

CHAPTER 4

ARE YOU EVER OFF DUTY?

This session afforded a view of employment and life in remote work camps. Indeed, the presentation literally provided a picture of such a camp through a video. The video is not included as part of the Proceedings, and the panel remarks were therefore edited substantially.

- Moderator:** **Andrew C.L. Sims**, National Academy of Arbitrators, Edmonton, AB
- Panelists:** **Steve Lamb**, Transfield Services, Fort McMurray, AB
Ian Robb, President, Local 47 UNITE HERE, Edmonton, AB
Les Wallace, Arbitrator, Edmonton, AB

Andrew Sims: The topic of this panel is “Are you ever off work?” It’s about working in remote camps. You have a decidedly Albertan panel and I’d like to introduce them in a moment, but let me explain a couple things to those of you who are new to the great white north. We don’t just eat bacon, and talk like Doug and Bob McKenzie, eh. Something that may not be obvious to you is that while we are the second biggest geographical country in the world, about 95 percent of our population lives within 100 kilometers, that’s about 62 miles, of the American border, and the rest of the country is quite empty, except for the jewel of the country, which is Edmonton. The other notable municipality in Alberta is Fort McMurray and we will be talking particularly about Fort McMurray, which is the place where the good Lord decided to deposit a huge amount of oil, so we could all be rich white sheiks.

The theme of this panel is dear to my heart because I started my working life, to the extent that I’ve had a working life, in a remote mine on the Alaska Canadian border just north of Dawson City, as you know, home of the great gold rush. I can vividly remember on Labour Day arriving in a little camp getting off a DC-3 airplane.

The first thing I saw was a strike in progress, because the camp caterer had taken the fresh shrimp off the table and the building trades unions weren't going to put up with that. That camp caterer left and the new one was in by the next morning, and we went on from there. It taught me something about life in the camps. It's not all about what you do at work. The truth is, in a remote site camp, it's everything. It is where you sleep, where you eat, where you drink, where you drink some more. There's just an integration of life that you don't see in the normal employment situation where people go home at 4:30.

So I'd like, without further ado, to introduce you to our speakers. To my far right is Ian Robb. Ian is with the UNITE HERE Hotel Employees and Restaurant Employees. They keep changing the way they say the name, but in Edmonton we call it Local 47, the beer slingers. It's a lot more than beer slingers: they are the major union—in fact, pretty much the only union—in camp catering. They are the people who recognize the fact that what keeps an army going is the stomach. Ian not only has experience in organizing, but also in the particularly important area of negotiating the camp rules that apply in remote site camps in Alberta and Saskatchewan for the building trades. Next is Steve Lamb, who is the general manager of labour relations with one of the major contractors in Fort McMurray. Steve has worked in a number of remote site camps. He has worked in Cigar Lake. I'm sure you've all visited Cigar Lake. Steve worked for a number of years with Syncrude Canada, which you probably have heard of, and he now works in Fort McMurray. Much of Steve's job involves the human resource issues that come out of the huge workforce that's involved there.

Next to Steve is Les Wallace. Les is a former vice chair of the Alberta Labour Relations Board, who is now in private practice as an arbitrator. In both capacities, Steve has had experience with what is a very large segment of our unionized work force—the employees in construction and in maintenance—as well as in the operations of the major petrochemical plants we have in Alberta.

And, lastly, your humble and obedient servant. Those of you who know my humility will recognize there is not much obedience there either. I'm Andy Sims. I'm a former chair of the Labour Relations Board. I'm still a vice chair on the military principle that when you kick them out, you bust them down one rank, let them drink in the mess, but stop paying them. I prefer to call myself

“chair emeritus.” I hope among the four of us we can give you some insights into life in remote camps.

I mentioned that I started out in the mines. Now, I wasn’t there a hundred years ago, but I just want to make the point that it’s not exactly what it used to be. Camp life has now become a very interesting experience. But there are still people there—there are the drinkers and there are the bootleggers. They were good friends of mine. There are those who want to stay and those who want to go home; there are those who just want to sit and BS. Sometimes, there are just goofy guys, wondering whether they are ever going to get out of there. But, we do. I’m not sure if you recognize that eager young man, but here he is, all those years later.

Each of those characters has a story. The stories I remember don’t just relate to what we did scrubbing the floors or blasting asbestos out of the side of a hill; they relate to the social life, the ambitions, and the mischief that makes camp life interesting.

Now I’d like to ask both Ian and Steve to comment on a more recent type of camp life. This is a little movie put together by a chap from Montreal who just thought he would record his experience going up to one of the bigger camps, which is now at CNRL, a major petrochemical project in Fort McMurray. I’ll invite the two of you to tell the people what’s going on in the picture here.

Steve Lamb: The video spends a lot of time showing the plane ride because the workers like that. Up until recently it was a bus ride. So now a lot of these camps have aerodromes and the planes fly into them directly.

Andrew Sims: Interestingly enough, this plane ride goes from Montreal to Moncton. I believe after that it went from St. Johns, and then back to Fort McMurray. Unless you think that’s a one-hour trip, they run pretty much every day. The CNRL site has, I think, eight regular flights in a day, which is quite a number of people to arrive.

Steve Lamb: This is some of the plant that they use. This is the main unit up there that separates and changes the heavier oil into a lighter component.

Ian Robb: So that’s the typical bus ride. They’re old school buses.

Steve Lamb: Yeah, on dirt roads.

Ian Robb: This is the Calumet River Camp; it’s about a 2300 person camp and they’ve just added another 3000 person camp behind it. So, those are set up standard rooms. There are other

rooms at the plant itself. But, the rooms are set up with just a bed, a desk, a chair, a window, coat hooks, and lockers, and then you share a bathroom. In this particular camp, the washrooms are called gang-style washrooms, so they are further down the hall. It leaves a bit to be desired now with all of the private camps that have single bathrooms and your own private rooms. This would be one of the games rooms. That's the dining area, the dining hall at Calumet River Camp.

Ian Robb: This is the 5:30 brass out. They are all coming in from working in the plant and they are coming into the camp now. They all have to go through a turnstile to get paid, right? You see all the buses pulling up. There's the loading and unloading.

Steve Lamb: They have a swipe card that operates the gate for them.

Ian Robb: They have to swipe into the camp, as well, to be able to access their rooms, the dining area, and the gymnasium. There's a typical room—there's your desk and your bed. This camp opened in 2005 and it's the first one that supplied TVs to everybody, so you didn't have to bring your own TV from home.

Now, this is just one of the three camps on that site. The bus drivers are on split shifts. They start at about 3:30 in the morning and they drive the workers to all their work places. Then the drivers take a break for the rest of the day. They come back in the afternoon to pick the workers up from work and bring them back. They're mostly Teamsters. There will be approximately 11,000 workers housed on that site.

These buses are school buses, because there's not a long run between where the workers come from in the camp to go to the work site. When they go on proper roads, they have coach-type buses.

Andrew Sims: Ian, I think you had some figures on the number of people living in camp.

Ian Robb: The existing rooms up in the Fort McMurray-Wood Buffalo area have been estimated by the Wood Buffalo municipality at 82,374 rooms. That's over and above the population of Fort McMurray, which is about 70,000 or 80,000. So, there are as many people that live in Fort McMurray as live in camps around the Fort McMurray area. It's just growing every day.

Audience Member: Is that haze in the air or is that just this particular photo? It's not a chemical fog?

Andrew Sims: No, no, Fort McMurray gets a really bad rap sometimes. There's the assumption that it's sort of Pittsburgh north. In

fact, most days, Fort McMurray has clear blue skies and plain white carpet. We have this carpet in Canada for about eight months of the year. It's called snow. Fort McMurray is actually a very clear wilderness, but nonetheless a wilderness. One of the things that I think is worth emphasizing, and I invite any one of the panelists to comment on this, is that not only is there a huge work force in the camps, but the work force also goes up and down. Steve particularly might want to comment on that because you have been involved in maintenance turnarounds and those activities. Maybe you could explain that.

Steve Lamb: The work force going up and down is related to the two seasons up there during the year; they're called turnaround seasons. So, as soon as the spring weather gets warmer, then all of the plants that are already constructed go through a maintenance cycle, the turnaround maintenance cycle. They do that in the spring and again in the fall. There are thousands of workers; more get put to work during those two turnaround seasons for maintenance.

Andrew Sims: What sort of numbers would come in on a major shut down?

Steve Lamb: The plant we are on is the Suncor plant. We have 1,500 workers there and there were three other contractors that were all at similar numbers. Around 6,000 workers would be engaged on a decent size turnaround or shut down.

Ian Robb: That would be in addition to the maintenance people already on site and the construction people who may be using the camp as well.

Andrew Sims: And, in addition to that you've got the production workers in the sites themselves. I should make it clear there's not just one, but a number of these major sites operating now, and they all have similar numbers. They are all operating in much of the same area.

Steve Lamb: We've got five projects—we're working on five sites up there—we're working at CNRL. And we're working at Suncor Firebag, working at the Suncor main site. We're also working at a company called Williams Energy. And, we have workers at a company called Nexen—all simultaneously—and pretty much most of the workers are staying in these types of camps.

Andrew Sims: Perhaps we should put some of these comments in context for arbitrators. I'll ask Les Wallace to give a brief introduction to the way arbitration fits in with this broader view of an employee's life in camp.

Les Wallace: Thank you, Andy. My task on this panel is to get the law out of the way, so that we can proceed to the more interesting stuff about how these remote camps and the labour relations in them really operate. In five or ten minutes, I will attempt to take you on something of a whirlwind tour of the arbitral issues that form the backdrop to these remote camps and the labour relations that take place within them. Labour relations issues in these remote camps could be said to reside at the intersection of at least four areas of arbitration law: discipline for off-duty conduct, arbitral jurisdiction over issues external to the printed collective agreement, the validity of workplace rules, and the involvement in discipline or discharge by third parties, notably camp operators. These are fairly fundamental issues, with which any Canadian arbitrator quickly becomes familiar. So, with some apologies to some of my Canadian colleagues, I've framed these at the most general level, which might be most helpful to our friends south of the border.

First, the topic of discipline for off-duty conduct. The general attitude of Canadian arbitration law towards off-duty conduct and misconduct by employees is at least moderately libertarian. I say moderately because it is Canada, and our constitution talks about peace, order, and good government. With apologies to Patrick Henry, I think our attitude could be summed up as "Give me liberty or give me mild discomfort."

The approach to off-duty conduct often stated by arbitrators is that employers are not the custodians of their employees' conduct or character away from the workplace. That said, there is a rich jurisprudence around an employer's ability to impose discipline for off-duty misconduct. The foundation case is called *Millhaven Fibers* from 1967,¹ in which an Ontario arbitrator distilled the case law into this proposition: an employer cannot discipline an employee for conduct outside of the workplace, and outside of working hours, unless its legitimate business interests are substantially affected. It must show one or more of four things:

- (a) That the behaviour of the employee detrimentally affects its reputation.
- (b) That the behaviour makes the employee unable to properly discharge his or her employment obligations, like being

¹18 L.A.C. 324.

convicted and incarcerated. That might conceivably affect your ability to do the job.

- (c) That the behaviour causes other employees to refuse to, or be reluctant to, work with the employee.
- (d) That the behaviour impairs the employer's ability to manage and direct its enterprise. Perhaps leading a picket line in your off time might fit within that description.

Now, obviously, the employer's ability to meet that test will vary with the character of the misconduct or the nature of the employer's business, and the nature of the employee's duties. So, a factory production employee who gets into a run-of-the-mill bar fight is highly unlikely to have work place discipline against him upheld. If he gets into a bar fight with his supervisor it's a little more problematic. If a teacher in a public school engages in sexual misconduct with a minor student, several of the grounds for employer discipline can be engaged in that situation. The discharge, which it will probably be, is highly likely to be upheld. By the way, there is no general rule that a criminal conviction itself—much less criminal charges—justifies discipline.

The second area, the second group of arbitral issues that I'll direct your attention to, is what I'll call statutory and human rights considerations—things external to the printed collective agreement. In the area that we are speaking of, off-duty conduct in these remote work sites, human rights, and other employment-related statutes can come in to play. Employer rules and policies that actually or arguably discriminate against certain employees on a protected ground, like gender, or religion, or disability can all be attacked in arbitration. They can be attacked on both the statutory basis and any contractual basis that's available. Because, as you heard the Chief Justice say this morning, Canadian arbitrators have jurisdiction to apply human rights statutes in the course of adjudicating the grievance.

Andrew Sims: Let's pause for a minute, Les, and maybe get some comments on the mix of people one gets in the camp because what's often lost is the diversity of camp workers. Any thoughts on that, Steve or Ian?

Steve Lamb: Yes. In our camps, our workforce is very diverse. In these recent turnarounds that we are just finishing off right now, we had temporary foreign workers from Northern Ireland, a lot of temporary foreign workers from the United States, and then people from all over Canada—people from different cultures from all

over Canada. There are some issues with having these people all working together, and then being together in a camp afterwards.

Ian Robb: My organization in the early days was a Greek population of camp workers. They moved out of the hotels and went into the camp business. Then, a large Lebanese community came in and they took over. Now, my membership, when I took over in 2005, was about 780 members and of that there were probably 500 Lebanese members. Now we are around 3,200 and the mixture is not the Lebanese—it's the Somali, the Lebanese, the rest of Canada, and lots of Europeans. So, there are all those different cultures in a camp. When you are working in a camp, the fellows and gals you work with during the day will be the same ones you see during the night, every night, and on your rotations of somewhere up to 24 days on and 4 days off, 10 and 12 hours a day. You know, you are living, and breathing, and spending more time with them than you are with your spouses and your family. The culture is a very important thing. During Ramadan, the Muslim community will go without food and water through daylight. When you are in Fort McMurray, that's about 19 hours a day of daylight. With my members, I seem to have a bunch of walking zombies for about 31 days in July. It's a real tough thing to work with and to work for. It's amazing how many people get up there and the communities completely intersect and they get it. You don't get it when you are in downtown Vancouver, but you sure get it when you are in camp because you are real close.

Andrew Sims: What's the gender mix up there?

Steve Lamb: It's predominantly male. I'm going to guess it's 10 percent female.

Ian Robb: Yeah, the outside workers and probably about 40 percent females for the inside. The reason I call these guys outside workers is because we're the inside workers, we're the camp workers—that's the difference. So, about 40 percent of our membership is female. They are going up into those remote sites; some of them are lucky and some of them are not so lucky. It depends how many go up with them.

Andrew Sims: So, when Les talks about human rights jurisdiction, there is no shortage of opportunity.

Les Wallace: Let's turn to the third area, workplace rules. I'll first touch upon rules established and maintained by the actual employer of the employees in question. I'll acknowledge right now that this is no longer the norm and, in fact, it's in a small minority of the situations in Alberta. But where we do have an

employer making rules that affect its employees, those rules and procedures can go beyond the immediate workplace if the company owns or operates the camp supplying its employees with living accommodations, or if it controls a large site beyond the immediate work area over which it exercises property rights, or if it supplies transportation to the workplace. In all of these events, the company is likely to have some rules about how employees are to conduct themselves. The rules can be explicitly referred to by the collective agreement, although I think this is rare. Sometimes, they're negotiated with one or several employee bargaining agents as a separate memorandum of understanding that might be incorporated by reference into the agreement. Or, the rules may not be an integral part of the collective agreement at all. They may exist only as unilaterally established by the employer. I'm sure we'll hear something about these camp rules and the implications that they hold for labour relations in the workplace.

The general approach of Canadian arbitral law is to say that all such rules can be arbitrated, either in connection with the purported breach or in advance, provided there is a disciplinary consequence attached to the breach of such rules. The reasoning goes that rules attract arbitral jurisdiction because they're simply advance warning of the conduct for which an employer may deem just cause for discipline to exist. Without the ability to challenge them in advance, the work-now-grieve-later rule would force employees to comply with pending adjudication. The foundation case about when workplace rules are valid exercises of management rights goes back to 1965 in Ontario, in a case called *KVP Lumber*.² The approach there was to say that a breach of a workplace rule will constitute just cause for discipline where the rule is consistent with the collective agreement, it is clear and unequivocal, it is publicized to employees in advance of enforcement, it is reasonable, and it is consistently enforced. Of course, most cases revolve around the reasonableness of the employer rule. The broadness of this concept of reasonableness has enabled arbitrators to balance some rules against non-statutory values like privacy, as well as balancing against statutory anti-discrimination values. One example is searches of employee persons and property. Drug testing obviously is an issue—a big issue—and we will undoubtedly hear some more about that presently.

²16 L.A.C. 73.

Let's turn to the last area I intend to outline for you, which is third-party camp and site rules. Everything I've said up till now is aimed at establishing to you that the basic jurisdictional and jurisdictional tools exist for arbitrators to exercise authority in workplace disputes over off-duty conduct in these remote work sites. But, in practice, it's made a lot more problematic because of the prevalence of third parties in the remote camp scenario. I think it's a minority and, perhaps only a tiny minority now, of remote work camps that are owned and operated by the same company that employs the employees in question. Often, the third party is the owner, like a major integrated energy company. It owns, or more often it occupies on lease from the Crown, the site where it operates. But it does most of the work for which camp labour is required through subcontractors. A prime example is the maintenance turnarounds that Steve was speaking of. It exercises its proprietary power over the site to establish rules and to grant control or withdraw access to the site in order to enforce these rules against subcontractors and the employees of subcontractors. The camp can be operated by a third party, independent of the owner, which contracts with the owner to provide residential camp services and to formulate and enforce camp rules. In effect, they delegate their authority to do this to the third-party camp operator. Ultimately, however, the rules are backed up by the owner's power to grant or deny access to the area where workers have to perform their duties. These third parties, whether owners, subsidiaries of owners, or independent contractors are usually strangers to the collective agreement. It is only through the collective agreement that employees have access to union representation or to arbitration.

So, the problem is pretty obvious: arbitrators have jurisdiction only in personam, that is, over the employer, the union, and the employees who are party to the collective agreement. As a general proposition, arbitrators lack authority to hear disputes over the operation of true third-party rules that affect employees in these work places. Third parties are not bound by any remedies that arbitrators try to impose.

The case law on discipline and dismissals imposed at the instance of third parties isn't entirely uniform. But, there is a good review in one of Andy's cases in 2005, called *Finning*,³ which occurred within the context of third-party site rules on drug test-

³136 L.A.C. (4th) 129.

ing, imposed by the owner of the site. The majority view of arbitrators appears to be this: unless the employer does something to adopt or enforce a third-party's rules as its own, it will not be in breach of its collective agreement if it's required to deny work to its employee in order to comply with the third-party site or camp rules. Again, the majority view appears to be the employer in that situation may not be entitled to dismiss the employee outright. It may be obliged to offer alternative work outside of the reach of the workplace rules. If no alternative work is available, it may be required to treat the situation as one of lack of work and engage the layoff rules under the collective agreement.

That is my whirlwind tour. Andy, why don't you move us along to something a little bit more interesting?

Andrew Sims: Okay. That's sex, drugs, and rock and roll. I did want to just add one example on camp rules. This is from one of the major energy companies that own the site, but have a number of contractors working behind their gates. This is 1.9 of this rule: "I authorize representatives or agents of the company, including sniffer dogs and dog handlers, to inspect and search any vehicle rented or leased or owned by me or the company that I'm operating while I'm on the site or at any accommodation." That's a fairly broad consent, and there are another 12 or 13 of those there. You need to sign that in order to get through those gates. I think one of the things that's most significant from a labour lawyer or arbitrator's point of view, is that, in the normal workplace, anything that you do at work with your employer is covered by the collective agreement. But, here, there's no point in standing on just cause if you've just lost your job because you've been barred from the camp. Ian, we had one case where I think you were successful. A strange case—you probably remember it, for that reason. Do you want to describe that situation? I remember it quite vividly.

Ian Robb: I had the pleasure of sitting before Mr. Sims with one of my members who was incarcerated. I never heard the word "incarcerated" so many times in my life, but during the arbitration, I heard it multiple times. The worker was asking for a leave of absence during a slow period. The employer was a third-party camp that didn't need him. They were dealing through his attorneys and the manager of the camp. The employer wanted to know why the worker was incarcerated. The employer wanted more information to see if they could find a reason not just to bar him from the camp, but to terminate his employment. It was an infraction where he needed to do 30 days, and on the 30th day, he was

terminated. The worker's leave of absence was to expire the day after that, and he was going to be back to work. We felt that it was a problem for the worker and it was a problem for us. We brought the collective agreement in, and it was where the fair and reasonable clause came in. I must add, I think it was the happiest day of my life. I've negotiated collective agreements in Alberta that have a clause under manager rights that says they have to be fair and reasonable, which I understand is fairly unique.

Andrew Sims: Contrary to common practice, certainly.

Ian Robb: It wasn't so apparent until the employer's representative made it very clear in his opening that they didn't have to be fair and reasonable in this case. When it was brought to his attention that they did, that was quite a discomfoting time for him. But, it was a great time for the arbitrator who wrote a great report, I must say.

Andrew Sims: Sucking up. Yeah. He thinks he is going to win another one in the next decade.

What I remember particularly about that case, though, is the employer lacked the right to terminate this individual or to take action against him. Somehow, strangely, the Royal Canadian Mounted Police (RCMP) showed up at the camp door. It just reminded me that in small communities, (a) everybody knows everybody, and (b) if you can't get something done one way, there are a thousand other ways to go at it.

We have talked a bit about who people work for, whether it's the owner, the contractor, or the subcontractor. Let's turn now to the bus company. I'm interested in what's going to happen because there's a strike vote out right now for the Teamsters who drive all those buses. We'll see where that takes us. You're not worried are you, Steve?

Steve Lamb: That will shut everything down. It will. There's no way around it. There aren't enough people who can drive all those buses from another source.

Andrew Sims: I saw you down at the waterfront, trying to rent bicycles. Was that a contingency measure?

Let's turn to where people come from because I think there are several categories of employees. We are projecting a need in Alberta within the next four years for a construction workforce of 180,000 people, and we don't have anywhere near that. Where do you get the shortfall from?

Steve Lamb: The insurance policy is temporary foreign workers, people from other countries that have the skills to come in

and do the work on a temporary basis. So, we have programs now in place that are supported by the contractors and the owners that would share these resources. So, a temporary foreign worker would come in and not just work for my company, but at the end of that assignment, would be able to be placed with the help of the union and the other participants of the program with other contractors. We are trying to use the temporary foreign worker on a more long-term and sustainable basis.

Andrew Sims: What happens to the temporary foreign worker's status in Canada, though, if they lose their job?

Steve Lamb: They must go back. They must be returned to their home country.

Andrew Sims: Let's turn now to how people get there. How are they getting in and out of these remote camps? We're not just talking about Fort McMurray. We have two major diamond mines in the Northwest Territories. There are any number of remote sites with 20,000 to 30,000 workers.

Ian Robb: Most of the sites now "fly in and fly out." In northern Alberta, there are probably more airstrips than in most of Canada. This is because each one of these companies is getting its own airstrip or they're borrowing the one next to them—they're flying in and out. CNRL was one of the first to fly in and fly out in a full capacity where they were flying multiple planes east and west. They would have flights starting at seven in the morning and they'd have more flights than the Fort McMurray airport. The Fort McMurray airport was designed to move at the most 200,000. In 2012, they moved 957,000 people. That's in addition to all of the airports that are there—at Albion Sands, Firebag, and CNRL. There are a number of projects that have their own airdromes there and they're bringing them in. When you are living in the far east, in Newfoundland, then you figure it's five or six hours from Corner Brook to St John's to work on one of the other projects there. You can just go down to the airport at Deer Lake, pick up a flight, and wake up on the plane in Fort McMurray at the CNLR project. Canadian North Airlines wasn't a large airline until CNRL came along. Now, they have multiple planes and they can compete pretty much against any airline out there. They are moving workers. I'll tell you, it's the best food service on any flight you'll ever get. They still serve hot meals on the plane. They are coming in from all across Canada. When the temporary foreign workers come in, it's from Vancouver, it's from Chicago. They come in from hubs, and then they have to meet up—that is the problem.

Because when we talk about the temporary foreign workers, if they miss a flight, they don't get to the site, and they don't get oriented in time, and then they could be camp suspended. And, if they get a camp suspension, they're out of a job. They're done. They have to go home. That's one less worker.

Steve Lamb: Lately, we haven't been doing that. We've been working around it because of the shortage. Our jobs, lately, have only been 75 percent staffed. Guess what that does to the schedule? If you don't have all the workers to complete the work on time, you just add days to the schedule. The client doesn't like that because his plant is shut down for those extra days.

Ian Robb: A typical shutdown is 45 days. So, on a 45-day turnaround, a tradesperson can come up and take home about \$50,000 to \$60,000 for 45 days of work. They work six days on and one day off. So, there's money involved.

Andrews Sims: Steve will be taking applications at the door, and that's sad. Ian was telling me last night that the dishwashers are in his jurisdiction. What's the average income per year of a dishwasher?

Ian Robb: About \$100,000 a year.

Andrew Sims: So there are advantages and disadvantages of camp work. Just to summarize, in terms of the usual employee protection of just cause—just cause unless you violate the camp rules, including ticking off the sniffer dog—you've got to be able to get through the owner's gates, comply with the camp rules for the owner of the housing, and lose either of those or your employment status. If you are a temporary foreign worker you have to leave Canada and go home. It doesn't leave an awful lot for just cause tests. Would that be fair to say?

Ian Robb: You said earlier, Andy, where there's a way to get rid of a worker. If you can't do it as the employer, security can fix it for them in an instant. And that happens often. The security people are the ones who wanted to be a policeman once in a while and they're the first ones turned down, so now they are wearing a security uniform. They walk up and down the halls, and they are looking to find a problem. If you step out of line, you get a camp suspension. The employer asks you how you are going to come to work tomorrow, but you can't get to work. If you've got a camp suspension, you're terminated.

Chris Albertyn: Are the security people unionized?

Ian Robb: No. Typically, 10 percent really know what they are doing and 90 percent are the ones who fit the uniforms the com-

pany still had left over from the last guy that left. We have a lot of trouble with security.

Andrew Sims: Ian has a certain reputation for cynicism, well earned over the years. I think one of the things that has been interesting to watch as this town has grown—as I have over the past 40 years—is that the only companies with the training to know how to run this type of logistical operation got their experience partly in the mines, but mostly in the military. Many of the lessons about security and camp control, and feeding and housing logistics were developed first in Iraq, and then in Afghanistan. An awful lot of the people that run the security are veterans of that. Would that be a fair observation?

Ian Robb: Yes. Three quarters of my camp managers come from Afghanistan. They've all done a tour in Afghanistan for the big companies. The Sodexos, the Compass Group, ESS, PTI—they all have operations overseas. The first time I met one of the managers, he had just come off a redeye; he flew in from Afghanistan, flew in through London, and ended up in Fort McMurray. He wanted a beer because, when he left Afghanistan, he was in the back seat of a car under a blanket with a gun in his hand just to make sure he could get to the airport.

Andrew Sims: One of the main differences between Vietnam and Iraq was the contracting out of all the civil logistics. Alberta got its fair share of that business, too, because Atco is a past master at building portable camps and they got their share of the contracts building in Iraq.

Andrew Sims: The question from the floor was how do you define “off duty” and what sort of issues get people in trouble?

Ian Robb: You go through drug and alcohol tests before you get on site. You arrive on site. You're cleared. You get issued a room. You go through the orientation the next day. So, you arrive that night and what do you find up in these sites? A bar. So, you go into the bar and you have a few drinks; maybe you have a couple too many. You may be talking too loud walking down the hallway by the security gate and the security folks. You can be written up for being loud after hours. There are so many rules in the camp. You get a buzz-saw list when you show up, but orientation is not till the next day. Probably 2 percent are done on their first day because they find the bar. They didn't test for it. What we say is you study for the test, you go to have a drink, and then you go to take the alcohol test. Anything—you get into an argument with a security person, you get in an argument with a camp worker, you get into

an argument with someone else. The hardest thing I think arbitrators like yourselves are going to have to deal with is the rule up there: if there is a fight, it means there are two people, the victim is thrown off, too. They don't care. You're both gone. You're both camp-suspended or site-suspended.

Andrew Sims: Steve, what's your insight into that? Because you mentioned the shortage of labour earlier. How do you balance those two?

Steve Lamb: It is a balance. A lot of things happen between the people that are in the camp. They fight amongst each other and with each other. Some of them you can't really work out why. You've got pipe fitters who will fight with a pipe fitter, and neither of them is drunk. Some of these camps are dry. Some of these camps don't have a bar. I would say probably as many as much now as 50 percent, the owner has decided no bar. But that causes problems, too. The RCMP don't particularly like that because they believe it causes people to drive to town, get drunk in town, and then drive impaired back to the campsite. You want to be lenient with these people, but you've got to have a firm and fair set of rules, so they can get along with each other.

Les Wallace: I just want to add that, aside from all of the normal problems of interaction among people that Steve is referring to, another thing that exists in this area is you've got different union affiliations. You can have building trades union members and "alternative union members." The principal one is the Christian Labour Association of Canada, with whom there is a long history of animosity between the building trades and themselves. And, in any group of union members, you are going to have a small number of partisans. So, that's an issue. There are nonunion employees, as well. There's always going to be a mixture of union affiliations on site.

Andrew Sims: The question is this: is progressive discipline used? Progressive discipline in the construction industry—someone was telling me a story yesterday. A manager came in and said, "You two, you're fired." "But you've got to have just cause." "Well, I've just told you you're fired, just cause. Just cause we can." Normally, while there is a just cause provision in most collective agreements, if the just cause is you've been barred from camp and you can't work unless you are in camp, or you haven't passed the mandatory drug-testing policy, or you've violated the drug policy. Or, there's a layoff pending, and the work forces do go up and down, just cause

grievances in construction don't often get to hearing. Progressive discipline does apply, but that's the rare situation.

Ian Robb: Progressive discipline would deal with my members in their duties as a cook or cleaner or something like that. There's usually zero tolerance for safety violations on these sites. If you risk somebody else, you're done. You get a site suspension instantly. There's no level of progressive discipline for certain things on these sites. But when it comes to most of the terminations that are coming up, they're done because of—and I've got to say it—because of camp or site infractions. It's not necessarily the employer that does this. It's the third party that does it.

Andrew Sims: The one exception I would add to that, and it's more common than you'd think, is discipline of union officials. Shop stewards play a pretty important role in the camps and terminations for union activity certainly attract progressive discipline—a fairly wide discretion. Not all shop stewards are likely to be appointed as Secretary General of the United Nations. Some are less diplomatic than others.

Ian Robb: A typical camp like CNRL has fantastic gym equipment. We're not here to say the camps are bad places to work. Some of them are nicer than this hotel. I'll be honest with you, I said that when I first checked in. I looked at my room here and it's an upgraded room and I think I'd rather be at the SNC Lavalin. Did I say that out loud? They have a camp up there for ConocoPhillips and it is state of the art. Their gymnasium has different theme rooms. They've got a gym there that has a rink—an ice hockey rink—in the back. They have everything you can imagine and there are running tracks at Albian Sands, about 80 kilometers north of Ft. McMurray.

Andrew Sims: A driving range.

Ian Robb: They have a driving range on one of them, at Creekburn Lodge, in the back of the camp. You go to Albian Sands and they make Gold's Gym look bad. They have a facility that is just unbelievable. They have a second-floor suspended running track above the certified basketball court, and volleyball and everything. The problem with that is, like I say, these guys work 12 hours a day, so they have to break into their routines to work out and to exercise because on their turnarounds, they're out. If they lose their room, they have to get out of camp. There are some that are on 24 and 4—Syncrude, for instance—that they allow to stay in camp. It's just a matter that, right now, they need the rooms. Like I said, there are 82,000 rooms up there. There's not enough.

These operators are paying upwards to \$250, \$300 a man a day to put someone in camp. They're living in this camp where it costs 300 bucks a night to stay in there. Almost like a Fairmont.

Andrew Sims: Can I ask you to comment on one particular type of person that you get in these camps—that is the camp rat, the guy who's bushed, who never wants to leave. He couldn't survive anywhere else. You've run into a few of those, I know.

Ian Robb: We were talking about one of our members that passed away last year. He's been in the business 45 years, been working in camps in British Columbia, Northern BC. Keep in mind, the first camp in this province was a logging camp in 1891. It was the canvas tent camp style. Old George was traveling all around and he went to work for CNRL. And, when he first started to work at CNRL, he had no fixed address. A lot of our members don't have a place to live. They work and they live; these are their homes. George got on the flights and they had these flights to fly in workers back to their homes. There was no restriction in those days, so he signed up and traveled all across Canada for free. He'd just spend seven days, and then he'd come back to work.

Audience Member: Are any of those just pure government operations, such as law enforcement? And, if so, how big are they?

Andrew Sims: Very few. We haven't as yet built penitentiaries in the north. The indigenous people were upset enough when we came in the first time. When we start building penitentiaries up on their land, they'll get really ticked. The only one I can think of, and it's in a town, is the nuclear facility, the nuclear experimentation facility in northern Ontario. But, by and large, this is a private sector enterprise.

Ian Robb: I have two operators, two clients in grievances right now that are getting ready to go somewhere, let's put it that way. Because of that, the employer wanted to terminate them and couldn't, but all of a sudden both these individuals got site suspensions. Therefore, they couldn't work. So, we've named the two in this (the employer and the camp operator). It'll be interesting to see how far we go with it.

Andrew Sims: Les has been in the labour board trenches, so what's your thought, Les?

Les Wallace: The common employer declaration is the Canadian equivalent, as I understand it, to the alter ego doctrine in the United States. It's generally cast as a legislative provision that where two or more entities carry out "associated or related activities" under, "common control or direction," the labour board can

declare them to be one employer for the purposes of the statute. It is possible, at least, to apply a common employer declaration to a contractor and an employer in this situation. There have been cases that have said the common control and direction can emanate from a contract, rather than common ownership or common management of the two entities, but they are rare. Usually, you have to have a contract that is unusually prescriptive and really makes the one company the director of the labour relations of the other. So, it's a tough game to play to try to get contractors and the site owner, for example, declared to be a common employer under labour statutes.

Andrew Sims: In the early days of the development of McMurray, there were a couple of efforts to link the owner and the prime contractor in the construction industry. They failed. The employers are, or the entities that an employee deals with are, in fact, quite distinct. They deal with camp security, who are employed by owner, contractor, subcontractor, lodge, anyone of them. They deal with the person that employs them. Perhaps they are obliged to deal with the general contractor or at least follow their rules, because that's the condition of the subcontract. But, when you get into the housing issues, those companies are quite distinct. The oil companies don't want anything to do with housing anymore. And, I don't think your folks want to do much with housing, do you, Steve? Rather have somebody else look after that?

Steve Lamb: Most definitely.

Andrew Sims: Before we pass, Ian, I do want you, if you could, just to repeat the story you told us yesterday. I mentioned the dogs, the dog search. What happens when somebody yells "Dogs, dogs, dogs" down the hall?

Ian Robb: These are drug-detection dogs. What they do is, when they don't have the dog, just for fun they yell "Dogs" in the hallway. All the windows open and all the stuff flies out the windows in the center. And they just count: they mark the rooms, and then they go back up and do a search when the dog gets there a week later or something. But, literally, the stuff just flies out the windows, three stories.

Andrew Sims: There are categories of dogs, too, because there are also the bed-bug dogs, which are an entirely a different breed. They're very friendly dogs.

Ian Robb: When I took on the role as the chair of the building trades of Alberta's camp committee, I negotiated with the Construction Labour Relations Association that each site would have

to voluntarily sign onto camp rules and regulations. There is a full process written into that, which allows for a camp committee, a camp discipline committee, and then you've got your site, as well. So, in the case of Syncrude, they have a camp disciplinary committee that usually meets on issues. They make decisions based on actions within the camp if someone has done something. You can get a camp suspension for having bad cheese in your room and stinking the place up. The committee would say, "Well, tell the guy to get rid of it." So, it's not really hard and fast all the time. But they have that process within some of the operations up there. Other ones, a camp operator just throws you out. I mean some of the more what we call civilized places have these camp committees. A lot of them under building trades camps—the building trades have a camp committee themselves where all the stewards get together. We structure the model based on that and the stewards make the decisions on the workers. That seems to be a real hard nut to sell. But it is getting some speed now because it's kind of your peers, right? It's the union stewards who are adjudicating the union workers. They are also getting thrown out of camp for that. That is a good way of doing it.

If I can add to that, we had a problem in 2005 when this CNRL site was opening. There was a fellow that had a site suspension from Syncrude and that worker went to work for CNRL. CNRL wasn't open yet. It hadn't been given the occupancy permits for the camp. So, they housed the people at a place down the road from Suncor in Millennium Camp, which is another camp. The guy goes in and gets his orientation. He goes down to the dining hall. He comes back and there's a note on his door; it says pack up, you're out of camp. He went to the security and asks "What's this about?" Security says, "It's because you have a site suspension at Syncrude, a completely different employer, and a completely different site." Syncrude, in some of their site suspensions, state "anywhere Syncrude employees may be." And at the time, Syncrude was renting Millennium to house their employees. This guy lost his job at CNRL because he was sent to a camp where Syncrude people were, and Syncrude had given him a site suspension.

Andrew Sims: It's an interrelated world in these small camps and in these big camps. We've tried to give you a brief safari through some of the issues. I hope you've found it interesting. I'd like to take the opportunity to thank Ian, Steve, and Les for providing their insights and participating in this panel, and you for indulging us in this. Thank you.