

2017 CarswellNat 6312
Canada Adjudication (Canada Labour Code Part III)

Taylor and Avmax Aircraft Leasing Inc., Re

2017 CarswellNat 6312

**IN THE MATTER OF an Adjudication under Section XIV Part III -
Canada Labour Code (R.S.C. 1985, c. L-2) Complaint of Unjust Dismissal**

Gregory Taylor and Avmax Aircraft Leasing Inc.

Michelle M. Somers Adjud.

Heard: January 19, 2016; January 21, 2016

Judgment: November 13, 2017

Docket: YM2707-10109

Counsel: Barbara Johnston, Q.C., for Employer
Complainant, for himself

Subject: Employment; Public
Headnote
Labour and employment law

Michelle M. Somers Adjud.:

Introduction

1 The Complainant, Gregory Taylor, began working for Avmax Aviation Services Inc. ("Avmax") on June 9, 2008. He was terminated on September 24, 2014. He filed a complaint with Employment and Social Development Canada, a division of the Ministry of Labour, for unjust dismissal. Avmax filed a preliminary objection on the ground that Taylor was a manager and excluded from the scope of the *Canada Labour Code*, and that I am therefore without jurisdiction to hear the merits of the complaint. Section 167(3) states:

(3) Division XIV does not apply to or in respect of employees who are managers.

2 A hearing was scheduled for November 2 and 3, 2015. That date was adjourned to January 19 and 20, 2016, at the request of the employer, and the hearing on the preliminary objection went ahead on those days.

Decision

3 I find the Complainant was not a manager.

Background

4 At the time of the hearing, Taylor was 61 years old. He had obtained an engineering certificate from SAIT in 1974 and is a Transport Canada Aircraft Licenced Maintenance Engineer, or AME. In 2008, Avmax hired him as a new product developer and salesperson, and promoted him to Director of Sales and Marketing in June 2011. In November 2013, he was moved from Avmax Aviation Services Inc. ("AASI") to Avmax Aircraft Leasing Inc. ("AALI") in the position of Technical Asset Manager. AASI and AALI are divisions of the Avmax group of companies, formerly known as Western Avionics, which provide aircraft maintenance, repair and leasing services in North America and parts of Africa.

Employer Evidence

5 Evidence was led by the employer to show that Taylor reported to senior management and that this was one of the factors tending to show that he was a manager. At Avmax, the chain of command began with the CEO. The COO and Executive Vice President reported to the CEO, John Binder. The next levels in descending order were Vice Presidents, directors, managers, supervisors and floor workers.

6 In 2011, as Director of Sales and Marketing, Taylor reported to AI Young, the Vice President of Operations. Young was one of two Vice Presidents, both of whom reported to the COO of Avmax, Russ Binder. There were six Directors immediately below the Vice Presidents in the organizational structure. In his role as Director of Sales and Marketing, Taylor was one of them.

7 Young testified on behalf of Avmax. He said that the positions that reported directly to him were employees at the director level, and the positions that reported to the directors were shop managers or production managers.

8 He said that at the time of his termination, Taylor held both the Director of Sales position and the Technical Asset Manager position. In the former, he was responsible for the sales people who reported to him, including their performance management, disciplining them if necessary, dealing with their objectives, managing their time and resources, and coordinating with other business units within AASI. He helped to develop departmental strategies and their application. His level of autonomy included being responsible for building the department's business plans and budgets for his business unit. He needed no approvals for his day-to-day functions.

9 Young said this was considered to be a management position because the Director of Sales interfaced with senior management and was responsible for the people and the resources with his department

10 To illustrate the fact that Taylor had a management position, he identified his role on a project for an Avmax shareholder group for which Taylor had been brought in to manage and guide to completion. Only Avmax's CFO and the Vice President would have worked with this shareholder group. Taylor worked directly with them on the project.

11 Another example Young gave was the Peregrine project which involved significant modifications of an aircraft with sophisticated equipment Taylor coordinated the installation of military sensors and equipment which involved many vendors and much technical expertise. He verified there was a market for it, developed its costs and projections on potential revenue and sent those to the CEO and Board of Directors.

12 Yet another project which he managed concerned the modification of a special missions aircraft in Montana, and an additional project in which Taylor was brought in to manage its troubled production and finances. He did that to completion which entailed working with the stakeholders in Montreal, interfacing with senior management at Avmax and with the shareholder group. Young testified that Taylor enjoyed a great deal of autonomy. He would be expected to make decisions on manpower needed and to ensure the project stayed on time and on budget

13 Young testified that Taylor had authority to bind Avmax to agreements made with vendors and customers on purchases or services. He produced a Confidentiality Agreement between AAS1 and a client dated July 18, 2011, signed by Greg Taylor and the client Taylor testified that these preceded all sales exploration transactions.

14 Taylor would propose the budgets for expenditures such as exhibit booths at conferences but those would be approved by Young and other senior executives. On cross-examination, Young agreed with Taylor that the decisions he made as Director of Sales were subject to an override by senior management

15 As Director of Sales, Taylor was earning 15 to 20% more than the employees reporting to him, including a sales manager. His sales team did not know the amount of his compensation.

16 Young said that Taylor was responsible for conducting his team's performance reviews. Although a number of performance evaluation documents were tendered, they were signed by the complainant's witnesses to show the type of authority that other managers at Avmax exercised. I was provided with only one employee review document signed by Taylor. It was for a probationary employee, and dated October 5, 2012.

17 Young also produced a selection of 2011 to 2013 sales and employee expense forms. The expense forms were signed by Taylor and initialed by John Binder, the CEO. Later, the job of approving those went to Young. Taylor's signature was verification that the expenses were fair and reasonable. Young said time sheets and requests for time off by members of Taylor's sales team were authorized by Taylor alone.

18 Young said that all senior managers were asked to provide budgets and business plans. They would then be considered in light of corporate needs. He said once a budget is approved, even the CEO has to get approval from the Board of Directors. Once approved, it was up to the manager to administer them. Young characterized approvals that Taylor had to obtain from more senior managers as part of the company's checks and balances to which he himself was also subject

19 At some point, Avmax began to widen its scope of operations. Young said Taylor was put in charge of some of its new projects. This entailed taking a project from concept to business plan, establishing timelines, working with vendors, and making presentations to the CEO. He said projects were managed in accordance with the contract in place, and the project manager verified hours for work, and approved the value of parts purchased. Minutes of meetings that took place in July and August 2011 about the Peregrine project were produced. In one, Young expressed concern that Taylor might not be able to continue with a current project "if he runs this [Peregrine] project, to [sic] much for one person to do". In another, it states

Once the budget has been approved:

Action Items:

1. Greg will prepare a charter.
2. Greg will begin preparation of a statement of work.
3. Greg will help Randy get some manuals for the CRJ.
4. Greg will provide a list of equipment for the racks, so estimates of size can be reviewed by engineering.
5. Greg will provide Peter with a drawing set of the radar equipment
6. Greg will provide an MX-15 HDi ICD for Brent

...

20 Minutes from an October 8, 2013 meeting were produced to show that Taylor chaired weekly sales meetings in which he updated the group on company initiatives. These were attended by his sales team, and included invitations to senior managers, including Don Parkin. However, those senior managers did not usually attend.

21 Young said that Taylor was promoted to the Technical Asset Manager position in 2013 but continued in the Director of Sales and Marketing position. Taylor disputes the view that he held both positions at the same time. On his Complaint Registration of October 19, 2014, he states that his job title was Technical Asset Manager. As evidence of this position, he provided an email dated October 23, 2013, from Don Parkin, the Executive Vice President of the Avmax Group of Companies to an "All Companies List". It said:

22 "Greg Taylor is making a lateral move from running the Sales Team to helping us in the AALI Team as our Technical Asset Manager. Greg will be working with [name withheld] and [name withheld] to handle a variety of technical duties including being our point of contact or representative for AALI and partnered aircraft that are undergoing maintenance at our facilities, spear heading various projects for mods, STC's, etc that our customers sometimes require, working with customers to help solve technical issues, etc. AALI will continue to grow in the coming years and having a strong technical team in Greg, [name withheld] and [name withheld] is essential to ensure we put out a quality product in a timely fashion to our customer's satisfaction."

23 After his move to the Technical Asset Manager position, Taylor stopped reporting to Young and began reporting to Don Parkin ("Parkin"), the Executive Vice President. He received a 15% pay raise. Young testified that he and Parkin discussed hiring a replacement Director of Sales, but nothing appears to have come of it.

24 On cross-examination, Young stated that there was agreement between himself and Parkin that Taylor would continue to oversee sales for an indefinite time. He also said that at the relevant time, one of the sales team had become more involved in taking over Taylor's duties as Director of Sales and that no employees reported to Taylor.

25 A computer screen printout was produced dated August 31, 2014, showing an employee's attendance and Taylor's name for approval. On cross-examination, Taylor admitted he was asked to approve time for this employee but could not do so because he was unable to access the Quantum time reporting system. He added that in doing so he was just helping out. When asked whether that member of the sales team reported to Taylor, Young could not recall. Although Young admitted that no employees reported to Taylor at the time of his dismissal, he also said that Taylor reported to him as both Technical Asset Manager and Director of Sales until his termination.

26 In an email dated September 8, 2014, shortly before his dismissal, Taylor is confirming the hours of an employee working in the Sales department. On cross-examination, he replied that he was merely establishing them as full-time employees and was just dealing with an email sent to him. It appears the email was sent to him in the context of difficulty by human resources in accessing the Quantum system.

27 As Technical Asset Manager, Taylor was a member of the Strategic Implementation Team ("SIT") which consisted of the managers of Avmax's functional areas. SIT was established on October 16, 2013. According to company documents, its purpose was to "operationalize the strategic goals set by the Board". SIT meetings consisted of sharing information among business units, being accountable for operational commitments, developing management systems and processes, and reporting to the EMT on issues and goals they had defined. Taylor also interfaced with members of the Executive Management Team ("EMT"), a group that included the CEO of Avmax, John Binder. Young said that members of SIT would have input into policies and processes such as those for employee evaluations and recruitment. Taylor was described as a very active participant who came forward with lots of good ideas. He was passionate about his role.

28 Four examples of Taylor's ability to approve expenses were tendered in evidence. As Technical Asset Manager, Young said Taylor was able to approve aircraft maintenance parts that had been contracted. To support his contention, Young produced a copy of a March 20, 2014, invoice for a purchase of aircraft services having a value of about \$4999.00 to be provided by another company, which was signed by both Taylor. The invoice is also signed by Bob Donnelly, the manager of AASI's Montreal operations. In his testimony, Taylor said that it was not a common occurrence for him to sign an invoice. On cross-examination, Young agreed that this part would be coming from the Avmax Spares Department.

29 Young also produced a Letter Agreement between AASI and an aviation services company dated July 19, 2014, finalizing a dispute in the amount of \$173,000. It was negotiated and signed by Taylor, accompanied by the notation: "I confirm I have authority to bind the corporation". I note it is also signed by the Maintenance Manager with the same notation, and by the Director of AS Air Lease V (Ireland) Limited. Taylor testified that he did not have permission to sign contracts and only signed this one with Parkin's permission.

30 In an email thread dated February 14, 2014, Taylor gives his approval to an AASI project manager for the purchase of a \$4054, piece of equipment

31 Lastly, in a March 25, 2014, email, Taylor gives his approval to an employee to purchase aircraft parts amounting to about US\$8,000.

Employee Evidence

32 At the time of his dismissal, Taylor testified that no employees reported to him. In the role of Technical Asset Manager, he said he managed assets, not people. He did approve requests For time off having regard for staff complement at any one time. He continued in these duties for some undetermined time after leaving AASI, but by the summer of 2014, he said he had stopped doing them.

33 Taylor did not agree that as Director of Sales, he held a management position. He referred to his change to Technical Asset Manager as a promotion, but changed his mind later. He admitted that at the time he presented his brief of November 13, 2015, setting out his position for this hearing, he stated that he was promoted to Director of Sales for AASI on June 15, 2011, promoted again to Director of Special Missions Programs for AASI on October 12, 2011, and promoted a third time to Technical Asset Manager for AALI on November 4, 2013, and that he viewed those positions as being managers.

34 His brief also states that he was still fulfilling all of the responsibilities of his old position as Director of Sales and Marketing. He suggested several candidates to replace him, "but management would not hire, so I was continuing to fulfill those responsibilities." However, at the hearing, he said his evidence had changed because his brief was inaccurate. He added his office was right next door so he tried to help out

35 Counsel also led evidence that his LinkedIn profile contained statements to the effect that, as Director of Sales, he "Managed a specialty manufacturing arm of Avmax", and that as Technical Asset Manager he was "Part of the executive team guiding the exponential growth of Avmax". This evidence simply reflects how he viewed and advertised his role and is not helpful in determining what his actual duties were.

36 He said while he was Director of Sales and Marketing, three sales personnel reported to him. His role was to review their time sheets, requests for time off, and expense reports. He had no authority to direct the accounting department to issue cheques for expense reimbursements. His role was to review them for accuracy and send them to Young for approval. The expense statement exhibits show that they were initialed by John Binder, the CEO.

37 Taylor said he signed his employees' vacation requests to ensure they would not be short staffed. They then went to payroll to ensure the employee was entitled to time off. However, if he did not approve them, the approval process would end with him. Payment of wages had to be approved by Taylor first and then be verified by Parkin.

38 Taylor maintained that he had no authority to create new positions, or to hire or fire employees. He produced a November 3, 2012, memorandum from Human Resources to "The Management Team" which specified the hiring procedures. It states that the "requirement for a new hire should be approved by both the Vice President and Human Resources." Human Resources would send the hiring manager the chosen applicants. The hiring manager would decide on a suitable candidate and convey to Human Resources details about the candidate, including rate of pay and reporting structure.

39 Taylor says that in practice, Young made those decisions. As an example, he recounted an occasion when Young asked him to find someone to help with certain tasks. The company's human resources department provided resumes, and he put forward three that he thought would work well Young gave his authorization to hire one of them and she reported to Taylor for three months, after which she stopped coming into work and was never replaced. In evidence was a three-month probationary review form signed by Taylor and giving her a positive review.

40 On cross-examination, Taylor testified that as Director of Sales he would have been responsible for approving the offer letter, but it would still have to get approved by the Vice President. He did not hire anyone during his time at Avmax.

41 Taylor said Young made the final decisions on raises and position changes. In support of that position, he produced an email on which he was one of a number of persons copied in which an employee asked Young to designate someone as a signing authority for expenses in Young's absence. Young's reply was that in instances that required "immediate resolution" they were to email him and "we will get it done". Taylor said that he was once admonished and told to be careful about the promises he made. He also recounted a 2011-2012 effort he made to get raises for his sales persons. It was not approved because the raises would have taken them beyond the upper limit of the pre-set pay scales for those positions.

42 In evidence was an email dated April 7, 2013, in which Young says: "Raises and any position changes go through me first. Sorry guys this will not ever change so be very cautious about any promises you make and be assured that Debbie will send them back to me if they don't get my signature, and yes JB signs every one."

43 I was shown an email dated March 21, 2012, from Young to a number of employees including Taylor and Russ Binder stating that SIT did not have control over budgets and finance process or "integration of business units". Its mandate was to improve on the establishment of contact persons for projects, the reporting structure and accountability among managers, processes of planning and approval, and revenue.

44 Taylor said he was paid more than the other people in his department, but at his cross-examination of Young on this point, the issue of whether or not his compensation level was commensurate with his technical experience or his management position was ambiguous.

45 With respect to Taylor's relationship with the EMT and SIT Committees after he began his duties as Technical Asset Manager, the evidence was that EMT set the broad goals, and the SIT defined the process needed to meet those goals. Taylor did not attend EMT meetings.

46 Taylor produced a July 20, 2014, email from Parkin in which Parkin gives his approval for Taylor to sign a document regarding "schedule C items" from a firm in Ireland. He further produced a Letter of Intent to Purchase in the amount of \$135,000 in which his signature is crossed out and Parkin's signature replaces it.

47 During his cross-examination, he stated that when he was at AALI, he would have decision-making authority over an aircraft part. This involved inspecting the part to see whether it was unserviceable. He would decide whether the company should buy a new part or an old part, and could approve parts expenditures.

48 Taylor examined three witnesses whose titles had the word Manager in them. They testified that they did not have "binding decision-making authority" at Avmax, and that they could not make final decisions to hire or fire. Because they had no direct knowledge of or similar roles to the complainant's at Avmax, or were not disinterested witnesses, I am not giving their testimony any weight.

Analysis

49 It is trite law that the title by itself cannot establish the status of an employee. In order to succeed in ousting the jurisdiction of the adjudicator, the employer must provide convincing evidence that, on the balance of probabilities, the nature of the complainant's work was that of a manager. It is a test which requires the decision-maker to look at the duties of the employee as a whole. Moreover, the notion of who or what is a manager is to be defined narrowly. The rationale behind this universally accepted approach among adjudicators and courts is agreement that the purpose of the *Code* is to level the unequal playing field between the employer and the employee, and that it should receive therefore an interpretation that "extends its protection to as many employees as possible": *Machtiger v HOJ Industries Ltd.* (1992), 91 D.L.R. (4th) 491 (SCC). This principle has dominated unjust dismissal jurisprudence.

50 The employer brought evidence purporting to show that at the time of his dismissal, Taylor was working two positions, Director of Sales in which three employees reported to him, and the subsequent one in which he was no longer supervising employees. Although the terminology used by Parkin in his email announcing Taylor's change of position was ambiguous, Taylor's evidence on the extent to which he continued to perform the duties of his former position changed from the time of his brief and the time of the hearing. In the end, I do not need to make a finding on this issue. Plainly, managerial functions in the past are irrelevant if I find the employee was not functioning as a manager when he was dismissed. However, even if Taylor had continued to perform some of the duties of his role as Director of Sales and Marketing, I find that on balance his role in that position conforms more closely to those of a supervisor than a manager. The duties of an employee are not what the employer describes, but what they actually perform: *Gray and Qwest Helicopters Inc.*, [2013] C.L.A.D. No. 360 at para. 17.

51 In *Qwest*, Adjudicator Norrie said at paragraph 29:

In assessing whether or not Mr. Gray was a manager for the purposes of s. 167(3) there is no single factor upon which you can make that determination. The decision must be made by considering the circumstances as a whole. The absence or existence of any one factor will not decide the matter.

The Adjudicator added that although the complainant in that case lacked absolute authority in some areas, that was not determinative in itself. Most managers must seek approval from a variety of sources from time to time.

52 Counsel directed my attention to a case cited in *Qwest* at paragraph 26. In *Leontsini v Business Express Inc.* (1997), 125 F.T.R. 131 (Fed.T.D.), an airline station operations manager for a regional airline was considered to be a manager. She supervised 7 employees at one airport and had considerable day to day administrative authority over the operation of that one station. She was determined to be a manager despite the fact her decision-making authority was not absolute.

53 Counsel for Avmax also referred me to a decision by Adjudicator Deeley, *Ferris v Big Freight Systems Inc.*, [2008] C.L.A.D. No. 58. The complainant in this transportation enterprise of 245 employees held the position of Manager of Driver Recruitment and Development, responsible for sourcing, interviewing, selecting and making job offers to drivers and then their subsequent orientation. The Adjudicator found that Ferris was a manager.

54 The facts in *Ferris* are as follows. Ferris' department had four employees. He could make recommendations for salary increases for members of his department, but they had to be approved by senior management. In the case at hand, there was evidence that on at least one occasion, Taylor recommended salary increases for his staff, which were denied because his staff had reached the upper limit of their pay scale. Ferris conducted performance evaluations of two of his staff. The evidence that Taylor did so was weak.

55 In *Ferris*, while others in his department could sign offers of employment to drivers, only Ferris could sign employment contracts for the members of the staff of his department. The final decision on the hiring of staff rested with him. Driver recruitment was a significant part of the company's operations as Ferris hired up to 150 drivers per year. In the present case, Taylor did not sign offers of employment. He screened and recommended applicants, and Avmax senior management made the final decisions. As well, the hiring of staff for Taylor's department was not a function of significance to Avmax's operations to the extent that it was for the transport company.

56 Like Taylor, Ferris made recommendations for salary increases which were not approved. Unlike Taylor, Ferris signed letters of termination of employees.

57 Ferris attended budget meetings with other department heads, was exposed to the strategic planning of the company, and conducted monthly department meetings, as did Taylor.

58 Ferris signed driver recruitment agreements involving the governments in the U.K. and Europe. He had final say on whether applicants would be recruited to come to Canada to work for Big Freight Systems. He also had signed

termination letters on behalf of his company. Taylor did not have this level of authority at Avmax. The closest he came to signing agreements was his signature on one agreement finalizing the settlement of a \$173,000 dispute.

59 Ferris was paid substantially more than the people who worked for him. Taylor was paid 15 to 20% more than his staff, but it was unclear whether he was remunerated on a management scale or for his technical expertise.

60 Adjudicator Deeley noted that Ferris' role in driver recruitment was a critical component of the transportation industry and he could have a considerable influence on the success or failure of the business. By contrast, Taylor's evidence was that Avmax was tightly controlled by the CEO and his Executive Directors. The evidence pointed to an employer-employee relationship in which Taylor's technical expertise within specific projects was valuable, but that any decisions involving matters of consequence to the company's operations were not made by him. Although he approved time off and confirmed the legitimacy of expenses claimed by his staff, these without more are more accurately supervisory rather than managerial functions.

61 At paragraph 66, *Ferris* quotes from the case of *Desgagne v Avalon Aviation Ltd.* (1981) 42 N.R. 337 (F.C.A.):

What is important in determining if an employee is a "manager" is whether, in matters of consequence he can only make recommendations to persons who possess greater authority, and who will make the final decision. Does the employee make decisions or does he provide input into the decision-making process? In matters of consequence does he recommend or does he decide?

62 In another helpful case cited in *Ferris* at paragraph 67, the Adjudicator in *Kehler v C.W.S. Logistics Ltd.* (2003) File YM 2707-5788 at p. 6 said:

"The more an employee follows pre-determined guidelines, acts in consultation with others, makes recommendations only, makes minor decisions and acts with restricted direction, the less likely that employee is a manager...Typically, a manager will have decision-making power in matters of importance, eg: company policy and planning, budget decisions, contract negotiations, participation in top level management meetings. In staffing, managers usually have final decisions to hire, fire promote and discipline employees. They normally supervise and direct staff on a daily basis."

[emphasis mine]

63 The Adjudicator in *Ferris* then listed a summary of the factors that have been considered in determining whether an employee is a manager. I summarize them here:

- a) If an employee's activities are mainly governed by established work procedures that require only a relatively small amount of independent decision-making, the employee is not a manager.
- b) An employee who is required to obtain the approval of a higher authority before making any decision with significant consequences to the employer is usually not a manager, unless he or she has substantial control over staff, resources, budget and implementation of the main goals of an organization, even though they may be ultimately accountable to a higher authority.
- c) The analysis must include to what extent the employee is empowered to promote, demote, evaluate, establish company policy, and participate in budgetary decisions.
- d) Participation in policy formulation does not necessarily make a person a manager, although it may if the policy concerns important matters.
- e) The power to hire, fire, and discipline subordinate employees is an important aspect of management. Persons who only supervise staff are not managers.

f) A manager has the power to commit the employer to the payment of specific sums of money for services rendered, as does participation in the negotiation of contracts.

g) The size of the organization helps to determine an employee's level of authority. Similar degrees of authority in a branch office of a large highly organized bureaucratic national or international organization would not necessarily lead to the same conclusion as someone with similar authority in a small independent organization.

h) The exercise of authority that is only sporadic or occasional should be taken into consideration but does not necessarily mean that a person is not a manager.

64 In my view, Taylor exercised a level of authority that, looked at as a whole, more closely adheres to the role of a supervisor than that of a manager. Although some examples of the managerial type of activities mentioned in *Ferris* and *Kehler* were produced, the examples were few. While it is true that Taylor's duties mirrored several of the ones exercised by the employee in *Ferris*, on many others Ferris had significantly more authority. Like Taylor, he verified hours worked by his staff, scheduled their vacations, and administered a budget. Unlike Taylor, he was able to hire replacement staff as required (para. 15) and to make the final decisions (para. 20), to terminate employees (para. 27), and to discipline employees (para. 28).

65 In addition, the employee in *Ferris* exercised a scope of authority that had a significant if not crucial impact on the success of his employer's enterprise. Moreover, Avmax is a significantly larger organization than the one in the *Ferris* case. As such, to the extent Taylor's was able to exercise managerial authority, its significance to his employer's operations would have been less.

66 Taylor supervised a very small staff. His authority to impact Avmax's operations in any significant way was apparently quite limited. He needed approval to make decisions in almost all areas, including employee hiring, firing, raises, the signing of contracts, approval of expenditures, and determination of company policy. What evidence there was showing that his role entailed the exercise of authority on matters of consequence to Avmax was sparse. It did not establish managerial activity to the extent necessary to exclude him from the ambit of the *Canada Labour Code* unjust dismissal provisions. In so finding, I am relying on jurisprudence that has determined the factors that make a position managerial. Those factors must include something more than verifying hours worked, approving vacation and expenses for staff, implementing pre-approved budgets, approving parts expenditures within those budgets, and making recommendations to the senior management

67 I find the complainant was not a manager.