

IN THE MATTER OF AN ARBITRATION

BETWEEN:

Cornwall Community Hospital

(The Hospital)

-and-

Canadian Union of Public Employees, Local 7811

(The Union)

AND IN THE MATTER OF A UNION GRIEVANCE ABOUT NOTICE OF
ELIMINATION OF POSITIONS PURSUANT TO ARTICLE 9.08(A)(a) OF THE
COLLECTIVE AGREEMENT.

Board of Arbitration - Ken Petryshen - Arbitrator
Joe Herbert - Union Nominee
Rob Jones - Employer Nominee

APPEARANCES:

For the Union:

Lindsay Lawrence - Counsel
L. Rodrigues - OCHU
D. Pecore - Local President N. Antoine - Local VP S. Alguire - Chief Steward
A. Renwick - Local RS P. Boileau - National Rep.

For the Employer:

J.D. Sharp - Counsel
M. Abou-Hamad - Student-at-Law
C. Maruno - HR Business Partner

The hearing was held at Cornwall, Ontario, on October 18, 2018.

AWARD

[1] Grievance No. 5-25-2017-DP2 relates to the issue of notice of elimination of positions under the Collective Agreement between the parties pursuant to Article 9.08(A)

(a). One of the issues raised by the grievance is whether the notice provided by the Hospital was sufficient in that it did not provide a specified date. This Award deals with the first of these issues. The parties have agreed to bifurcate the remaining issues to be heard subsequent to this Award.

[2] For the purpose of the issue concerning the sufficiency of notice, the parties agree to the following facts:

- (a) Colette Piche worked as a Full Time Patient Registration Clerk, aka Admitting Clerk, in the Day Surgery department at the Hospital.
- (b) On March 9, 2017, Ms. Piche handed in her written notice that she would be voluntarily retiring as of June 30, 2017. This notice was provided to the Hospital. It was not provided to the Union.
- (c) On April 25, 2017, the Hospital wrote to the Union as follows:

Pursuant to Article 9.08(A)(a) of the Collective Agreement, this letter shall constitute written notice of the elimination of one (1) Admitting Clerk position. In particular, the Admitting Clerk position currently occupied by Colette Piche will be eliminated upon her retirement.

Should CUPE wish to establish the Redeployment Committee to discuss this elimination, the Hospital will schedule a mutually agreeable time to meet.

- (d) The Redeployment Committee met on May 9, 2017, at which point the Hospital described Ms. Piche's retirement as being "at the end of June."
- (e) On July 14, 2017, the Hospital gave its Step 2 response to Grievance No. 5-25-2017-DP2. In its response, the Hospital wrote:

The Hospital's investigation into this grievance reveals that the Union was provided notice of elimination of the full-time Admitting Clerk position formerly occupied by Colette Piche on April 25, 2017 in accordance with Article 9.08(A) of the collective agreement. Ms. Piche subsequently

retired on June 30, 2017 and in accordance with Article 9.05(e) of the collective agreement the Hospital was not required to post and fill the eliminated position.

- (f) The Union does not dispute that as of July 14, 2017, they had been provided with effective notice of the elimination of the Full Time Admitting Clerk position for the purposes of Article 9.08(A)(a).

[3] The Board finds that the notice provided by the Hospital to the Union on April 25, 2017 failed to provide the date of the elimination of the position and in that respect did not meet the requirements of the Collective Agreement. Article 9.08(A)(a) requires that, in the event of the elimination of a position within the bargaining unit, the Hospital “shall (i) provide the Union with no less than five (5) months’ written notice of the proposed layoff or elimination of the position;”

[4] The Hospital’s letter of April 25, 2017 advising that the position would be eliminated upon the incumbent’s retirement was not effective notice. The Hospital was required to provide written notice of the actual date when the position would be eliminated for the purposes of Article 9.08(A)(a). The Union has requested a declaration that the notice was not effective notice and the Board so declares. The Union has not requested any further remedy in respect of the issue addressed in this Award.

Dated at Toronto this 23rd day of October 2018.

Ken Petryshen

Ken Petryshen - Arbitrator

“I concur – Joe Herbert”

Joe Herbert - Union Nominee

“I concur – Rob Jones”

Rob Jones – Hospital Nominee