

IN THE MATTER OF AN ARBITRATION

BETWEEN:

Haldimand War Memorial Hospital

-and-

**Grand River Valley Health Care Employee's Union,
Local 305, affiliated with the Christian Labour Association of Canada**

Interest Arbitration under the *Hospital Labour Disputes Arbitration Act*

Arbitration Board:

**Lorne Slotnick, Chair
Ted Capstick, Employer Nominee
Shalom Schachter, Union Nominee**

**Representing the Union – Amy Rideout
Representing the Employer – Damian Borrelli
Hearing - by Written Submissions.**

SUPPLEMENTARY AWARD

On October 28, 2014, we released an award in an interest arbitration under the *Hospital Labour Disputes Arbitration Act*, settling a first collective agreement in each of two bargaining units at the Haldimand War Memorial Hospital in Dunnville, Ontario (2014 CanLII 63561 (ON LA).)

An issue has arisen that the parties have asked us to clarify, with respect to one of the classifications, the Lab Patient Technicians.

The following excerpt from our earlier award provides the background facts and our order relevant to this classification:

Lab Patient Technician

There are four employees in this classification – one part-time and three casual. It is a new classification, brought into the hospital after the union was certified to represent the two bargaining units. The employees had been working for a separate family health team which leased space at the hospital. When the family health team discontinued the services these employees performed, the hospital took on the employees in May, 2013. At that time, the four employees received a significant hourly pay raise.

The parties disagree on whether this group belongs in the service unit or in the paramedical unit; they also disagree on pay raises for this group. The employer asks that they be put in the service unit. The union seeks their inclusion in the paramedical unit, and argues that this board has no jurisdiction to settle their pay, as the parties have already agreed on pay raises for the paramedical unit.

Having reviewed the job postings for this position and other documentation, it is our view that the core duties of this position are the same as those who at other hospitals are classified as phlebotomists. Therefore, the classification of lab patient technician and the employees in that classification will be put in the paramedical unit.

However, we disagree with the union's argument that we have no jurisdiction to determine a pay rate for the lab patient technicians that differs from the raises agreed to for the rest of the paramedical unit. In our view, the employer's agreement to tie pay rates for the paramedical unit to the rates in the OPSEU central paramedical agreement with participating hospitals was without prejudice to its argument that the lab patient technicians should not receive the OPSEU rates even if they ultimately were placed in the paramedical unit.

This position's counterpart in the OPSEU central agreement is Technician 2. (Technician 2 in the OPSEU agreement specifically includes phlebotomists.) The parties have settled paramedical pay rates based on implementing OPSEU central rates as of April, 2013 a year later, in April 2014. The four-year rate for Technician 2 in the OPSEU agreement, effective in April, 2013, is \$26.07 hourly. The patient lab technicians are currently paid \$18.57 hourly. However, unlike the rest of the paramedical employees – who have not received any pay raises since 2010 – the patient lab technicians received a substantial increase in 2013, as noted above.

In our view, the pay gap between the lab patient technicians and the OPSEU comparators is so large that it would be unduly onerous for the hospital to bridge it entirely in this first collective agreement. We will order the gap closed half way, and leave it to the parties to negotiate further on this issue in upcoming rounds of bargaining.

The board therefore orders:

- Lab patient technicians will be included in the paramedical bargaining unit.
- Pay for each employee in this group will be raised to \$22.32 per hour, effective April 1, 2014.
- The pay grid in the paramedical unit for lab patient technicians will be the same as the OPSEU central agreement Technician 2 grid that was in effect as of April 22, 2013, minus \$3.75 per hour on each step. Because there is already a start rate in that grid, the 97 per cent start rate noted above will not apply.

As is indicated above, we made our award based on the understanding that each of the incumbents was paid \$18.57. As it turned out, that was mistaken. In follow-up submissions, the hospital pointed out that a wage grid had been in place and that none of the incumbents was paid at the top rate of \$18.57. Furthermore, unbeknownst to the board, an additional person had been hired into the classification just prior to the hearing; that person was also paid less than the top rate.

In addition to the issues with pay for incumbents and the new hire, the hospital stated that, notwithstanding the award, the union had agreed subsequent to the award to implement a start rate of 97 per cent of Step 1 for this classification, as agreed for all other classifications.

These issues were brought to our attention by the hospital, and both parties subsequently filed written submissions. We have carefully considered those submissions and we agree that some

changes to our original award are necessary based on the new information provided. We hereby amend our order with respect to the Lab Patient Technicians to read as follows:

- Lab patient technicians will be included in the paramedical bargaining unit.
- Effective April 1, 2014, the pay grid for this classification will be as follows:

Start – 18.33
1 year – 18.90
2 year – 19.75
3 year – 20.60
4 year – 21.46
5 year – 22.32

- Each person who was incumbent in the classification as of April 1, 2014, shall receive an hourly increase of \$3.75 on their rate as of March 31, 2014, retroactive to April 1, 2014.
- Effective October 28, 2014, the date of our original award, each person who was incumbent in the classification as of April 1, 2014 will move to the rate on the grid above that is next highest to their rate of pay as of October 27, 2014.
- The incumbent hired into the classification in September, 2014, will be paid at the 2-year rate above, retroactive to her date of hire, and will advance on the grid in accordance with the provisions of the collective agreement.

All other provisions of our original award remain.

April 9, 2015

“Lorne Slotnick”

Lorne Slotnick, Chair

“Ted Capstick”

I concur - Ted Capstick, Employer Nominee

“Shalom Schachter”

I concur – Shalom Schachter, Union Nominee