

In the Matter of an Arbitration

Between

Carleton University (employer)

And

And CUASA (union)

And

Re Clerk of the Senate

Before: M. Brian Keller, arbitrator

Celine Delorme, for the employer

Chrystal Cote, for the union

Hearing by conference call, June 17, 2019

Procedural Award

Following the hearing of last week, the parties agreed to a conference call to discuss issues in dispute, and the manner in which the issues could best be litigated. Pursuant to the call, the parties agreed to narrow the issues in dispute, and a means to manage the remaining issue.

It was agreed by the union that it was not seeking to displace the current Clerk of the Senate. Consequently, the employer agreed not to pursue its jurisdictional objection. It was further agreed that nothing precludes either party, in the future, from raising either issue.

What remains in dispute is whether the Clerk of the Senate falls within the scope of the CUASA collective agreement. The union alleges it is within scope. The employer submits that it is a managerial position and consequently out of scope. The employer further submits that this issue was disposed of by a Memorandum of Agreement entered into by the parties dealing with the issue. It further claims the MOA is clear and no extrinsic evidence is required to interpret its terms.

The union alleges that extrinsic evidence is required to interpret the MOA. It seeks to call three witnesses for that purpose.

It was my determination, and I so indicated to the parties on the call, that I would allow the union to call its evidence. I would, after hearing the evidence and argument of the parties, determine whether that evidence would be considered in interpreting the MOA.

Finally, it was agreed that the parties, to proceed in a more expeditious manner, would produce their evidence-in-chief by will-says, each party retaining the right to cross-examine as required. The parties are to agree on a schedule for the production of the will-says and all related documents and materials.

I remain seized as required.

Ottawa, this 18th day of June, 2019

M. Brian Keller, arbitrator

