

IN THE MATTER OF THE ONTARIO LABOUR RELATIONS ACT, 1995

AND IN THE MATTER OF AN ARBITRATION

B E T W E E N :

CHILDREN'S AID SOCIETY OF TORONTO

("the employer")

- and -

CANADIAN UNION OF PUBLIC EMPLOYEES, LOCAL 2316

("the union")

AND IN THE MATTER OF the discharge grievance of Sherry Hajjar dated March 21, 2013.

BEFORE: John McNamee, Sole Arbitrator

APPEARANCES: For the Employer:

Elizabeth Kosmidis (Counsel)
Blair Boddy (Director, Internal Resources)
Andrea Lyttle (Manager, Labour Relations)

For the Union:

Paul Edwards (Union Representative)
David Laird (Union Advisor)
Andy Gonsalvez (Local President)
Sherry Hajjar (Grievor)
George Hajjar

A hearing in this matter took place at Toronto, Ontario, on April 9, 2014.

A W A R D

This matter involves the discharge of Sherry Hajjar from the employ of the Children's Aid Society of Toronto on March 20, 2013.

Ms. Hajjar filed a grievance alleging that her discharge was without just cause dated March 21, 2013. That matter came on for hearing before me on April 9, 2014.

On the day of the hearing, I was advised that Ms. Hajjar had also filed a complaint regarding the termination of her employment with the Ontario Human Rights Tribunal. Accordingly, after the parties had concluded opening statements, I asked the union to advise me if, and how, the allegations contained in the human rights complaint would be dealt with in this proceeding.

The union responded, after consultation with Ms. Hajjar, that it would deal with all of the matters in respect of the grievor's termination from employment, including those cited in the human rights complaint, in the arbitration before me.

The employer thereupon called its first witness, and proceeded with his evidence in chief. That examination in chief had not been concluded when we adjourned for the day.

Prior to the next day of hearing, on April 17, 2014, I received a copy of a message sent by the union to counsel for the employer. That message read, in part:

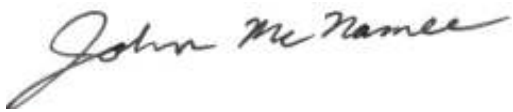
“Please be advised that the Union has determined to withdraw Grievance 2013-11 without prejudice. The grievor has determined to pursue this matter through her Human Rights application. The grievor advised the Union of her decision to change venues in writing today and the Union agreed with her decision.”

The grievor referred to in that message was Ms. Hajjar.

The employer responded that it would not object to the withdrawal of the grievance, but that any such withdrawal should be “with prejudice”.

I am not prepared to rule as to whether or not the grievance was withdrawn “with” or “without” prejudice. The consequences of the withdrawal, if any, are properly within the jurisdiction of any other tribunal which is asked to rule upon any issue in respect of the grievor’s departure from the employ of the Children’s Aid Society of Toronto.

DATED at Toronto, this 23rd day of April, 2014.

A handwritten signature in cursive script, reading "John McNamee".

John McNamee, Sole Arbitrator