

IN THE MATTER OF A MED/ARB

BETWEEN

Humber River Hospital

(The Hospital)

And

Teamsters, Local 419

(The Union)

Grievances re Dominic Lazzaro (2015-Team- 472 (Union # H3025), 2015-Team-469
(Union # H3035) and 2015 –Team- 276 (Union # 00424)

Arbitrator : Barry B Fisher

Appearing for the Hospital : David Murray

Appearing for the Teamsters : Brian Lawrence

AWARD



REL ID: 84863

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INTRODUCTION:

In the Minutes of Settlement dated December 20th, 2016 the parties agreed to reinstate the Grievor following his dismissal which occurred in October of 2015.

However, this reinstatement was done on the basis that it was not an admission by the Employer that there was not just cause for the dismissal.

The parties agreed that I would be the arbitrator in relation to any issue of back wages owing and that this decision would be based on written submissions only.

I have now received those written submissions.

SUBMISSIONS OF THE PARTIES:

This Hospital moved from three sites to one site (Wilson site) in late 2015. Every employee was required to attend a three-day orientation during the regular work week before they could attend for work at the new Wilson site.

The Grievor is a part time employee of the Hospital, as are many employees in this bargaining unit. He worked weekends at the Hospital. He also held a full-time job for another employer during the weekdays.

Although he was given two months of advance notice and a choice of four different orientation days spanning two months, the Grievor said that he could not attend the orientation sessions because they conflicted with his full-time job. He provided no explanation as to why he could not take off any time from his full-time job to accommodate the orientation required by the Hospital. Of course, he could have also taken time off by utilizing vacation days from his full-time job.

The Grievors' position was that the Hospital should have scheduled a special weekend orientation just for him.

The Grievor missed all four of the scheduled orientation sessions. He was then given another opportunity to attend and failed to do so.

At that point the Hospital took the position that he had abandoned his position.

After filing the grievance, he was given another chance to attend a weekday orientation in January of 2016. He failed to do so.

DECISION:

The Grievor was properly dismissed for insubordination for his repeated refusal to attend the mandatory orientation session. The requirement for a mandatory orientation is a reasonable one. The decision to hold it during the week is a reasonable one. The Grievor undoubtedly could have arranged his full-time schedule to accommodate the Hospital's requirements by simply booking vacation time if necessary. No evidence was presented by the Grievor to show that he even asked for time off from his full-time job.

Even if I had found that the dismissal was too harsh a penalty for insubordination, I would have ordered reinstatement without back pay as the Grievor was clearly the author of his own misfortune.

I therefore rule that the Grievor is not entitled to any back wages.

Dated at Toronto this 8th day of March, 2017

Barry B. Fisher

