employer viewed as damaging to its interests. She stated the “this behaviour is completely inappropriate while acting as a representative of MACA as it undermines the integrity of the Department, and is quite concerning given the heightened awareness of your previous inappropriate behaviour.”

In dealing with the findings of its current investigation process leading to the discharge letter, the Deputy Minister was additionally expressly relying on the recent determinations by the Government of the Northwest Territories (GNWT) Audit Bureau, as follows:

- i. Nine (9) additional unauthorized transactions were processed through your GNWT corporate credit card;**
- ii. You changed fifteen (15) travel claim itineraries without seeking approval to do so;**
- iii. You made seventy-five (75) unauthorized personal telephone calls;**
- iv. Your Internet usage at work indicated that nearly one-third of your usage was accessing personal web-based electronic mail accounts.**

As also indicated therein, the grievor had recently served an eight day suspension in October 2004 which she reminded him had arisen following his having become verbally hostile and aggressive towards his immediate superior on being advised following a random review of his credit card

purchases that he should discontinue using his GNWT card and return it. It had been understood at the time that he had made some undisclosed purchases of a personal nature which constituted a breach of his signed cardholder agreement with the GNWT in that he was to use the card only for business related charges.

The Deputy Minister went on to state that:

Progressive discipline had been imposed to ensure that you understood the seriousness of your actions and the need for you to correct your behaviour. However, you refused to take responsibility for your actions, including your delay in pursuing anger management counselling as directed. Further, you failed to recognize that your continued inappropriate conduct negatively impacted the reputation of the Department and my confidence and trust in your abilities.

In summary, ... the latest incidents outlined in the Audit Bureau investigation regarding your inappropriate use of GNWT funds and equipment, and the aggressive, and unprofessional manner in which you conducted yourself towards individuals attending the MRA meetings, was inappropriate and has negatively affected the integrity of the Department. Furthermore, it has irreparably damaged my confidence in your abilities to continue as an effective and trusted employee of the Department.

In its grievance, the Union alleged that the grievor had been “wrongfully dismissed” and that the termination amounted to “excessive punishment considering the progressive discipline options available to the Employer”, and further said that the grievor “is potentially unaware as to the seriousness of the reasons for termination and as such is not being given a fair opportunity to correct them.”

The Employer’s first witness in this manner, Ian Legaree, has been the Director of Sport, Recreation and Youth at MACA for almost 20 years, working both with regional and headquarters’ staff which he oversees on a day-to-day basis from his office in Yellowknife. The grievor was a regional staff member since 2000, working for the North Slave Region, also from an office located

in Yellowknife. Mr. Legaree testified that each of the five MACA regions have an RDO positioned in their regional offices. They are meant to deliver organizational and recreational expertise to their community based clients of behalf of the GNWT, including regularly attending public events, meetings of local and regional governments, and in the grievor's case, working with six community governments within the North Slave Region, and dealing directly with the MRA membership. Mr. Legaree indicated in evidence being well acquainted with the grievor, talking with him on roughly a biweekly basis, and having daily e-mail contact, although the grievor reported directly to a regional superintendent, Terry Testart, working under Mr. Legaree. In normal course, it would have been the superintendent who approved the grievor's applications for travel, or leave, and set his work schedules.

It was Mr. Legaree who prepared the crucial report for the Deputy Minister following his investigation into certain complaints speaking to the grievor's actions subsequent to his arrival on Wednesday, April 20, 2005 at the MRA meetings held in Inuvik between then and Saturday, April 23, 2005. Mr. Legaree's report dated May 13, 2005 which he compiled on the basis of the interviews he conducted, was received by the Deputy Minister three days later. It was entered in evidence at the Employer's request, but subject to a consideration of the weight to be applied to the document given the hearsay nature of the information presented therein, and indeed covering much of Mr. Legaree's evidence. He testified that he had been requested by the Deputy Minister to conduct an investigation after four complaints were received by MACA between April 27 and May 10, 2005 with respect to the grievor's actions while in attendance at the MRA meetings in his official capacity as a MACA representative. The MRA's membership includes one representative from each of the community

governments in the North Slave Region. The complaints concerning the grievor's conduct were received from Ms. Cecile Desjardins, Acting Senior Administrative Officer, Hamlet of Rae-Edzo (received May 10, 2005) who had indicated that certain remarks from Mr. Bailey were seen to have publicly embarrassed the Hamlet's recreation programmer, Ms. Belinda Sanspariel; from Mr. Conan Donahue, Vice President of the MRA and acting chair for the meetings in Inuvik (received April 28, 2005) who reported the grievor's use of profane language and aggressive actions towards him, and also his making accusations concerning the integrity of members of the MRA and others; from Ms. Janie Hobart, Secretary of the MRA (received April 27, 2005) who reported the grievor having used inappropriate language and taken aggressive actions towards Mr. Donahue; and from Ms. Deborah Skipdonk, Executive Director of the MRA (received April 27, 2005) who indicated that certain remarks made by Mr. Bailey were felt by her to have questioned her competence and were publicly embarrassing. In compiling his report, Mr. Legaree indicated that he had interviewed the four complainants; also Ms. Sanspariel who was asked to confirm the version of events related by Ms. Desjardins; in addition Mr. Shane Thompson, Senior Recreation Development Coordinator, MACA, stationed at Fort Simpson, and Mr. Damon Crossman, Sport and Recreation Programs Advisor, MACA, Yellowknife, whose observations were sought because they were both in attendance at the MRA meetings and were thought to be present during the actions described by the complainants; and Mr. Terry Testart, Regional Superintendent, North Slave, MACA, concerning the instructions he had given to the grievor prior to his travelling to the MRA meetings. None of these persons testified.

Mr. Legaree's interviews of Desjardins, Sanspariel, Thompson, and Crossman resulted in him summarizing in his report the information received, which was that Ms. Sanspariel arrived at the MRA

meeting on Thursday, April 21, 2005, one day later than the delegates inasmuch as she had been unable to leave Rae-Edzo any earlier due to some urgent matters with which she had to deal. Upon arriving at the meeting she was pulled aside by the grievor and asked why she was arriving late which caused her to explain the difficulty in having had to remain in Rae-Edzo longer than she wanted on her supervisor's instructions to complete a project. Upon her taking her seat amongst the others, the grievor introduced her and then stated, according to the information received, "Belinda, explain to the whole room why you are late." Ms. Sanspariel, by Mr. Legaree's recollection, as written in his report told him that is the grievor's statement and the tone in which it was given embarrassed her in front of her MRA colleagues.

Mr. Legaree's interviews of Donahue, Hobart, Stipdonk, Thompson, and Crossman resulted in him summarizing in his report the information he received concerning the MRA meeting held the next day, Friday, April 22, in an area of the community hall which had been curtained off for that purpose which by Mr. Legaree's understanding was being chaired by Mr. Donahue, the MRA Vice-President. At the morning session, convened in order for the MRA members to discuss its financial statements and draft budget, by Mr. Legaree's information, Ms. Stipdonk was presenting the MRA financial statements to its members, and indicating that she still lacked information from several communities, not yet received. As a result the auditor had not yet completed the final report for the year ending March 31, 2005. She had gone on to explain that she was as yet unable to provide a report on the MRA's operating surplus for the fiscal year just ended. The issue of there being an operating surplus, and in what amount, no doubt, was a significant point of discussion for the grievor. It was then, according to the information received, that the grievor accused Ms. Stipdonk of not coming to

the meeting prepared, or as specifically related to him by Ms. Stipdonk, "and you come to a meeting like this unprepared".

By Mr. Legaree's information, later during the same morning session the grievor approached Mr. Donahue to ask whether the agenda could be altered in order that various applications for funding from the North Slave communities could be considered as some delegates, including himself, were scheduled to leave Inuvik later that same day. Mr. Donahue was reported to have responded by denying the request, citing the need to complete the budget discussions first, and further indicating that if the grievor wanted to discuss any of these other items he should be staying in Inuvik for all the MRA meetings. The information Mr. Legaree developed through his interviews was that the grievor then "raised his voice" in demanding that he and Mr. Donahue discussed the matter outside the curtained-off area, with Mr. Donahue responding only that he would talk to him later. The grievor, at that point, was seen to have become insistent, using hand gestures to point at Mr. Donahue as if to indicate that he should leave the area. At that juncture Mr. Donahue accompanied the grievor outside the curtained-off area, where the grievor, as reported by Mr. Donahue, verbally attacked him, moving inside his personal space and saying in a loud and aggressive tone, "don't ever fucking do that again". The witnesses interviewed by Mr. Legaree were taken as having confirmed for him that the grievor both used profanities and was speaking in a loud and aggressive manner in his dealing with Mr. Donahue outside the curtained-off area. Later, following their return to the meeting, by Mr. Legaree's information, the grievor questioned the MRA's funding practices, and implied that the Deh Cho communities were receiving favourable treatment as both Mr. Donahue and his executive director lived there. Mr. Donahue could only respond at that point that those types of statements were taken

as challenging the integrity of some MRA members and constituted inexcusable behaviour on the grievor's part.

Thereafter in his follow up interview with the grievor's superintendent, Terry Testart, Mr. Legaree learned that he had given permission to the grievor to depart from the MRA meetings on that Friday afternoon, April 22, but on the basis of the grievor's advice that they would be concluded that morning. Further, as reported to him by Mr. Testart, the grievor had been given specific instructions that he was not to question the activities of the MRA during any meetings in which he participated, and that he should be working with the delegates from the North Slave to encourage them to ask any questions they might have with respect to any MRA matters.

Included in his testimony, where Mr. Legaree related the information he received during the investigative interviews, his findings, and conclusions, reached in compiling and submitting his report to the Deputy Minister, was his description of meeting with the grievor in order to discuss what he had already heard from the complainants and witnesses relative to his alleged conduct. The grievor was represented at that initial meeting held on May 5, 2005 by a union service officer Ms. Georgina Rolt-Kaiser, with Mr. Legaree being accompanied by Ms. Sheila Bassi Kellett who was the Director of Corporate Affairs at MACA. At that time Mr. Legaree outlined the complaints received, although copies of the complaint letters could not be released until the complainants had confirmed their approval which was being sought. By the time of the second meeting held a week later on May 12, 2005 the grievor had received copies of the complaint letters. The grievor attended with the representation of another union service officer, Deb O'Connell, and also had Mr. Dan Schofield, Executive Director for the School of Community Government, MACA, accompany him to the

meeting. At that time, the grievor was advised that Mr. Legaree had completed his interviews with the complainants and other witnesses, which included the most recent written complaint from Ms. Desjardins received only two days previously, a copy of which was also provided to the grievor at that time.

By Mr. Legaree's recollection, given in testimony, and as indicated in his report submitted to the Deputy Minister, with respect to the initial incident involving Ms. Sanspariel, the grievor denied in their meeting having made the statements attributed to him, and had said that he had never asked her to explain why she was late.

By Mr. Legaree's recollection, as indicated in his report submitted to the Deputy Minister, with respect to the second incident involving Ms. Stipdonk, the grievor had said that he had not made the statements noted in her complaint, although he confirmed that he did ask her several budget related questions during her presentation. He had, however, acknowledged that he had been angered by the information she provided, being less than complete.

By Mr. Legaree's recollection, as indicated in his report submitted to the Deputy Minister, with respect to the third incident involving Mr. Donahue, the grievor confirmed that Mr. Donahue's complaint accurately reflected the events, although he had said there was no physical contact as one witness (Ms. Hobart) may have thought she saw, and he had not thought that Ms. Stipdonk from her location some distance away could have seen what she outlined in her complaint. As recorded by Mr. Legaree, the grievor had further stated with respect to his interaction with Mr. Donahue, that "Conan got upset first" and further that "maybe I was raising to these (issues) in the wrong way but my intent was not personal" and that any questions he posed were in support of North Slave. Further, he had

indicated that he had become upset during the MRA meetings because he was being repeatedly frustrated in his attempts to obtain information from the organization. By his recollection, the grievor did not take any issue with the description already received from others concerning his interaction with Mr. Donahue, nor did he apologize for what occurred. In response to counsel's questioning as to whether the grievor had said there were any "discrepancies", by his recollection, the grievor confirmed what Donahue had said. He testified that it was "not his testimony" that the grievor brought out any differences at that point. Again, according to Mr. Legaree, the grievor did say that Mr. Donahue had gotten angry first, also that he felt "out of the loop" with respect to the MRA affairs. Mr. Legaree did not accept that the grievor somehow could not have been aware of the Saturday sessions, inasmuch as there had been a brochure circulated and, by his information, the grievor indicated awareness in talking with his supervisor in a conference call where dates were discussed.

Mr. Legaree also recorded in his report to the Deputy Minister that the grievor had made a number of comments to him about events leading up to the Friday MRA morning meetings, April 22, which he took to have some relevance in his investigation, including that on Wednesday, April 20, the grievor had arrived at Inuvik under the assumption that the MRA meetings were concluding on the Friday, and that he would be travelling back to Yellowknife that day. He recorded that the grievor indicated he had prior permission from his supervisor (Mr. Testart) to leave Inuvik on Friday because he assumed the meetings were ending on that day and that he had family matters to attend to in Yellowknife. He also stated that he felt the budget and the MRA were driven by Mr. Thompson, the Senior Recreation Development Co-ordinator at MACA. However, when he arrived he had learned that a new MRA agenda had been issued which included meetings on the Saturday. In response the

grievor had spoken to Mr. Thompson to ask if he could arrange to have the agenda changed in order that the North Slave delegates who were scheduled to leave on the Friday afternoon could be present when the budget was discussed and several related funding applications were being considered. By the grievor's version, as told to Mr. Legaree, Mr. Thompson had replied that he would seek the change requested. Mr. Legaree recorded the grievor having stated in their meeting that, "we know that Shane (Thompson) runs the MRA" and further that "Fort Simpson was getting more than its fair share of MRA resources" followed by his providing various financial documents related to the MRA, and also that he knew that something would result from the meetings, saying that Mr. Thompson "was trying to get me".

Mr. Legaree also indicated in his report to the Deputy Minister that following his meeting with the grievor on May 5, 2005, he had received an e-mail message from the grievor suggesting that they have a closed-door meeting involving Legaree, Thompson, Testart, and the grievor in order to solve the issues they had discussed. This was not to occur, but subsequently in compiling his initial findings respecting the grievor's interaction with his associates at the MRA meetings, Mr. Legaree considered it was necessary to look further into the grievor's assertion that he had only become aware that a Saturday session was planned when he arrived at the MRA meetings on the Wednesday, April 20. Further Mr. Legaree was concerned the grievor was alleging that preferential treatment was being extended by the MRA to the Deh Cho communities. Following his further investigation, he reported to the Deputy Minister that a review of the teleconference minutes from April 7, 2005 indicated that the MRA meetings in Inuvik were scheduled for April 20 – 23, with the grievor having participated in the call. Further the conference brochure showed scheduled meetings for Saturday, a copy of which

brochure the grievor was understood to have received. In looking at the alleged preferential treatment concern, Mr. Legaree examined the MRA contribution breakdown document provided by the grievor to him. By Mr. Legaree's observation, the allocation of programme funding was shown to be several thousand dollars less for the Deh Cho communities than for either the North Slave or the South Slave communities with which they were compared.

Ultimately, as indicated in his report to the Deputy Minister, Mr. Legaree concluded that despite the grievor having denied making the statements outlined in the report concerning his interaction with Ms. Sanspariel, he "did make comments that embarrassed Ms. Sanspariel in open meeting and in doing so is guilty of misconduct". With respect to the second episode involving the grievor's allegedly questioning Ms. Skipdonk's competence, given the supporting witnesses, he concluded that the grievor "did make comments that embarrassed Ms. Stipdonk in open meeting and in doing so is guilty of misconduct". With respect to the third episode relating to the grievor interaction with his colleague Mr. Donahue, and regard to the statements of several witnesses who supported Mr. Donahue's version, Mr. Legaree reported, "it is my opinion that (the grievor) did use profane language and aggressive actions with Mr. Donahue and as such is guilty of gross misconduct". He further reported that given the grievor's verbal confirmation that in his interaction with Mr. Donahue he had questioned the MRA allocation of funding, indeed had continued to do so during the investigation process, which was not supported by the financial documents received, the grievor was taken to have contravened his instructions from his supervisor Mr. Testart. He was guilty of disobeying instructions and making public statements which were harmful to MACA and the MRA members. Mr. Legaree's report concluded:

Taken individually, any one of the above noted actions are serious events that harm both the Department and one of its primary clients in the sport and recreation area. While (the grievor) reported to have concerns about the operation of the MRA his expression of these concerns in an open meeting was inappropriate and damaging to that organization.

In summary, (the grievor's) actions as described are very serious and constitute behaviour that is totally unacceptable by an employee of the Department of Municipal and Community Affairs.

In cross-examination Mr. Legaree agreed that by his recollection Mr. Donahue had said during his interview that he too "could have done things differently", with there having been some mention of an apology for the way he had acted. Indeed, as pointed out for him by Mr. Janczur, in the complaint letter which had been reviewed for purposes of Mr. Legaree presenting his report, Mr. Donahue had indicated that he felt at least "partly responsible" inasmuch as after the grievor had approached him about changing some agenda items in order to accommodate some of the North Slave members who were leaving, and wanted to make some applications, he responded that they needed to finish what they were working on, the draft budget, at which point the grievor had sat down. It was then, according to Mr. Donahue's written statement, that he had said to the grievor: "if he wanted to discuss issues that he should stick around for all the meetings", which previously was capable of being taken as a verbal rebuke. This remark was followed by the grievor indicating that they should discuss the issue outside the room. He repeated the request when Mr. Donahue declined to accept the invitation by saying that they could talk about later. Mr. Donahue reported in his written statement that it was on the third request that they left together, to walk outside the divider curtains, at which point the grievor "verbally attacked me" and "got in my face and using profanities told me never to do that to him again and that the reason he was leaving was family issues". By Mr. Donahue's

information set out therein, he immediately apologized to the grievor for his comment, and saying that he had been taken by surprise at the North Slave members' leaving. The statement went on to describe the grievor continuing at that point to be "very loud" and that his role then was in trying to calm him down so that they could talk, which was successful and they did talk about the difficulties the grievor was intending on raising, such as the funding applications he had wanted to discuss. By Mr. Donahue's written statement the grievor went on to question the MRA funding practices mentioning that other communities were thought to have received more funding for certain sports oriented activities than the North Slave region, possibly due to the persons involved in those other communities, and that the MRA was not supporting his region. Certainly, Mr. Donahue took issue over there being any suggestion of impropriety. He went on to indicate therein that from what he had heard from the grievor it was a matter of his questioning the integrity of certain individuals, including himself. He concluded his written statement by remarking: "This was the part of the incident that upset me the most, being sworn at I can live with, but having my, as well as two other individuals, integrity questioned in that unprofessional manner was in my opinion inexcusable behaviour for a professional".

Mr. Legaree testified that at the time of compiling his report, the grievor had not yet received a copy of two of the written statements which had been received (Crossman and Thompson), but he had seen the others (including Donahue).

The Employer's second witness in the matter, is the Deputy Minister at MACA, Deborah DeLancey. Her duties include approving and signing off on recommended disciplinary suspensions or dismissals on the basis of information developed and related through her subordinates. In her

testimony she explained that many MACA employees due to the nature of their responsibilities, travel widely in dealing with their regional clients located in communities across the Northwest Territories. They are provided with credit cards to cover their expenses, concerning which they are required to sign a usage agreement. The grievor's signed Card Receipt Form, dated January 19, 2001, leading to his having been provided a Diners Club/enRoute credit card (enRoute card), was entered in evidence with various acknowledged employee obligations written thereon such as: "the Corporate Cards are to be used only for business related charges approved by my Employer and are not available for personal use or used by anyone other than the Employee Cardholder". By Ms. DeLancey's testimony, the generally applicable employee rules for corporate credit card usage are well-known. The cards are mainly available for job scheduled travel, including chartered travel where necessary, and other modes where required in the given circumstances, also for travel accommodations and food, vehicle rental, oil and gas expenses associated with rental vehicles.

Card usage is not available for purchase of gasoline for one's personal vehicle, where expenses are paid out on a mileage basis only when driven for business reasons. There was placed in evidence through Ms. DeLancey a standard form Travel Authorization & Expense Claim document, needed to be filled out in advance where an employee is booking duty travel, including expected mode, accommodation, meals, with the final details to be filled in and resubmitted upon return to one's home base.

There was also entered in evidence through Ms. DeLancey, the Employers's Internet and Computer Usage policy in place since 2000, indicating that Internet usage is for work-related purposes not personal use, also its Code of Conduct developed in 2001 indicating that use of government

equipment and property should be for business related purposes, unless with prior approval.

In her dealing with the grievor's pre-existing discipline record in testimony, by the information related to Ms. DeLancey in September 2004 following an administrative officer in normal process reviewing credit card receipts, two of the grievor's purchases for gasoline while he was on annual leave in the High River, Alberta, area were flagged. The ensuing investigation led to the conclusion that the grievor had used his government credit card for an unauthorized reason, meaning for personal purchases, which was referred for further action. A disciplinary meeting was arranged with the grievor for September 21, 2004, whereat he was advised to discontinue using his issued credit card and return it to the Employer. A discipline letter resulted wherein Ms. DeLancey advised the grievor that his use of the government credit card in such a fashion as had been uncovered was contrary to the *Financial Administration Act*, in addition to a concern being raised by his not having disclosed the two purchases prior to the review being conducted. It was also alleged that at the investigative meeting with his superintendent, the grievor had used inappropriate language and had raised his voice. It was notified in the discipline letter that his response amounted to insubordination and would not be condoned, in addition to his having breached his cardholder agreement by not returning the card when demanded. The length of the resulting suspension was thereafter agreed by the parties within the grievance process at eight working days. At the same time, Ms. DeLancey being especially concerned about the grievor's conduct toward his supervisor, also directed him in the suspension letter to take an anger management course, with the admonition that failure to correct his insubordinate behaviour, or to comply with the requirement to attend counselling, could lead to further disciplinary action up to and including a recommendation for his dismissal. The grievor at that point did return his credit card as requested.

However, he did not make any arrangements for an anger management course in October 2004 concerning which, by her understanding, there were repeated follow-ups before something was eventually worked out between management and union representatives in April 2005.

During that same time frame as the grievor was being taken to task for his recent improper use of his credit card, September 2004, he also received a written reprimand for having provided a statement to a news reporter while attending the Tulita Hand Games, and being quoted on public issue current at the time in the September 13, 2004 issue of News North as a representative of MACA. Ms. DeLancey drew his attention in the notification letter to his having been reprimanded earlier that same year for making public statements and advised that failure to "correct this problem" would result in further discipline. She referenced the Code of Conduct, providing him a copy, which indicated that any interview requests from the media should be referred to the person's director or regional superintendent before any staff members could deal with the media.

Thereafter, following the complaints received from the grievor's colleagues concerning his actions at the April 20-23, 2005, MRA meetings in Inuvik, she initially consulted with her labour relations advisors before assigning Mr. Legaree to conduct an investigation. She received a copy of the report dated May 13, 2005 which he had completed setting out the understood facts by reference to the various complainants and witnesses, and the grievor's version, in reaching his conclusions. She also received a copy of the Audit Bureau Report compiled by its Director, T. Bob Shahi, completed on May 25, 2005 for the Financial Management Board Secretariat. It had been undertaken at her request made to the Audit Bureau the previous October following suspicions surfacing over the possible wider misuse by the grievor of his corporate credit card than the two gasoline purchases in August. Going

into the audit process, Mr. Shahi had been made aware that in August 2004 the grievor had recorded two unauthorized charges (gasoline) totalling \$154.65 on his enRoute card issued to him, which he understood had been eventually repaid, and concerning which the grievor had been formally reprimanded, as included in the eight day suspension.

Following Ms. DeLancey having received copies of both the Legaree report dated May 13, 2005, and the Shahi report dated May 25, 2005, by her description, she reviewed both, and also the recommendation for dismissal from the Assistant Deputy Minister of Regional Operations, Jack Poitras. She notified the grievor in correspondence directed to him dated June 6, 2005 that a recommendation for his dismissal had been made following the two separate investigations, asking him to respond. She related the facts as she understood them, both with respect to the grievor's interpersonal difficulties encountered while at the MRA meetings in Inuvik as set out in the Legaree report of May 13, 2005 described earlier in this award, and also with respect to the financial audit carried out by Mr. Shahi, the Audit Bureau Director, completed on May 25, 2005. More particularly, with respect to the audit report, she advised the grievor that it had been concluded that "irregularities have occurred with respect to corporate credit card charges, travel expense claims, Internet usage, and long-distance telephone charges", which she summarized in accordance with the findings contained therein:

- Nine unauthorized transactions were processed through your GNWT corporate credit, totalling \$422.**
- you had changed 15 travel claims itineraries without seeking necessary approval to do so, resulting in additional costs to the Department of \$2000.**
- you made a total of 75 unauthorized personal telephone calls, resulting in a \$173 cost to the Department.**

– a review of your Internet usage has revealed that nearly one-third of your Internet use at work was accessing personal web-based electronic mail accounts.

Ms. DeLancey advised the grievor in her letter that in addition to the developed information indicating that he had acted both “inappropriately and unprofessionally” at the MRA meetings, his credit card use as uncovered during the audit was both contrary to the *Financial Administration Act* and was fraudulent. She pointed out that her information indicated he neither had disclosed the inappropriate use of the credit card, nor had he sought approval to change his travel claims or make personal long-distance telephone calls. Further, he had used government equipment for personal use contrary to GNWT employee guidelines. Ms. DeLancey advised that his inappropriate use of GNWT funds and his inappropriate behaviour at the MRA meetings “have negatively affected the reputation and the integrity of the Department and severely damaged my trust in your abilities as an employee of the Department of MACA”. She went on to extend to the grievor the opportunity to provide a written response to the recommendation for dismissal. She also mentioned the grievor’s past disciplinary record in the following way:

You have been progressively disciplined in the past as a result of your repeated inappropriate behaviour. In October 2004, you recently served a lengthy day suspension as a result of the inappropriate use of the enRoute card and your inappropriate actions toward your former supervisor...

Within approximately the next week after receiving Ms. DeLancey’s letter, the grievor responded in writing, indicating therein his commitment to the North Slave communities with respect to the sport, recreation, and youth matters, within the MACA mandate, indicating also that he had been involved in numerous projects and initiatives over the years which had positively impacted the wellness of the communities. In addition, he stated that he not been afforded proper training in the sport and

