

IN THE MATTER OF AN ARBITRATION

BETWEEN:

The Toronto District School Board

and

CUPE Local 4400 (Unit D)

(Re: Alleged Breach of Minutes of Settlement)

Before: William Kaplan
Sole Arbitrator

Appearances

For the Employer: Kathleen Tate
Legal Counsel
Toronto District School Board

For the Union: Ian McKellar
Ruben Lindy
Dewart Gleason
Barristers & Solicitors

The matter in dispute proceeded to a hearing held in Toronto on December 17, 2018.

Introduction

On November 11, 2011, the parties, with my assistance, entered into Minutes of Settlement resolving certain grievances. As usual, I remained seized with respect to any issues arising out of the implementation of the Minutes. As it happens, an issue did arise. In brief – and this issue is canvassed at length in the written submissions of the parties – there was compliance for many years but, more recently, there has not been compliance. The employer takes the position that the situation has changed requiring that the Minutes be revisited. The union disagrees.

In general, settlements reached in the arbitration process must be complied with. Agreements reached in the settlement of grievances, absent exceptional circumstances, must be given effect. The parties can renegotiate if they wish, but absent renegotiation, the terms must be adhered to. Our system of labour relations requires no less.

In this case, the parties willingly entered into Minutes. They provide as follows:

The Board confirms that Craig Ross will start his shift at 2:00 each day or earlier as assigned. At the beginning of his shift each day, Craig Ross will meet with the Task Force Team Leader, in the absence of the Task Force Team Leader the Maintenance Team Leader, to review the days work schedules for the Task Force. Craig Ross will be given the opportunity to provide meaningful input.

There is no dispute that this provision is no longer being given effect. Accordingly, the TDSB is directed, as indicated above, to provide for Mr. Ross to begin his shift each day at 2:00 p.m. or earlier as assigned. He is to meet with the Task Force Team leader to review the day's work schedules and he is to be given the opportunity to provide meaningful input.

I remain seized with respect to the implementation of this award.

DATED at Toronto this 18th day of December 2018.

“William Kaplan”

William Kaplan, Sole Arbitrator