

IN THE MATTER OF AN ARBITRATION
Pursuant to the *Hospital Labour Disputes Arbitration*

BETWEEN:

CITY OF TORONTO

("Employer")

- and -

CANADIAN UNION OF PUBLIC EMPLOYEES, LOCAL 79

("Union")

(Part-Time LTCHS Interest Arbitration)

BOARD OF ARBITRATION:

Jasbir Parmar, Chair
David Wakely, Employer Nominee
Menno Vorster, Union Nominee

On Behalf of the Employer:

Sharmila M. Clark, Counsel
Temisan Boyo, Counsel
Mary Kay Cerovich, Manager, People Services, LTCHS
Dymphna Walko-Channan, Manager, Labour Relations
Suman Seth, Senior Employee and Labour Relations Consultant
Ryan Krahn, Articling Student

On Behalf of the Union:

Doug Wray, Counsel, CaleyWray
Aleisha Stevens, Counsel, CaleyWray
David Mitchell, President, CUPE, Local 79
Jason Chan, Vice-President, CUPE, Local 79
Fred Shilson, Recording Secretary
Logan Lamerton, Unit Officer, LTCHS
Beverly Pike, PSW, LTCHS
Jason Desjardins, Health and Safety Co-ordinator

A hearing in this matter was held on January 31, 2018, with an executive session on February 5, 2018, ON.

I. INTRODUCTION

1. This arbitration board has been properly constituted under the *Hospital Labour Disputes Arbitration Act*, R.S.O. 1990, c. H. 14, as amended (“HLDAA”), to settle all outstanding issues for the renewal of the collective agreement between these parties.

2. The City of Toronto’s Long-term Care Homes & Services (LTCHS) division operates 10 long-term cares homes, with approximately 2600 beds, across the City. They provide the full scope of 24-hour long-term health care services for residents.

3. The Union is the certified bargaining agent for approximately 2000 part-time employees, including the following classifications: cleaner/heavy duty; laundry service workers; food service workers; personal support workers; RPN/RN; support Assistant (A,B,C); social workers, recreationists, and nurse practitioner.

4. The previous collective agreement between the parties expired December 31, 2015. The parties commenced bargaining on October 23, 2015.

5. Of note, the parties did reach a settlement in respect of the other three units also represented by the Union: full-time, part-time unit B and part-time recreation workers. The Memoranda of Settlements confirming such were signed on March 2, 2016.

6. While the parties were able to agree on a number of items with respect to the instant collective agreement, including a four year term from January 1, 2016 to December 31, 2019, they were unsuccessful in concluding a renewal collective agreement. The outstanding issues are largely non-monetary (involving little or no cost).

II. PARTIES’ PROPOSALS

7. The following are the Union proposals which remain outstanding:

a. Article 18.01 - Posting of Schedules

- b. Article 18.02 - Notification of Shift Change
- c. Blocks – 18.06(a)
- d. Article 41 - Intranet Workplace Access (new)
- e. Article 41 - Touchdown Pad Pilot Project (new)
- f. Article 5.08K - Union Security
- g. Article 13 - Vacation Pay and Vacation Leave (new provision)
- h. Article 20.02 -Jury or Witness Services

8. The following are the Employer proposals which remain outstanding:

- a. Article 9.03 – Increments
- b. Article 16.01(a) – Seniority
- c. Article 17.04 (Seniority for promotions)

III. AWARD

9. In determining the outstanding issues, we have given consideration to and been guided by the criteria set out in the *HLDA*, including the following:

- 1. The employer's ability to pay in light of its fiscal situation.
- 2. The extent to which services may have to be reduced, in light of the decision or award, if current funding and taxation levels are not increased.
- 3. The economic situation in Ontario and in the municipality where the hospital is located.
- 4. A comparison, as between the employees and other comparable employees in the public and private sectors, of the terms and conditions of employment and the nature of the work performed.
- 5. The employer's ability to attract and retain qualified employees.

10. We have also taken into account widely accepted principles of interest arbitration, including demonstrated need and replication.

11. While we have given due consideration to the extensive briefs filed by the parties, we have decided to award changes only in respect of certain issues. Other than the items specifically addressed below, all other union and employer proposals are dismissed.

12. The Board hereby awards a collective agreement with the following:

a. All terms upon which the parties have agreed in negotiations for this collective agreement.

b. Article 18.01 is to be amended to read as follows:

The city shall post work schedules for regularly scheduled work at least two (2) weeks in advance in a location accessible to employees.

c. A new provision is to be added to Article 13, and read as follows:

The Division shall make every reasonable effort to respond within fifteen (15) calendar days of the submission of vacation requests and changes to vacation periods.

d. With respect to the Employer's proposal for a Memorandum about a scheduling pilot project, we direct the parties to engage in further discussions on this issue prior to our making any determination. We observe that scheduling is a complex issue and ideally addressed by the parties themselves, as they have the best understanding of all the interests at stake. We are hopeful such discussions will enable appropriate regard be given to the Union's bargaining rights and the collective agreement provisions. The parties have sixty days to engage in these discussions. If this issue remains outstanding, the panel will reconvene via teleconference and receive any additional submissions.

13. The Board remains seized in accordance with subsection 9(2) of *HLDA* until a renewal collective agreement has been signed by the parties.

Dated this 15th day of February, 2018.

"Jasbir Parmar"

Jasbir Parmar, Chair

"Menno Vorster"

Menno Vorster, Union Nominee

"David Wakely"

David Wakely, Employer Nominee