
In the matter of an arbitration between
Service Employees International Union Local 1 Canada
(The Employer)
and
Teamsters Local Union No. 879
(The Union)
Grievances of Kelly O'Sullivan
before
Paul Craven, Sole Arbitrator
A hearing was held at Toronto, Ontario, on April 5, July 4, July 8, August 28 and
December 6, 2019.

For the Employer: Micheil M. Russell
and others

For the Union: Joanne L. McMahon
Erin Hallock
and others

INTERIM AWARD

On December 5, 2019, one day before the hearing at which the grievor's testimony was expected to commence, counsel for the Union emailed me a letter from the grievor's physician, with copy to counsel for the Employer.

The letter, dated December 4, 2019, sets out that the grievor 'is able and competent to appear at the meeting and testify and participate fully as long as she has the following accommodations and support.' This is followed by a list of proposed accommodations or supports which may be enumerated as follows:

1. 'confirmation of all those attending on that date and the purpose and role of their attendance (employer and union)';

2. 'large meeting room with windows';
3. 'confirmation of any additional hearing dates no later than Dec. 6/19;
4. 'notes of all meeting and discussion to be taken and provided to Ms. O'Sullivan as may be needed';
5. 'upon request by Ms. O'Sullivan and as may be needed, the proceedings will be recorded unless directed not by the Arbitrator with reason';
6. 'all documents that maybe relied on or submitted for evidence at the hearing or subsequent dates to be provided in USB stick and hard copy at hearing and/or prior';
7. 'earlier start times as may be requested at the arbitration hearing with Teamsters 879 for the purposes of preparation for testimony or review of ongoing issues will be provided';
8. 'frequent breaks as needed or requested.'

Without conceding that the grievor had made out a case for accommodation, counsel for the Employer indicated that it was prepared to accept most of these requests as a courtesy.

At the hearing I reviewed each enumerated item and ruled as follows:

1. The grievor is entitled to know the identity and role of the individuals attending the hearing.
2. The Union will have the use of the large hearing room as its breakout room.
3. While the number of days required to complete the hearing is unpredictable, we will attempt to schedule two hearing dates in addition to the January 6, 2020, date already scheduled.
4. The grievor may choose to have a note-taker with her in the hearing room for the purpose of keeping a record of testimony and formal submissions but not of private discussions between counsel with or without the arbitrator.
5. No request to record the proceedings has been made to this point. I indicated at the hearing that it is not the practice in this province to permit the recording of labour-management arbitration proceedings. This is an administrative tribunal whose labour relations purposes include efficient and expeditious dispute resolution. I ruled, therefore, that there was to be no recording (including private recording by cellphone or otherwise) of any part of these proceedings unless and until it is expressly ordered. If the grievor requests permission to record the proceedings on an 'as needed' basis the parties will have a full opportunity to make submissions in this regard.

6. I am advised that the Union has provided the grievor with access to the parties' productions. She is entitled to hard copies of exhibits tendered at the hearing. She may make her own arrangements to have them scanned onto a USB stick or otherwise if she wishes to do so.
7. The Union and the grievor are to make their own arrangements for the meetings contemplated in this request.
8. Breaks will be provided on request.

This interim award is issued in compliance with the parties' request for a written record of my rulings at the hearing.

Dated at Toronto, December 16, 2019,

A handwritten signature in black ink, appearing to read "Paul Craven", with a long horizontal flourish extending to the right.

(Paul Craven, Arbitrator)