

**IN THE MATTER OF AN ARBITRATION
PURSUANT TO THE *ONTARIO LABOUR RELATIONS ACT*, 1995**

B E T W E E N :

**HEALTH SCIENCES NORTH
("the Employer")**

- and -

**ONTARIO NURSES' ASSOCIATION
("the Union")**

AND IN THE MATTER OF the Grievance of Sophie Vaillancourt-Gionet

ARBITRATOR: Tatiana Wacyk

SUBMISSIONS:

FOR THE UNION: John D'Orsay, Litigation Officer

FOR THE EMPLOYER: David Chondon, Counsel

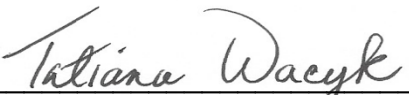
DATE OF DECISION: April 19, 2019

DECISION

1. The issue in this case involves the claim that the Grievor was improperly denied long term disability benefits ("LTD"). As a hospital employee, the Grievor participates in a long term disability plan. At the time of the Grievance, the Employer had its long term disability plan managed by Sun Life Financial Canada ("Sun Life").
2. The parties agree that consistent with *Campos v. Sun Life*, 2009 CanLII 43186 and *Barber v. The Manufacturers Life Insurance Company (Manulife Financial)*, 2017 ONCA 164 (CanLII) arbitrators have sole jurisdiction to deal with disputes regarding LTD under this collective agreement.
3. I have been appointed as sole arbitrator to deal with the dispute between the parties regarding the Grievor's entitlement to LTD.
4. The parties also agree there are no timeliness or other preliminary matters going to jurisdiction which affect this proceeding.
5. The parties have identified a document in the possession of Sun Life which is relevant to this proceeding and ought to be produced.
6. The parties further agree that as an arbitrator appointed pursuant to the *Labour Relations Act*, 1995, S.O. 1995, c. 1, as amended, I have authority to order an employee of Sun Life to attend at a hearing and produce the document.
7. The parties also concede this authority could be subject to litigation privilege as described in *Lizotte v. Aviva Insurance Company of Canada*, [2016] 2 SCR 521, 2016 SCC 52 (CanLII).

8. Sun Life has advised there is another proceeding outstanding between Sun Life and the Grievor, from which a litigation privilege affecting the document may arise.
9. If Sunlife is unable to bring that proceeding to a conclusion within six weeks, a conference call will be scheduled to hear submissions from the parties and Sun Life on whether Lindsay Tomlin, Senior Disability Claims Consultant, should be compelled to attend a hearing in this proceeding and produce the document.

DATED at Toronto, Ontario, this 19th day of April 2019.



Tatiana Wacyk, Arbitrator