

In the matter of an arbitration between:

Lady Dunn Health Centre

("the Employer")

and

Ontario Nurses' Association

("ONA")

Re: Grievance of Patricia Boucher (Grv. #18-01) ONA File #201701286

Before: Matthew R. Wilson, Sole Arbitrator

APPEARANCES:

For the Employer:

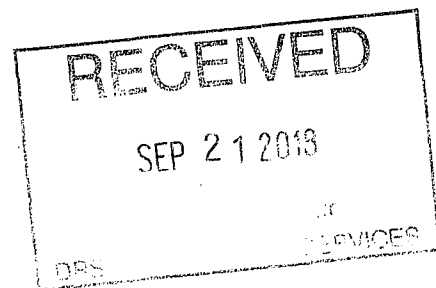
Rusty McLay

Counsel

For ONA:

Alison Dover

Counsel



The hearing of this matter was held by conference call on September 14, 2018.

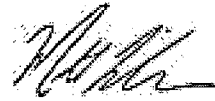
AWARD

1. I was appointed by the parties pursuant to their collective agreement to determine the accommodation grievance of Patricia Boucher. The hearing in this matter is scheduled to commence on January 24, 2019.
2. I was asked to convene a conference call with the parties to deal with issues related to production of the grievor's medical records. Although the merits of the case have not been dealt with at this point, I understand that the case is generally about the duty to accommodate and the medical restrictions of the grievor.
3. It is apparent that the medical records of the grievor's family physician and treating specialists are arguably relevant to the issues in dispute and thus must be produced to the parties. While I appreciate the grievor's concerns about privacy and her reluctance to share her medical records with the employer, the safeguards set out in this Order are binding on the parties and will ensure that her privacy and dignity are respected throughout this arbitration proceeding.
4. Therefore, pursuant to my authority under the collective agreement and the *Labour Relations Act*, I make the following orders:
 - a. The Grievor is to consent to the release of her medical records from her family physician as well as any treating specialist to ONA and the employer. The medical records are those files, reports, clinical notes, opinions, etc. related to the medical issues in this case, and include anything prepared to date and throughout the course of the hearing.
 - b. The medical records are to be shared first with ONA, who may redact information that it considers not to be arguably relevant to the issues in dispute. ONA is then to send those medical records to employer counsel. If there are concerns about the redacted information, counsel for the parties should first discuss those issues with a view of resolving them, and then if there continues to be a dispute, to contact the arbitrator to arrange for a conference call.
 - c. The medical opinion being prepared by Dr. Moira Selke is to be shared with ONA and the employer.
 - d. The information shared as a result of this Order is only to be used for the purposes of this hearing and the ongoing accommodation issues related to the grievor's employment. Copies of these documents are not to be made except to comply with this Order or as otherwise

needed for this hearing. Nothing in this Order restricts the parties from sharing the information with the experts that may be retained during the course of this hearing.

5. If there are issues with respect to the compliance of this Order, the parties may contact my office to arrange for a conference call on an expedited basis.

Dated this 19th day of September in Whitby, Ontario

A handwritten signature in black ink, appearing to read 'Matthew R. Wilson', written over a horizontal line.

Matthew R. Wilson
Arbitrator