

IN THE MATTER OF AN ARBITRATION

BETWEEN:

City of Toronto

-and-

**Toronto Civic Employees' Union
(Canadian Union of Public Employees,
Local 416)**

Policy Grievance re: Post-65 Retiree Benefits

Lorne Slotnick, Arbitrator

Representing the Employer – Darragh Meagher

Representing the Union – Howard Goldblatt

Hearing – Toronto, Ont., November 24, 2015.

A W A R D

This dispute arises from the interpretation of a Note incorporated into Article 17 of the collective agreement. When originally incorporated into the collective agreement, through an arbitration award, the Note provided that:

Any employee who is eligible for retiree benefits beyond age sixty-five (65) at the time that this Collective Agreement is ratified shall continue to be eligible for said benefits.

The Note was renewed by the parties through subsequent rounds of collective bargaining in 2005 and 2009. This gave rise to a dispute as to whether the "time that this Collective Agreement is ratified" referred to the date of the arbitration award or the date upon which subsequent collective agreements between the parties were ratified.

In collective bargaining between the parties, in 2012, the parties agreed to amend the Note as follows:

Any employee who is eligible for retiree benefits beyond age sixty-five (65) at November 20, 2001 shall continue to be eligible for said benefits.

The city and the union proceeded to arbitration in order to resolve their dispute regarding the meaning of the amended Note. In a decision issued November 11, 2014, arbitrator Howard Brown found that employees of the former City of Toronto had to have accrued 10 years' service as of July 31, 2009, in order to be eligible for post-65 retiree benefits. He accepted the union's interpretation of the Note for former employees of the City of North York, finding that all such employees remained eligible for post-65 retiree benefits, without limitation.

The city sought to judicially review the decision of Arbitrator Brown. On October 15, 2015, the Divisional Court set aside Arbitrator Brown's decision necessitating a new arbitration hearing before me.

The hearing was convened before me on November 24, 2015. Upon consideration of the submissions made to me at that time, I have determined that the following former employees of the city, employed prior to amalgamation by the former City of Toronto, who:

1. attained fifty (50) years of age and had accumulated at least ten (10) or more years of credited pension service with the City as at November 20, 2001; or
2. (a) attained fifty-five (55) years of age and had accumulated at least ten (10) or more years of credited pension service with the City as at July 31, 2009; and
(b) retired on immediate pension on or before February 14, 2012

are entitled to post 65 retiree benefits.

and that the following former employees of the City, employed prior to amalgamation by the former City of North York, who:

1. attained fifty (50) years as at November 20, 2001; or
2. (a) attained fifty-five (55) years of age on or before October 31, 2015; and
(b) retired on immediate pension on or before October 31, 2015, the last day of the month in which the decision of Arbitrator Brown was set aside by the Divisional Court;

are entitled to post 65 retiree benefits.

I remain seized of any matters arising from the implementation of this award.

A handwritten signature in black ink, appearing to read "Lorne Slotnick", written over a horizontal line.

Lorne Slotnick, Arbitrator

February 5, 2016