

CITATION: United Steelworkers v. Greenfirst Forest Products, 2026 ONSC 4599
DIVISIONAL COURT FILE NO.: DC-25-00002998
DATE: 20260819

ONTARIO
SUPERIOR COURT OF JUSTICE
DIVISIONAL COURT

Justice Heather McGee
Justice John McCarthy
Justice Shaun O’Brien

BETWEEN:	)	
	)	
United Steelworkers, Local 1-2010	)	Benjamin Piper, Counsel for the Applicant
	)	
Applicant	)	
	)	
– and –	)	
	)	
Greenfirst Forest Products (QC) Inc.	)	Frank Cesario and Michael Babe, Counsels
	)	for the Respondent
Respondent	)	
	)	
	)	
	)	HEARD: May 25, 2026 by videoconference
	)	in Ottawa

MC GEE J.

REASONS FOR DECISION

Overview

1. United Steelworkers, Local 1-2010 (the “Union”) seeks judicial review of the decision of Arbitrator Michael Bendel dated March 10, 2025 (the “Award”) regarding a grievance filed by the Union against GreenFirst Forest Products (QC) Inc. (the “Employer”).
2. The bargaining unit consists of employees working at the Employer’s sawmill in Hearst, Ontario. The sawmill operates either Monday to Friday or Monday to Thursday, depending on whether employees work five eight-hour shifts or four ten-hour shifts.

3. The grievance filed by Union arises from specified cleaning tasks that are not completed during production days, but instead, are performed on the weekends. Under the collective agreement, all weekend work is paid at overtime rates, regardless of the number of hours worked that week.

4. In June 2024, the Employer changed its practice and began assigning students to cleanup work even when sufficient regular employees had volunteered. Students only receive overtime pay for hours worked beyond 40 hours in a week. Students are included in the bargaining unit and pay dues, but they cannot accumulate seniority.

5. On June 12, 2024 the Union immediately filed a grievance, disputing the Employer ‘s actions in assigning cleanup work to students in priority to regular employee volunteers.

6. On June 28, 2024, in a brief email exchange, the Union raised a secondary issue: whether students are entitled to overtime pay for weekend work. The Employer disputes that the grievance includes this issue.

7. The Arbitration was heard by videoconference on September 4, 2024, February 3 2025 and February 5, 2025. In his written decision released March 10, 2025, Arbitrator Bendel dismissed the grievance. He found that the collective agreement did not regulate overtime distribution and that absent clear contractual language, the Employer had the unfettered discretion to decide whether certain tasks should be performed as overtime and how overtime work should be distributed amongst employees.

8. On the secondary issue, the Arbitrator found that the question of overtime compensation for students was not before him because it was not “the real issue” and there was no principled basis upon which he could rule on that issue.

9. The Union submits that this case raises a purely interpretive issue and asks the Court to decide the matter directly rather than to remit it.

10. For the reasons set out below, I would find that the Arbitrator’s Award was unreasonable and I would remit the matter back to Arbitration before another Arbitrator.

Background Facts and Argument

11. Until June 2024, the Employer consistently offered cleanup work to its regular workforce on the non-production days of either Friday to Sunday (following a Monday-Thursday work week) or Saturday to Sunday (following a traditional five-day work week.) Throughout these reasons I will refer to the non-production days as the “weekend” whether that be Friday to Sunday, or Saturday to Sunday.

12. The weekend work was attractive to volunteer employees because it was paid at overtime rates. Employees would sign up for weekend shifts on a posted sheet. When too many employees volunteered, the Employer selected workers based on seniority. In practice, this meant that the Employer could only assign students to cleanup on days for which an insufficient number of regular employees had signed up.

13. The Employer changed its practise in June of 2024 and began exclusively assigning students to do the cleanup work at the end of every production week.
14. The students employed at the sawmill are high school or college students who work seasonally as and when required, until such time as their program is completed. They are paid at straight time rates until they reach 40 hours a week, after which they are eligible for overtime pay.
15. In June 2024 the Employer began assigning students to clean-up, i.e. non-production days, even when there were enough volunteers from the regular workforce signed up on the posted sheet.
16. The Union immediately grieved the loss of overtime pay for their members, arguing that pursuant to a Letter of Understanding dated May 2018 (“the LOU”) on Overtime Distribution included in the Collective Agreement, (the Agreement”) the Company was prohibited from assigning weekend cleanup work to students at the straight time rate without first offering that work to regular employees who made themselves available for overtime work.
17. The Union advanced a secondary argument that, even in circumstances in which the Employer was permitted under the Agreement to assign weekend cleanup work to students (i.e. where no employees with greater seniority had volunteered), it was obligated to pay such students at the overtime rate.
18. The Employer’s position at the Arbitration was that assigning student labour to weekend cleanup work did not breach the Agreement and that nothing in the Agreement prohibited the Employer from assigning students to weekend work, paid at straight hourly rates. It argued that the process within the Agreement for assigning overtime did not create an entitlement to overtime.
19. The Union agreed during the Arbitration, and in this application for judicial review that the Agreement a) does not explicitly state that students cannot be assigned post-production work, and b) does not contain specific provisions for weekend overtime. Instead, the Union pointed to the past practice and the May 18, 2022, LOU which was incorporated into the Agreement and governs overtime distribution.
20. The Employer concedes in this application for judicial review that the Arbitrator did not cite the terms of the LOU but maintains its position that the Award was reasonable and that it was open to the Arbitrator to find no contractual restriction on management’s right to assign overtime.
21. The Employer further argued that, although the Arbitrator did not explicitly state that students are akin to “spare list” employees, such a conclusion could be inferred from his reasons. However, the Employer later abandoned this submission in oral argument.

The Court’s Jurisdiction

22. The Court has jurisdiction to hear this application pursuant to ss. 2 and 6(1) of the *Judicial Review Procedure Act*, R.S.O. 1990, c. J.1.

Standard of Review

23. The presumptive standard of review for all substantive questions on judicial review is reasonableness: *Canada (Minister of Citizenship and Immigration) v. Vavilov*, 2019 SCC 65, [2019] 4 S.C.R. 653. This includes issues of collective agreement interpretation. Accordingly, the reasonableness standard applies to this judicial review application, see *Markham Stouffville Hospital v. CUPE, Local 1999*, 2019 ONSC 5373 at para. 20, and *Hamilton Health Sciences v. Canadian Union of Public Employees, Local 7800*, 2021 ONSC 1337 at para. 43.

24. The Court in *Vavilov* summarizes the reasonableness framework at para 91 as not being assessed against a standard of perfection, having stated at para 85 that “a reasonable decision is one that is based on [an] internally coherent and rational chain of analysis and that is justified in relation to the facts and law that constrain the decision maker.”

25. The reasonableness standard requires that a reviewing Court “starts from a posture of judicial restraint” and reflects a “commitment to deference” and therefore focuses on examining the decision maker's reasons with “respectful attention.” See *Mason v. Canada (Citizenship and Immigration)*, 2023 SCC 21 at paras. 39-44. This court has shown particular attention to the expertise of labour arbitrators who are familiar with the collective agreement and the relevant labour relations context: *Toronto Professional Fire Fighters’ Association v. City of Toronto*, 2023 ONSC 6290, at para. 22.

Analysis

26. The Union and the Employer are parties to an Agreement which governs the working conditions of all employees working in the Hearst Sawmill and related operations. The relevant Agreement to this dispute was in force from September 1, 2021, to August 31, 2025. Incorporated into its terms is the LOU which governs overtime distribution.

27. The LOU provides that a) non-production, weekend overtime would be voluntary b) the company was required to post a weekly overtime sheet for those employees who wished to work on the weekends c) the overtime work was required to be distributed as equally as possible among the employees who normally perform the work required and only d) in the event no such employees were available, could the Employer choose to distribute the overtime work to qualified employees by way of seniority.

28. Paragraph 11.05 of the Agreement states that, “[t]ime worked in excess of eight (8) hours per day or shift, and all hours worked by an employee outside his scheduled shift and all hours worked on Saturday and Sunday *shall* be paid for at the rate of time and one half the employee's regular hourly rate.” (*Emphasis added.*)

29. Paragraph 11.06(a) of the Agreement sets out the basis for calculating seniority, and states that with respect to students, that they will be laid off on completion of their student term. If they reapply for permanent employment and are accepted, they start as a new employee with respect to mill service. As a result, students can never have seniority except vis-à-vis other students.

30. The Arbitrator's reasons show that he reviewed the circumstances leading up to the grievance, focussing on the precursor discussions between the parties that had begun in January 2023.

31. He set out how in April 2023, the parties had reached a tentative agreement on a new letter of understanding dealing with the students, which was submitted to the union's membership. Although the membership voted on May 1, 2023 in favour of accepting the tentative agreement, a signed letter of understanding was never returned to the Employer. As a result, the tentative letter of understanding which would have changed the use of students at the sawmill - was formally terminated on September 28, 2023.

32. It is not clear within the March 10, 2025 decision how Arbitrator Bendel reached his conclusion that the terms of the LOU which were in force at the time of the grievance were not relevant to the question before him. The LOU expressly provides that weekend overtime work "shall be distributed by seniority to qualified employees who have volunteered."

33. The Employer submits that the Award should be read as finding the LOU does not apply because the issue before him was about entitlement to overtime and not about distribution of overtime. In the Employer's submission, because the Award found on the wording of the Agreement that regular employees were not entitled to be assigned overtime in the situation before the Arbitrator, it did not need to address the distribution of overtime, which would be the next step in the analysis.

34. The problem with this argument is the Award did not explain this reasoning nor otherwise dismiss the relevance of the LOU. The LOU had clear language addressing overtime for volunteers. If the Arbitrator concluded that language did not apply to the circumstances before him, in my view, he had an obligation to explain his reasoning on that point. He did not explain that the LOU dealt only with distribution and that distribution was not the issue before him, because he did not mention the LOU at all. Although an administrative decision-maker need not address every argument made by a party, it does have an obligation to address the central issues raised: *Vavilov*, at paras. 127-128.

35. Instead, the Award summarizes the Employer's argument in a manner that blurs what the Employer now says is a clear distinction between entitlement to overtime and distribution of it. The Award describes the Employer's argument as including the principle that, absent clear contract language, "management has the unfettered discretion to decide that certain tasks should be performed as overtime *and to decide how overtime should be distributed among employees.*" (emphasis added) This characterization relies on the "distribution" of and not just "entitlement" to or "assignment of" overtime, but the Award does not go on to acknowledge that there was no unfettered discretion in this case to distribute overtime because of the LOU. In other words, the Award does not reflect the clear distinction between entitlement, assignment, and distribution that the Employer now claims was at the core of the decision.

36. The Award did describe the Union's argument as being that the Agreement "implicitly" limited the employer's choice of employees who could be assigned to work overtime on weekends. It went on to find there was an absence of contract language on the question of assigning weekend

cleanup overtime. Even if this was an aspect of or the Union's alternative argument, which the Union denies, it overlooks the Union's central argument that the LOU *explicitly* addressed the employees who were entitled to the weekend distribution of overtime.

37. The Employer's argument amounts to a guessing-game as to how the Award could be reconstructed in a rational manner. Overall, I conclude it was unreasonable to analyze whether the Agreement implicitly provided for the assignment of overtime work without explaining why the LOU, which expressly provided for distribution of overtime, did not apply.

Conclusion

38. Given the Award's failure to address the May 18, 2022 LOU within the Agreement, I find the decision to be unreasonable and remit it to a different Arbitrator, to be determined in accordance with these reasons.

Costs

39. Costs of \$6,500 have been agreed to be payable to the successful party. Greenfirst Forest Products (QC) Inc. shall pay costs of \$6,500 to United Steelworkers, Local 1-2010.

I agree

I agree

McGee J.

McCathy J.

O'Brien J

Released: August 19, 2026

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B E T W E E N :

UNITED STEELWORKERS, LOCAL 1-2010

Applicant

– and –

GREENFIRST FOREST PRODUCTS (QC) INC

Respondent

REASONS FOR DECISION

McGee J.

Released: August **, 2026