

IN THE MATTER OF AN ARBITRATION

BETWEEN:

CANADIAN UNION OF PUBLIC EMPLOYEES LOCAL 5167
(the “Union”)

AND:

THE CORPORATION OF THE CITY OF HAMILTON
(the “Employer”)

RE: JOB EVALUATION – RPN MAINTENANCE GRIEVANCES

SOLE ARBITRATOR:

Kevin M. Burkett

FOR THE UNION:

J. James Nyman	- Counsel
Barbara Carter	- National Representative
Sandra Walker	- President
Jay Hunter	- Vice President
Sue Lavallee	- Lodges Unit Vice President

FOR THE EMPLOYER:

Daryn Jeffries	- Counsel
Kennedy Simpson	- Student
Julie Shott	- Acting Manager, Labour Relations
Kyra Marunchak	- Labour Relations Officer
Holly Odoardi	- Acting Senior Administrator
Karen Allcroft	- Acting Administrator
Van Young	- Compensation Specialist

AWARD

1. The Canadian Union of Public Employees, Local 5167 (hereinafter “Local 5167”) and the Corporation of the City of Hamilton (hereinafter “City”) are parties to a Collective Agreement encompassing a bargaining unit comprised of employees working at Macassa and Wentworth Lodges. Employees covered by the Collective Agreement include persons classified as Registered Practical Nurses (hereinafter “RPN” or “RPNs”).
2. The Collective Agreement includes a Job Evaluation Program (hereinafter the “Program”). The Program which also serves as the Parties’ Pay Equity Plan provides for the establishment and maintenance of an internally coherent wage rate structure through the application, *inter alia*, of a points rating valuation scheme in several factors of rating.
3. The Program includes a maintenance component structured to measure the impact, if any, on job descriptions and ratings of changes in organizational structure and job functions. Maintenance may be initiated by the Union, one (1) or more employees or the City provided specified conditions set out in the Plan’s Procedures Manual are satisfied.

4. On or about June 22, 2016, employees in the RPN classification formally applied for maintenance. As prescribed in the Plan's Procedures Manual the request was reviewed by a Job Analyst. The Job Analyst concluded that the existing rating accurately captured any changes to the job's content and accordingly, the job remained unchanged at a Salary Grade I.
5. The RPNs disagreed with the Job Analyst's conclusion and filed an appeal of the decision in accordance with the procedures governing appeals set out in the Plan's Procedures Manual.
6. The Joint Job Evaluation Appeal Committee (hereinafter the "JJEAC") comprised of three (3) Union Representatives and two (2) City Representatives met and disposed of the appeal on May 15, 2017. The Committee revised the existing rating in four (4) factors escalating the job from a Salary Grade I to a Salary Grade K. It is the Union's position that the members of the JJEAC used the information available to them in reaching this decision and the City does not agree with that position.
7. The City refused to implement the JJEAC's decision. It maintained, *inter alia*, that the decision was fraught with administrative and procedural errors. In its view, there was no basis for modifying the rating in any factor.
8. The Union responded by filing and referring to arbitration a policy and group grievance. I was appointed to arbitrate the grievances. I convened a hearing on June 21, 2018.

9. At the outset of the hearing the Union indicated that it intended to object to the admissibility of evidence in relation to the deliberations of the JJEAC in its disposition of the RPN appeal. In the Union's view, because the Program's Procedures Manual provides that a decision of the JJEAC is "final and binding upon the parties and upon the employee(s) affected", neither the Union nor the City or, indeed, any employee may impugn a JJEAC decision.
10. After discussing the evidentiary and related issues with Union Counsel and City Counsel and following further direct discussions between the Parties, I was advised that the Union was withdrawing its objection to the admissibility of evidence in relation to the deliberations of the JJEAC in its disposition of the RPN appeal. Accordingly, I make no finding on the merits of the Union's objection. Nor have I made any determination concerning the interpretation to be given to the term "final and binding" and the extent to which the term precludes either Party or an employee from impugning a JJEAC decision.
11. After hearing the representations and submissions of Union Counsel and City Counsel, I have concluded that the decision of the JJEAC should be set aside and the grievances dismissed. In my view the changes, if any, to the RPN job were not sufficient to produce a rating change. Consequently, for the purposes of the Program and its requirement to ensure the maintenance of its integrity, I have determined that the description and rating for the RPN classification covered by the Macassa and Wentworth Lodges Collective Agreement are as set out in the Job

Analyst's correspondence dated August 31, 2016 to the employees in the classification.

12. Accordingly, the grievances are dismissed.

DATED in TORONTO, ONTARIO ON THIS 14TH DAY OF SEPTEMBER, 2018.

Kevin Burkett

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