

IN THE MATTER OF AN ARBITRATION

BETWEEN

London Health Sciences Centre

("Hospital")

and

Ontario Nurses' Association

("Union")

Re: Social Media Grievances

SOLE ARBITRATOR: James Hayes

APPEARANCES

For the Union:

Kate Hughes, Counsel
Andrea Sobko, Student at Law
James Murray, Bargaining Unit President
Barb Conlon, Labour Relations Officer
Ellen Ledingham, 1st Vice President
Kathy Burgess, Vice President

For the Hospital:

Brian O'Byrne, Counsel
Andrew Pearson, Coordinator, Employee and Labour Relations
Kelly Moon, Human Resources Consultant

A hearing was held in London on September 7, 2016.

AWARD

1. The Union grieves letters of warning given Bargaining Unit President James Murray and brings a complementary Union grievance.
2. The Hospital objected to Facebook posts made by Mr. Murray early this year and responded with discipline. The Union alleges interference with its administration and operation as well as representation of its members.
3. The Union provided an extensive document Brief and two substantial Books of Authorities. Both Union and Hospital counsel made succinct but thorough submissions. The essential facts were undisputed.
4. Noting that the submissions contained significant agreement concerning the relevant law, I opined at the hearing that the issues in dispute appeared moot for all practical purposes. This conclusion was made possible by the Hospital's agreement to withdraw the letters of discipline in question.
5. As the parties requested, I record the following determinations made orally at the hearing.
 - i. The letters of discipline given to Mr. Murray dated June 13 and June 29, 2016 will be withdrawn by the Hospital.
 - ii. The Union is entitled to make use of social media in its own name, or, in the name of Union officers or representatives, identified as such, without prior or subsequent approval by the Hospital of any message. The Hospital may object should the Union communicate in a manner that is malicious or knowingly or recklessly false or that would violate the law (for example, with respect to privacy or patient confidentiality interests). See: *Canada Post Corp.* (1990) 12 L.A.C. (4th) 336 (Burkett) at para. 13; *Taylor-Baptiste v. OPSEU*: 2012 HRT0 1393 (CanLII); 2013 HRT0 180 (CanLII); 2014 ONSC 2169 (CanLII); 2015 ONCA 495 (CanLII).

- iii. I will remain seized with these grievances, and future issues directly relating to social media, for one year from the date of this Award.

Dated at Toronto, Ontario, this 8th day of September, 2016.



James Hayes