

Justice For All

By Jim Jurens,
OPSEU MAG
MERC Co-Chair

A newsletter for OPSEU members in the Ministry of the Attorney General

September 2014

COURT REPORTER UPDATES

The Ministry of Attorney General for many years had been treating OPSEU members who were producing court transcripts as independent contractors. It has always been, and it remains OPSEU's position, that this work is bargaining unit work with all of the related benefits of the collective agreement attached to it.

The Hunt et al grievances were filed as the ministry was improperly treating court reporters as independent contractors while they were doing transcript work. Eventually after many difficult years of victories by OPSEU at the Grievance Settlement Board (GSB) a Minutes of Settlement (MOS) was signed with the employer that allowed court reporters the option to enhance their pensions or take a cash settlement.

This outcome became possible when OPSEU was able to demonstrate that the ministry remained the employer because it maintained direct control over how transcript work was done. It was also responsible for hiring, firing, discipline and pay administration over transcript production.

Considerable work has been achieved over the past several months to identify those court reporters who may benefit from the Hunt et al MOS. Through our efforts, more than 1,900 OPSEU members have been identified as being eligible to possibly participate in the settlement.

Separate from the Hunt et al proceedings at the GSB and the eventual MOS, the employer continued to plan and then implemented their current new model for court transcript production.

The ministry did this via a Request for Proposal (RFP) for a third party vendor to assume responsibility for the administration of transcript production. Many discussions were held between OPSEU and the employer in an effort by the union to dissuade the ministry from introducing this new model. The new model would be exactly the opposite of OPSEU's position and the ministry's own position from a few years ago when it acknowledged the accuracy and integrity of a transcript could only be guaranteed if the court reporter who took the record in court also produced the transcript.

TALK CONNECT UNITE

Jim Jurens

Chair

Local 526
647-222-3855
opseumagmerc@hotmail.com

Tim Elphick

Vice Chair

Local 225
W: 519-881-5345
OPSEU225@gmail.com

Tina Stevens

Member

Local 102
W: 519-660-3282
charmcentral2000@rogers.com

Johanne Bourgeoise

Member

Local 633
W: 705-495-8339
jono.bourgeois@live.ca

Authorized for
distribution:



**Warren (Smokey)
Thomas, President**

Ontario Public Service
Employees Union

A three-month moratorium on OPSEU from filing grievances against the new model was agreed upon as a condition imposed by the employer before it would sign the Hunt et al MOS. This three-month period was also useful for us so that OPSEU could attempt to gather evidence. Our position was that the employer's new contracting-out model may have demonstrated the same flaws as the one under which we were able to prevail in the Hunt et al award.

So far, OPSEU has found no evidence that the employer has improperly contracted-out the production of transcript work. We have not seen any examples where the ministry is directly involved in directing the work of transcript production, hiring, firing, discipline or pay administration. Unless those

conditions are discovered, it will be impossible to successfully grieve the contracting-out of transcript production.

Originally it appeared that under the employer's new model the third party vendor would become, in fact, the new employer for members who produced transcripts. In that case successor rights could be grieved for our members.

As transcript production work is not paid through Arkley there is no employer-employee relationship. This means there is no employer. Which, in turn, means successor rights cannot be grieved.

We are requesting that members continue to provide us with any evidence that the ministry is still directing how the work of producing transcripts is done, or if it

is directly involved in any hiring or firing or discipline matters related to transcript production. If evidence of this is uncovered we can revisit the issues of grieving the contracting out and successor rights. Please forward this information to Cindy Abric-Forsyth at cforsyth@opseu.org

The issue of agency court reporters being used extensively in some courts is of great concern to OPSEU. The matter is progressing through policy grievances we have filed at the GSB. There have been nine hearing dates with extensive evidence so far and we continue to press for a quick resolution. If your court house is still using agency court reporters on a regular basis please forward this information to Cindy Abric-Forsyth at cforsyth@opseu.org

A friendly reminder!

Please ensure that you continue to maintain your records by tracking the specifics of all of your out-of-court hours and expenses while you are doing transcripts on your own time. The employer insists on strict proof at the Grievance Settlement Board.

Please email opseumagmerc@hotmail.com from your secure home computer [not your MAG computer] with the subject line *Count Me In* if you wish to be added to our MAG MERC email list

In Solidarity

Jim Jurens,
OPSEU MAG MERC Co-Chair,
opseumagmerc@hotmail.com

Tim Elphic, Vice-Chair
Tina Stevens, Member
Johanne Bourgeoise, Member

If you have any concerns

Please contact us by e-mail at: opseumagmerc@hotmail.com. Always avoid using your government-issued email account as it may be monitored by the employer.