

IN THE MATTER OF AN ARBITRATION
BETWEEN

PARTICIPATING HOSPITALS
("the Hospitals" / "the Employers")
MUSKOKA ALGONQUIN HEALTHCARE
("the Hospital" / "the Employer")

- AND -

ONTARIO PUBLIC SERVICE EMPLOYEES UNION
ONTARIO PUBLIC SERVICE EMPLOYEES UNION, LOCAL 380
("the Union")

CONCERNING LOCAL ISSUES UNDER THE *HOSPITAL LABOUR DISPUTES*
ARBITRATION ACT FOR COLLECTIVE AGREEMENTS FOR THE PERIOD
MARCH 31, 2006 TO APRIL 1, 2009

BOARD OF ARBITRATION :

Christopher Albertyn – Chair
Angelo Pesce – Hospitals' Nominee
J. Cameron Nelson – Union Nominee

APPEARANCES

For OPSEU, Local 380:

Michèle Dawson Haber, Research Officer
Barbara Barry, Local President, Sr. MLT
Denise Fisher, Sr. Ultrasound/CT Technologist
Robert Fournier, Medical Laboratory Technologist
Corinne Schaufelberger (& baby), Ultrasound/X-Ray Technologist

Michelle Thompson, Ultrasound/X-Ray/CT Technologist

Judy Storey, Staff Representative

Muskoka Algonquin Healthcare

Mr. Foreman, Human Resources Consultant

Kelly Pender, Human Resources Consultant

Robert Hughes, Human Resources Generalist

Bryon Palmer, Laboratory Services Manager

Hearing held on May 28, 2007. Executive session held on June 2, 2007.

Award issued on July 5, 2007.

AWARD

1. This is an interest arbitration under the *Hospital Labour Disputes Arbitration Act*, in respect of a collective agreement effective from March 31, 2006 to April 1, 2009.

2. The parties bargain centrally. The parties agree which issues are to be determined centrally. Those issues that are not agreed to be determined centrally are dealt with in local negotiations. The issues negotiated locally, which are not resolved, are the subject of this award for the hospitals and local unions referred to herein.

3. This award concerns the local issues between Muskoka Algonquin Healthcare and OPSEU and its Local 380.

4. The parties made their submissions at the scheduled hearing, supported by helpful written briefs. We have carefully considered all of the submissions, taking account of all of the relevant statutory and jurisprudential factors, particularly demonstrated need, comparability and replication.

Agreed upon items

5. All items agreed by the parties themselves are incorporated into their local collective agreement. In this regard we have received a document of agreed provisions from the Hospital which the Union has not yet confirmed to be an accurate record of the agreed issues. We await such confirmation from the Union, failing which we remain seized to determine any dispute between the parties as to exactly what has been agreed between them.

Multi-site issues – Article 27

6. There are a number of unresolved issues arising from the multi-site nature of the Employer's operation. The Hospital is the result of the amalgamation of the South Muskoka Memorial Hospital, located at Bracebridge with a satellite site at Gravenhurst, and the Algonquin Health Services, located at Huntsville with a satellite site at Burk's Falls. The Hospital would like greater flexibility than it currently has to assign an employee to more than one site. At present the Hospital

has the capacity to assign certain employees from the main hospital to that hospital's satellite. So, such an employee with a Huntsville home base can be assigned to the satellite at Burk's Falls, and such an employee with a Bracebridge home base can be assigned to the satellite at Gravenhurst. What is not currently possible, and what the Employer says it needs, is to be able to post certain positions for employees to perform functions at both Huntsville and Bracebridge.

7. The Employer is content that employees assigned to more than one site will not be assigned to more than two adjacent sites. So, the Employer is content to have certain employees capable of being assigned to Huntsville and Burk's Falls (as now), or to Bracebridge and Gravenhurst (as now), but it wants the additional capacity to assign certain employees to Huntsville and Bracebridge. It does not currently have this capacity. We are persuaded that the Employer should have this capacity, subject to certain conditions, and we so award.

8. The conditions are the following. Firstly, all existing employees who can be assigned to a satellite site should have a home site. Newly hired employees, following this award, can be designated as multi-site, without a home site, on the understanding that they may work in any one of the three possible combinations: Huntsville – Burk's Falls; Huntsville – Bracebridge; Bracebridge – Gravenhurst.

Any multi-site posting will clarify which combination will apply. Secondly, there will be no involuntary layoffs as a consequence of the creation of a multi-site position. This means that if a part-time employee working at one site is offered a new full-time multi-site position, they may refuse to accept the position without the risk of being laid-off.

9. There are three monetary disputes between the parties regarding multi-site assignments: whether travel time should be paid, and if so, when, and at what rate; in what circumstances a transportation allowance should be paid; and whether accommodation should be paid for by the Hospital for an employee who needs to stay overnight at or near the other site when there is a severe storm making travel home dangerous.

10. There are three permutations regarding the payment of travel time. Firstly, travel time will not be paid unless an employee is sent to another site after reporting for work. So, if an employee is told prior to reporting to work that they are to work on the related site (as described above), then they will not receive payment for the time spent travelling to and from the other site.

11. Secondly, if, after reporting to work, an employee is assigned to work at

the related site, they will be paid for the time travelling to and from the other site, during their normal working day. The rate of pay will be at normal rates. So, if their work at the other site were completed within their normal hours, such that their drive home would be overtime, they will be paid for the travel time home, but still at normal rates. Thirdly, if the work requires them to work overtime hours at the other site they will be paid overtime for such work. However, the time spent driving home after such work will be paid at regular rates.

12. As regards transportation allowance, if an employee is assigned to work other than at their home site, they should be paid the transportation allowance from the home site to the related site, and back. For multi-site employees, they will be paid the transportation allowance only if they are assigned to the other site after reporting for work.

13. We decline to award the Union's request for reimbursement of overnight accommodation.

14. We refer these conclusions back to the parties for the necessary changes to the language in Article 27. If they cannot agree on the language changes required, we remain seized to do so.

Standby / call back – Letter of Understanding

15. The parties have a Letter of Understanding with respect to planned joint discussions on standby / call back. We award the following for the second paragraph of the Letter of Understanding:

The parties will meet in the Bargaining Team Committee forum as often as possible from the date of this award, but not less often than every 3 weeks unless otherwise agreed, with the goal of establishing scheduling formulae to provide for fair and equitable shift rotation as applicable to the distinct modality / classification requirements of the departments at each site with a view to minimizing / eliminating standby / call back situations that may be “unsafe” or inequitable. This task will be complete over 4 months, failing which we remain seized to determine the issue.

Part-time weekend premium – Article 17.04(c)

16. We award the following:

Part-time employees may be scheduled to work 3 weekends in a six-week period. If a part-time employee is required to work more than 2 weekends consecutively the employee will be paid at the overtime rate for all hours worked on the third weekend and each additional weekend following until the employee is scheduled for at least one full weekend off. The overtime rate will not be paid where:

1. Such weekend has been worked by an employee to satisfy days off requested by such employee, or
2. Such employee has requested weekend work, or
3. Such weekend is worked as a result of an exchange of shifts with another employee.

Transportation allowance to satellite sites – Article 17.06(b)

17. The Union has made a proposal on this item and the Employer has responded. We believe our award above regarding transportation allowance in our discussion of the multi-site issue determines this issue. To the extent the parties cannot resolve the language in light of our award, we remain seized.

Vacation procedures – Article 19.04

18. There are two issues to be addressed under Article 19.04(a), and the Union proposes a new Article 19.04(b). The parties agree to the wording, “no less than five (5) week days off during these time frames if the normal work week is Monday to Friday or 3 days if the employee works weekends.”, at the end of the 5th paragraph of Article 19.04(a).

19. They disagree on the form of the vacation requests and whether there should be a separate vacation request book. In our view the difference between the parties over the form of the vacation requests is resolved by requiring the Hospital to promptly inform those who seek vacation (after March 15 each year) on the first-come-first-serve basis of whether their vacation request is granted. We therefore award that the Employer respond within 72 hours to vacation requests made after March 15. This will, we believe, obviate the need for a vacation book. We refer the language of the provision back to the parties, and we remain seized if they are unable to resolve it.

20. We decline to award the Union’s proposed Article 19.04(b).

Senior technologist duties – Article 33.04

21. The Union proposes a new Article 33.04 to enable the senior technologist to perform their administrative duties. We decline to award this proposal, however we clarify that senior technologists are entitled to overtime pay for overtime work and for work during their lunch break.

Local Union President's leave – Article 33.06

22. We award the following:

33.06 The ranking Union officer at the Hospital shall be entitled to one (1) day's leave per month and will suffer no loss of pay, benefits, service or seniority during such leave. The scheduling of such leave will be by mutual agreement between the affected employee and their supervisor.

We see this provision as an opportunity for the parties to re-build their relationship. We would expect them to review this provision in light of their experience over the period of the collective agreement.

Dual Modality Registration – Article 33.07

23. We decline to award this Union proposal, however we reiterate the undertaking made by the Employer at the hearing that an employee with dual modality registration is entitled to apply for a vacancy in a single modality.

24. We remain seized with respect to the interpretation or implementation of this award.

DATED at TORONTO on Thursday, July 5, 2007.



Christopher J. Albertyn

Chair: board of arbitration

I concur:

“Angelo Pesce”

Angelo Pesce

Hospitals’ Nominee

I concur:

“J. Cameron Nelson”

J. Cameron Nelson

Union Nominee