

## **IN THE MATTER OF AN ARBITRATION**

Between:

**CUPE LOCAL 57**

and

**GUELPH GENERAL HOSPITAL**

**Before:** Arbitrator Michael McCreary

### **Appearances for the Union:**

Kialun Chen

Cheryl Brodie-Campbell, Local President

Mark Zinger, Vice President of Local

Jason DeFraga, CUPE National Representative

### **Appearances for the Employer:**

Glen Christie

Caitlyn Routh

Anna Kopanaski

Geoff Wood

## **AWARD**

I was appointed pursuant to section 49 of the Labour Relations Act to adjudicate a grievance between CUPE Local 57 and Guelph General Hospital. The Union and the Employer are parties to a collective agreement titled CUPE Service Full-Time. The Union filed a grievance alleging that the Hospital failed to grant a leave of absence to a newly elected Local President. The matter went unresolved during the grievance procedure. In the result, the Union filed the section 49 referral.

The parties agreed on a statement of facts, reproduced below. Those facts constituted the totality of the evidence before me.

### **AGREED STATEMENT OF FACTS**

1. Guelph General Hospital (the “Hospital” or “Employer”) and CUPE, Local 57 (the “Union”) are parties to a Collective Agreement (Tab 1). The Collective Agreement comprises central provisions that are negotiated on a province-wide basis (the “Central Agreement”) and local provisions that are negotiated at the local level (the “Local Agreement”).
2. On October 21, 2025, Cheryl Brodie-Campbell was elected as the new union president.
3. Ms. Brodie-Campbell is employed as a full-time Personal Support Worker (“PSW”) at the Hospital in the PSW Float Pool. She works 12-hour shifts, totalling 225 hours averaged over six weeks. She carries out her union responsibilities when she is not working as a PSW.
4. On December 16, 2025, the Union held a membership meeting where there was a motion to have Ms. Brodie-Campbell take a full-time unpaid leave under Article 12.03(A) and for the Union to reimburse the Hospital for her salary (Tab 2). The members did not vote on the motion on that date.
5. On January 19, 2026, the Union held another membership meeting where the members voted to pass the motion and approve the Union president to take an unpaid leave and have the Union reimburse the Hospital pursuant to Article 12.03(A) (Tab 3).
6. On January 22, 2026, the Union wrote a letter to the Hospital requesting a leave of absence pursuant to Article 12.03(A) for Ms. Brodie-Campbell, effective immediately (Tab 4).
7. In a subsequent email exchange between the Hospital and the Union (Tab 5), the Hospital denied the leave.
8. Ms. Brodie-Campbell continues to work her full-time FTE as a PSW in addition to carrying out her union duties. Ms. Brodie-Campbell started booking one day off every six-week rotation for Union business in January 2026 and the Hospital has allowed that.
9. On February 3, 2026, the Union filed this grievance (Tab 6). The Hospital did not issue a Step 2 response.
10. On March 23, 2026, the Union applied for expedited arbitration pursuant to section 49 of the Labour Relations Act (“LRA”).

The relevant portions of the collective agreement are as follows:

#### 6.03 – LOCAL BARGAINING COMMITTEE

The Hospital agrees to recognize a negotiating committee comprised of hospital employee representatives of the Union for the purpose of negotiating a renewal agreement (as set out

in the Local Provisions Appendix). The Hospital agrees to pay members of the negotiating committee for 4 CUPE SERVICE FULL-TIME 2021 - 2023 straight time wages lost from their regularly scheduled working hours spent in direct negotiations for a renewal agreement, up to but not including arbitration. Nothing in this provision is intended to preclude the Union negotiating committee from having the assistance of any representatives of the Canadian Union of Public Employees when negotiating with the Hospital.

6.04 – CENTRAL BARGAINING COMMITTEE (a) In central bargaining between the Canadian Union of Public Employees and the participating hospitals, an employee serving on the Union's Central Negotiating Committee shall be paid for time lost from their normal straight time working hours at their regular rate of pay and without loss of leave credits for attending central negotiating meetings with the Hospitals' Central Negotiating Committee in direct negotiations up to the point of arbitration...

#### 12.01 – PERSONAL LEAVE

Written request for a personal leave of absence without pay will be considered on an individual basis by the Hospital. Such requests are to be submitted to the employee's immediate supervisor at least four (4) weeks in advance, unless not reasonably possible to give such notice, and a written reply will be given within fourteen (14) days except in cases of emergency in which case a reply will be given as soon as possible. Employees needing personal leave days for appointments with medical practitioners may utilize the personal leave language. Such leave shall not be unreasonably withheld.

#### Article 12.02 – Union Business

The Hospital shall grant leave of absence without pay to employees to attend Union conventions, seminars, education classes and other Union business in connection with the administration of the collective agreement provided that such leave will not interfere with the efficient operation of the Hospital. Such leave will not be unreasonably denied.

The cumulative total leave of absence, the number of employees that may be absent at any one time from any one area, and the number of days of absence shall be negotiated locally and are set out in the Local Provisions Appendix.

#### Article 12.03(A) – FULL-TIME POSITION(S) WITH THE UNION

Upon application by the Union, in writing, the Hospital shall grant leave of absence, without pay, to an employee elected or appointed to full-time Union office. It is understood that no more than two (2) employees in the bargaining unit may be on such leave at the same time. Such leave shall be for a period of one (1) calendar year from the date of appointment

unless extended for a further specific period by agreement of the parties. It is understood that no more than one (1) employee will be from the same unit of the Hospital, subject to operational requirements.

#### 12.04 – BEREAVEMENT LEAVE

Any employee who notifies the Hospital as soon as possible following bereavement will be granted bereavement leave for four (4) consecutive working days off without loss of regular pay from regularly scheduled hours in conjunction with the death of the spouse, child, or parent.

Any employee who notifies the Hospital as soon as possible following a bereavement will be granted bereavement leave for three (3) consecutive working days off without loss of regular pay from regularly scheduled hours in conjunction with the death of the sister, brother, mother-in-law, father-in-law, son-in-law, daughter-in-law, grandparent, grandchild, brother-in-law, sister-in-law or grandparent of spouse.

An employee shall be granted one (1) day bereavement leave without loss of regular pay from regularly scheduled hours to attend the funeral of their aunt or uncle, niece or nephew.

The Hospital, in its discretion, may extend such leave with or without pay. Where an employee does not qualify under the above-noted conditions, the Hospital may, nonetheless, grant a paid bereavement leave. For the purpose of bereavement leave, the relationships specified in the preceding clause are deemed to include a common-law spouse and a partner of the same sex.

#### Appendix D-4

Union leaves of absence will not exceed 85 days total (Full-time and Part-time). Individual representatives, except the President, are to be limited to 15 days maximum. Subject to operational requirements, members that are approved by the executive of the union who request union leave of absence shall not have such requests unreasonably denied.

#### Appendix K-8 – Union President Time Off

For purposes of local Union business, the Local Union President shall be entitled up to three hundred (300) hours paid leave at her/his straight time hourly rate from April 1st of a current year to March 31st of the following year.

## The Union's Position

The Union submits that Ms. Brodie-Campbell's request for a leave of absence falls squarely within the wording of Article 12.03(A) of the collective agreement.

It is the Union's view that the language in Article 12.03(A) is mandatory and that, once Ms. Brodie-Campbell was elected to the office of President and the request for a leave of absence was made, the Employer was required, pursuant to the terms of the collective agreement, to provide the leave of absence.

The Union relied on the mandatory language of Article 12.03(A) and submitted that the local appendix could not be read to remove that negotiated entitlement.

The Union advanced three arguments in support of its position. First, the plain language of Article 12.03(A) is not subject to Employer approval. Second, there is no conflict between Article 12.03(A) and any of the local appendices, including Appendix D-4. Finally, the Labour Relations Act, and in particular section 70, ought to inform my decision-making.

The Union submitted that Article 12.03(A) creates a distinct avenue for absences related to Union business. Ms. Brodie-Campbell was elected Local President, the local membership voted in favour of her becoming a full-time paid Union representative, and that request was communicated to the Employer. In the Union's view, those facts satisfied the conditions of Article 12.03(A). The Union further submitted that Article 12.03(A) accounts for the operational impact of a Local President becoming a full-time employee of the Union: no more than two employees may be on such leave at one time, no more than one may be from the same unit, and the Employer may fill the vacancy through Article 20.01. Because the Employer does not pay for the absence, the parties created language that addresses the Hospital's staffing needs.

In the Union's opinion, Article 12.02 creates a separate lane for Union business absences. An Article 12.02 Union business absence occurs when the employee remains on the Hospital's payroll during the absence, not on the Union's payroll. An Article 12.02 absence is qualified by Appendix D-4, a local appendix.

Articles 12.01, 12.02 and 12.04 all reference the Hospital's discretion in granting, or in the case of Article 12.04 extending, leave requests. Again, in the Union's view, Article 12.03(A) vests no discretion in the Employer to deny the leave.

The Union encouraged me to read the agreement as a whole, give meaning to all of its words, and conclude that one avenue permits a Local President to become full-time with the Union and be absent from the Hospital for one year, while the other applies where the Local President, or another employee, continues to work for the Hospital and performs

Union duties on an ad hoc or periodic basis. In the Union's view, Article 12.02 creates the latter avenue, and Appendix D-4 establishes the guardrails for that type of leave. Appendix D-4 has no application to Article 12.03(A).

The Union relied on the following authorities:

1. *Ontario Power Generation and Society of Energy Professionals*, [2012 CanLII 81972](#) (ON LA) (Surdykowski)
2. *Toronto (City) v. CUPE, Local 79*, [2008 CarswellOnt 8903](#) (ON LA) (Stewart)
3. *Headwaters Health Care Centre v. Ontario Nurses' Association*, [2016 CanLII 156699](#) (ON LA) (Stout)
4. *Bruce Power L.P. v. Society of United Professionals*, [2021 CanLII 62549](#) (ON LA) (Surdykowski)
5. *Halton Catholic District School Board v. Ontario English Catholic Teachers' Association*, [2021 CanLII 65356](#) (ON LA) (Steinberg)
6. *Teamsters Canada Rail Conference v. Canadian Pacific Railway Company*, [2015 CIRB 775](#) (CIRB) (MacPherson)

## The Employer's Position

The Hospital submits that Article 12.03(A) is not engaged. It says that Article 12.02 provides a complete code for absences for local Union business. In the Hospital's submission, it makes sense that the complete code in Article 12.02 is modified by a local appendix because each local has unique needs. In this case, the Local Union and Employer negotiated an 85-day maximum for the Local President to take time off.

Appendix D-4 must be given its plain and ordinary meaning, and each of its words must be given effect. The appendix specifically refers to the Local President. To find that it does not apply to a Local President's leave would ignore its wording and breach a foundational rule of collective agreement interpretation.

The Employer submitted that the case law provides general guidance on collective agreement interpretation, but that this is a case of first instance and the answer lies in a common-sense reading of Article 12.03(A) and Appendix D-4. The Employer argued that reading those provisions as separate entitlements would give the Local President access to more than 400 days off, an absurd result. On the Union's interpretation, the Union would have access to both a D-4 entitlement and an Article 12.03(A) entitlement. The parties could not have intended that level of Union business leave. The more sensible interpretation, according to the Employer, is to cap the Local President's leave at 85 days

under Appendix D-4. Simply put, Article 12.03(A) does not apply, and the Union's interpretation produces an absurd result.

The Employer also relies on the heading in Article 12.02, which expressly refers to "Union business". The Union's position is that Article 12.03(A) also applies to Union business, even though its heading does not say so. In the Employer's view, headings assist in identifying the parties' intention.

The Employer further submitted that Article 12.03(A), read with common sense, was intended to allow CUPE National to assess whether a local employee has potential for full-time employment with the Union. On that basis, the reference to "union" in Article 12.03(A) should be understood as referring to the Canadian Union of Public Employees, not the Local.

Ultimately, the Employer says there is not one lane for full-time Union office leave and another for other Union business leaves. There is only one lane: the complete code in Article 12.02, as modified by Appendix D-4, under which the Local President is capped at 85 days of leave.

In the Employer's view, its interpretation avoids conflict between Articles 12.02 and 12.03(A), prevents an irrational result, and allows the collective agreement to be read consistently.

The Employer relied on the following decisions:

1. *Bruce Power LP v. The Society of Energy Professionals*, 2011 CanLII 41928 (ON LA)
2. *Trent University v. Canadian Union of Public Employees, Local 3908*, 2019 CanLII 78862 (ON LA)
3. *The City of Hamilton v. Canadian Union of Public Employees and its Local 5167*, 2021 CanLII 138051 (ON LA)

## Issue

The narrow issue before me is whether Article 12.02, as modified by Appendix D-4, is a complete code for Union business leaves, or whether it operates independently from Article 12.03(A). Put differently, does the collective agreement create two pathways for Union business leaves, or only one?

## Decision

For the reasons that follow, I find that Article 12.03(A) applies to the request and that Article 12.02 and Appendix D-4 do not provide a basis for denying it. The collective agreement creates two separate leave entitlements: one for an employee elected or appointed to full-time Union office, and another for shorter Union business leaves while the individual continues to work for the Hospital. Specifically, a Local President is entitled to a one-year leave when serving full-time for the Union but is limited to a maximum of 85 days when continuing to work for the Hospital.

The Employer is correct that the issue turns on the interpretation of the collective agreement, not on any single authority cited by the parties. The Employer is also correct that the case law nevertheless provides the general principles that guide that interpretive exercise. I begin with the principle that the parties did not intend to agree to terms that conflict with one another. A collective agreement must be read harmoniously and as a whole. Arbitrators should be reluctant to conclude that clauses are in actual, irreconcilable conflict. Instead, they should apply a strong presumption against internal contradiction. Individual clauses cannot be isolated; they must be interpreted in the context of the entire agreement to preserve internal consistency. If two provisions appear, at first glance, to clash, the arbitrator should attempt to give both a meaning that allows them to coexist without overriding or nullifying either one.

Applying the foregoing principles to the case at hand leads to the conclusion that Article 12.03(A) is the provision that governs the type of leave requested in this case. It applies where the Union makes a written application for a leave of absence, without pay, for an employee elected or appointed to full-time Union office. The agreed facts establish that Ms. Brodie-Campbell was elected President of the Local, that the Union membership approved a motion for her to take a full-time unpaid leave under Article 12.03(A), and that the Union made a written request to the Hospital for that leave. On those facts, the request falls within Article 12.03(A).

I have also considered the final sentence of Article 12.03(A), which provides that no more than one employee may be from the same unit of the Hospital, subject to operational requirements. On the agreed facts, no other employee from Ms. Brodie-Campbell's unit was elected or appointed to a full-time Union position. Accordingly, the Hospital's discretion with regard to operational requirements is not activated. Given the agreed facts, the Union has satisfied the requirements of Article 12.03(A).

I do not accept that Article 12.02 as modified by Appendix D-4 overrides Article 12.03(A). Appendix D-4 addresses general union business leaves of absence. It limits individual

representatives to a maximum of 15 days and provides the Local President with a maximum of 85 days. In my view, the President's full-time Union office leave under Article 12.03(A) was not intended to be absorbed into, or limited by, the 85-day leave bank in Appendix D-4. Rather, Article 12.02 is the provision limited by that appendix. In fact, the third paragraph of Article 12.02 says that the number of days of absence shall be negotiated locally and are set out in the Local Provisions Appendix. There is no similar wording in Article 12.03(A), and it would be inappropriate for me to infer such language.

This interpretation also gives effect to both provisions. Article 12.03(A) continues to govern unpaid leave while working full-time for the Union, while Article 12.02, as modified by Appendix D-4, continues to govern other leaves requested by individual representatives for Union business while working for the Hospital. Reading Appendix D-4 as silently capping the President's full-time Union office leave at 85 days would substantially undermine Article 12.03(A), which expressly contemplates a one-calendar-year leave. Such a result would require clear language. I do not find such language in Appendix D-4.

I reach the same conclusion with respect to Appendix K-8. That provision gives the Local Union President up to 300 hours of paid leave for local Union business during the specified period. It addresses a different subject matter: paid time off for local Union business while the President remains at work. It does not address, and does not purport to restrict, an unpaid leave of absence for an employee elected or appointed to full-time Union office. Appendix K-8 therefore also does not displace Article 12.03(A).

The Hospital's interpretation would leave the President with a negotiated entitlement to a one-calendar-year leave in Article 12.03(A), while simultaneously limiting that same leave to, at most, the 85 days referred to in Appendix D-4 or the 300 paid hours referred to in Appendix K-8. Such an interpretation creates exactly the type of conflict within a collective agreement that arbitrators should be reluctant to find. I do not read the collective agreement in that manner. The more coherent interpretation is that the provisions operate in different circumstances.

The clauses are not in conflict. They can, and should, be read as applying to different types of leave: a one-year full-time Union office leave, on the one hand, and periodic time off to attend Union conventions, seminars, education classes and other Union business, on the other. In the result, Article 12.02 is not a complete code for absences for Union business; there are two codes. Because the two codes operate independently and are not cumulative, the absurd result suggested by the Employer does not arise.

I also do not accept the Employer's argument that Article 12.03(A) is limited to situations where the parent union, the Canadian Union of Public Employees, is assessing a potential

full-time hire. That may occur in some cases, but Article 12.03(A) is not limited to the Canadian Union of Public Employees. I cannot conclude that the reference to “union office” in Article 12.03(A) excludes the Local Union. The title page of the collective agreement defines CUPE Local 57 as the Union. The word Union must therefore, at minimum, include the Local Union. The phrase “union office” is not exclusively a reference to the Canadian Union of Public Employees. Articles 6.03 and 6.04 specifically refer to the Canadian Union of Public Employees, not Local 57. If the parties had intended “union” in Article 12.03(A) to mean the Canadian Union of Public Employees, they knew how to say so. Because the parties did not use Canadian Union of Public Employees in Article 12.03(A), and instead used “union office”, those terms should be given different meanings. I find that the word Union in Article 12.03(A) cannot be read to exclude Local 57.

The Union also referred to section 70 of the Labour Relations Act. Given my conclusion that the grievance succeeds on the language of the collective agreement, it is unnecessary to decide whether section 70 supports the same result. I decline to comment further on section 70 because there are no allegations against the Employer that would require its consideration.

In summary, Article 12.03(A) applies to the leave request in this case. The agreed facts satisfy the conditions in that article. Appendix D-4 and Appendix K-8 address different forms of Union leave and do not contain clear language limiting or overriding the full-time Union office leave provided for in Article 12.03(A).

For those reasons, I find that the Hospital breached the collective agreement when it denied the Union’s written request for an unpaid one-calendar-year leave of absence for Ms. Brodie-Campbell.

The Union asked for damages. I decline to order them. No allegation of bad faith was raised. Indeed, I find that the Employer maintained its position in good faith. It raised its position on the applicability of Appendix D-4 before the grievance was filed and maintained that same position in legal argument some five months later. In any event, any damage award should be compensatory, not punitive. On this record, there is no evidence of a compensable loss beyond the denial of the leave itself. The appropriate remedy is therefore a declaration of breach and an order that the leave be granted.

In the result, the grievance is allowed and the Employer is ordered to provide Ms. Brodie-Campbell with the leave requested forthwith. I remain seized with respect to any implementation issues arising from this award.

Dated at Toronto, Ontario, this 7th day of July 2026.

*Michael McCreary*

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**Arbitrator Michael McCreary**