

IN THE MATTER of Grievances dated June 19 and July 3, 2020
AND IN THE MATTER of an Arbitration thereof under the *Labour Re-*
lations Act, 1995 as amended.

BETWEEN:

LIUNA, LOCAL 183

(“the Union”)

-and-

CLARK CONSTRUCTION MANAGEMENT INC

(“the Employer”)

ORDER

1. The hearing of the arbitration of these two grievances commenced by videoconference on January 11, 2021, and was scheduled for continuation on January 13, and January 25, 2021.
2. The hearing commenced with the agreed presentation of “Will Say” statements from all witnesses with cross examination and re-examination to be conducted at the hearing, in accordance with a schedule developed by the parties.

3. In the course of cross-examination of the Employer's first witness, issues arose with respect to the production of documents utilized by the Employer in the preparation of the "Will Say" statements of its witnesses and the Employer's claim of privilege made in respect of them.
4. I directed the Employer to identify all documents, including electronic communications (collectively the "documents"), of any kind, presented to any of the witnesses scheduled to give evidence on behalf of the Employer, that were used in connection with the preparation of the "Will Say" statements for those witnesses.
5. In identifying the document, the Employer is to provide information relating to the nature or kind of document, the date of the document (if known), and both the sender and receiver of the document (if applicable).
6. The Employer shall provide the Union with the information described in paragraphs 4 and 5 by January 29, 2021.
7. At the same time the Employer shall also provide its submissions with respect to any claim of privilege sought in respect of any of the documents described in paragraphs 4 and 5 hereof.
8. No later than January 29, 2021, the Employer shall provide copies of those documents described in paragraphs 4 and 5 upon which the Employer does not claim privilege.

9. The Union shall provide its submissions with respect to the claims of privilege on the identified documents by February 12, 2021.
10. The Employer shall provide its reply, if any, to the Union submissions, by February 19, 2021.
11. The scheduled hearing dates of January 13 and January 25, 2021 are cancelled.
12. The hearing will resume after March 15, 2021 on dates agreeable to the parties.

DATED at Toronto this 12th day of January, 2021.



Michael G. Horan, Arbitrator