

IN THE MATTER OF AN ARBITRATION

BETWEEN:

BROCK UNIVERSITY

("University")

AND:

CANADIAN UNION OF PUBLIC EMPLOYEES,
LOCAL 4207, UNIT 1

("Union")

IN THE MATTER OF:

GRIEVANCES OF UNION AND GERRY BOILY
(GRIEVANCE NOS. 2013-I-004, 2014-I-003, 2015-I-023, 2016-I-001,
2017-I-003, 2018-I-004, 2018-I-021, 2019-I-003, 2019-I-041 AND 2021-I-010)

SOLE ARBITRATOR:

Kevin M. Burkett

APPEARANCES FOR UNIVERSITY:

Alia Rashid, Counsel
Danielle McCrindle, Manager, Faculty & Staff Relations
Gabriela Donia, Faculty & Staff Relations Advisor

APPEARANCES FOR UNION:

Kyle Hoskin, Counsel
Nathan Cecckin, President, Local 4207

A HEARING IN THIS MATTER WAS HELD ON JUNE 7, 2022.

A W A R D

I have before me 10 grievances that claim that the 2009 Minutes of Settlement dealing with the appointment of the grievor to various Department of Mathematics Marker-Grader and Teaching Assistant positions have been violated. The grievances commenced in 2013 and continued until 2021. The 2009 Minutes of Settlement established a process under which the grievor, who requires accommodation, could become qualified for these Teaching Assistant and Marker-Grader positions. It is a process separate and distinct from the process for qualification contained in the collective agreement. A hearing was convened on June 7, 2022. There is no dispute with respect to my authority to hear and determine this matter.

An agreed statement of facts was put into evidence. The agreed statement of facts stipulates as follows.

AGREED STATEMENT OF FACTS

The Grievor

1. The Grievor, Gerry Boily, commenced employment with the University on a fixed-term contract as a Lab Demonstrator in the Department of Physics on September 1, 2005. The expiry date of this contract was on December 31, 2005.
2. Since then, the Grievor has held various fixed-term contracts with the University in the Teaching Assistant, Marker-Grader and Lab Demonstrator positions of the Bargaining Unit. The Grievor has held these positions predominantly within the Department of Physics.

3. The Grievor most recently held a one-day, seven hour fixed-term contract with the University as a Teaching Assistant (Grading Rate) in the Department of Physics, with expiry of April 11, 2018. The Grievor has not been employed in any capacity with the University since the expiry of that contract on April 11, 2018.
4. A copy of the Grievor's full contract history is attached as **Exhibit 1**.

The 2009 Minutes of Settlement

5. On June 25, 2008 and January 28, 2008, the Grievor filed grievances, in which he claimed that the University had violated certain provisions of the July 1, 2007 - June 30, 2010 collective agreement and the Ontario *Human Rights Code*.
6. The issues arising under those grievances related to the Grievor's qualifications with respect to a number of posted Teaching Assistant and Marker-Grader positions in the Department of Mathematics. As noted at the time, the Grievor has a Learning Disability that may have impacted upon his capability to have obtained the required "A" standing in the pre-requisite courses.
7. On July 14, 2009, the Grievor, the Union and the University (collectively, the "Parties") attended a mediation before Arbitrator Kevin Burkett. The Parties entered into Minutes of Settlement dated July 14, 2009 (the "Minutes"). A copy of the Minutes is attached as **Exhibit 2**.
8. The Parties "agreed to a full and final resolution of issues between the Grievor and the University in respect of his applications for Teaching Assistant and Marker-Grader positions in the Mathematics Department and all related issues," including those referenced in the June 25, 2008 and January 28, 2008 grievances and thereafter.
9. Paragraphs 3 and 4 of the Minutes identify the criteria that the Grievor would need to follow in order to be deemed qualified for appointment to a Marker-Grader position in the Department of Mathematics. For ease of reference, paragraphs 3 and 4 of the Minutes states as follows:

3. On a trial basis, the Employer will, appoint the Grievor to a Marker-Grader position 1P06 (Applied Calculus) in the Winter Term of the 2009-10 academic year – and for this purpose it is understood that this particular position shall not be posted under Article 14 and there shall be no grievance as a consequence of the fact that this position is not posted. This appointment shall be subject to the following conditions:

- The Grievor's appointment to the Marker-Grader position will be on a trial basis. Work assigned to the Grievor will be reviewed by the Employer before the work is returned to the students to ensure the work is being completed appropriately and to a standard consistent with University and course expectations/standards. For the purposes of the trial period, the Grievor must do his marking or other assigned work at a location designated by the Employer in order that the Employer can adequately monitor the Grievor's job performance.
 - Should the Grievor complete all work assigned to him respecting this course to a level that is consistent with the expectations of the University and course expectations/standards, he will be deemed to be academically qualified to be a marker-grader for this specific course. However, should he fail to meet these expectations/standards, he will be deemed to be un-qualified as a Marker-Grader for 1P06.
 - Should it become apparent, at any point in the trial period, that the Grievor will not meet the expectations/standards required of a Marker-Grader, the Employer may terminate the trial period and the appointment and the Grievor will be deemed to be unqualified as a Marker-Grader.
4. Provided that the Grievor is deemed to be academically qualified as a Marker-Grader in 1P06, thereafter, the Employer will, in any subsequent term, deem the Grievor to be qualified academically for a Marker-Grader position for one course in the Mathematics Department, for which course the Grievor has not previously worked as a Marker-Grader, subject to the following conditions:
- The Grievor must apply for the position and be the successful candidate (i.e. Other qualified applicants with greater seniority or a preference in hiring will be appointed before the Grievor).
 - The Grievor's appointment to the Marker-Grader position will be on a trial basis. Work assigned to the Grievor will be reviewed by the Employer before the work is returned to the students to ensure the work is being completed appropriately and to a standard consistent with University and course expectations/standards. For the purposes of the trial period, the Grievor must do his marking or other assigned work at a location designated by the Employer in order that the Employer can adequately monitor the Grievor's job performance.
 - Should the Grievor be appointed on trial basis as a Marker-Grader for a particular course and complete all work assigned to him

respecting this course to a level that is consistent with the expectations of the University and course expectations/standards, he will be deemed to have met the threshold academic qualifications to be a marker-grader for this specific course. However, should he fail to meet these (sic) expectations/standards, he will be deemed to be un-qualified as a Marker-Grader for this particular course.

- Should it become apparent, at any point in the trial period, that the Grievor will not meet the expectations/standards required of a Marker-Grader, the Employer may terminate the appointment and the Grievor will be deemed to be unqualified to be a Marker-Grader for that course.

10. Paragraph 5 of the Minutes identifies the criteria that the Grievor would need to follow in order to have met the threshold academic qualifications for a Teaching Assistant position in the Department of Mathematics. For ease of reference, paragraph 5 and accompanying paragraph 6 of the Minutes states as follows:

5. The Grievor will be deemed to have met the threshold academic qualifications for a Teaching Assistant in any particular course in the Mathematics Department in the following circumstances:

- the Grievor requests to be evaluated in respect of his knowledge and understanding of the content and the underlying concepts in a particular course (which he has not previously asked to be evaluated in);
- the University evaluates the Grievor at a time to be mutually agreed to, provided that such evaluation must take place within a year after the Grievor has identified that he wishes to be evaluated in the course; and
- the Grievor achieves an "A" standing in the evaluation, based on meeting the standards/expectations which students in that course are required to meet in order to obtain an 80% grade.

6. In connection with paragraph 5, the Grievor will be provided with the following accommodations, which he has identified he requires:

- the Grievor may audit, without cost, a course in the Mathematics Department which he is preparing to be evaluated in, provided that he has formally identified that he intends to be evaluated in that course under paragraph 5, has obtained permission through the Human Resources department to audit the course, and provided that space is available in the course;

- the Grievor will be provided, by the University's Student Services office, with a reader to read to him the evaluation questions and a scribe to write his answers; and
- all evaluations will be conducted in the University's Student Services Office.

The Grievor's Request to be Evaluated for Math 1P05

11. On August 18, 2009, the Grievor was provided with a copy of a textbook for the purposes of being evaluated for Math 1P05.
12. On August 19, 2009, the Grievor requested a copy of the quizzes and assignments for the purposes of being evaluated for Math 1P05. He requested to be evaluated on August 31, 2009.
13. On August 20, 2009, the Grievor requested the University make an official request for course notes for Math 1P05 through the University's Services for Students with Disabilities Office.
14. On August 26, 2009, the Grievor inquired whether he would be provided with course notes for the purposes of being evaluated on August 31, 2009.
15. On August 26, 2009, the University advised that there were no course notes on file for Math 1P05. The tests and quizzes that were on file would be used in the upcoming term and could not be distributed. However, the tests and quizzes were developed from questions found from the textbook and reviewing those questions would help prepare the Grievor for the evaluation. The University advised that it would provide the Grievor with a breakdown of the type of questions to expect to be evaluated on, prior to the evaluation.
16. On August 27, 2009, the Union requested that the Grievor's evaluation for Math 1P05 be postponed and that the Grievor be allowed to audit Math 1P05.
17. On September 11, 2009, the University provided the Grievor with instructions on the steps that must be taken in order to audit Math 1P05. On September 16, 2009, the University followed up with the Grievor to remind him to take the steps needed to audit Math 1P05 that the Grievor had yet to complete.
18. On October 14, 2009, the Grievor inquired about a textbook and course notes for Math 1P05.

19. A copy of the above-noted correspondence exchanged between the Parties from August 18, 2009 and October 14, 2009 is attached as **Exhibit 3**.
20. On December 15, 2009, the Parties entered into an agreement regarding the implementation of the Minutes (the "Implementation Agreement"). A copy of the Implementation Agreement is attached as **Exhibit 4**. For ease of reference, the Implementation Agreement read in part as follows:

This letter will confirm an agreement between Brock University and CUPE, Local 4207, Unit 1 regarding Gerry Boily and the Minutes of Settlement dated July 14, 2009:

- 1) If the University currently has an extra text book or course notes for a course Mr. Boily is auditing, the University will loan those items to him. These items must be returned to the University in the same condition that they were lent to Mr. Boily;
- 2) If the University does not have course notes for a course Mr. Boily is auditing, the University will pay for the resources required to obtain the notes;
- 3) If the University does not have an extra text book for a course Mr. Boily is auditing, the Union will pay for a text book.

The Grievor's Trial Appointment to Math 1P97

21. In the Winter academic term of the 2009-2010 academic year, there were no Marker-Grader positions available in Math 1P06 for the Grievor to be appointed to on a trial-basis in accordance with paragraph 3 of the Minutes. The Parties agreed that the obligation under paragraph 3 of the Minutes would be satisfied by offering a trial appointment to the Grievor in the Marker-Grader position in Math 1P97, which was a lower level course taught in the Department of Mathematics.
22. Accordingly, the Grievor was appointed to the Marker-Grader position on a 32 hour trial-basis in Math 1P97 for the Winter 2010 academic term of the 2009-2010 academic year, from February 1, 2010 to April 30, 2010. A copy of the contract for the trial appointment is attached as **Exhibit 5**.
23. The Grievor was assigned with the task of marking two tests and two assignments, ordering papers and recording marks. A copy of a detailed breakdown of the appointment is attached as **Exhibit 6**.

24. On February 22, 2010, the Grievor agreed to and executed the Marker Guidelines of the Department of Mathematics.
25. The Grievor did not complete the assigned tasks to a standard consistent with the University and course expectations/standards. Notably, there were a number of discrepancies between the marking keys provided to the Grievor for reference and the marking of the student tests and assignments.
26. On March 25, 2010, the University met with the Grievor to provide feedback and gain an understanding of the reasons for discrepancies in marking. The marking discrepancies and the Grievor's explanation of the discrepancies demonstrated a lack of fundamental understanding of the material.
27. On June 23, 2010, the Grievor and the Union were advised by the University that the Grievor was not successful in the trial appointment to Math 1P97 and was "unqualified" as per the Minutes.
28. On July 7, 2010, the Grievor and the Union were formally advised of the University's decision that the Grievor was deemed "not qualified" to perform Marker-Grader work for Math 1P97.

The Grievor's Registration to Math 1P05

29. On September 23, 2010, the University's Services for Students with Disabilities Office send an e-mail to the students registered for Math 1P05, requesting a notetaker. No students expressed interest in being a notetaker.
30. On September 30, 2010, the Grievor confirmed that he was registered to audit Math 1P05 and requested a textbook.
31. On October 4, 2010, the University advised that the Department of Mathematics does not have any textbooks to loan. In response, the Grievor advised that he would make other arrangements for the textbook.
32. A copy of the above-noted correspondence exchanged between the Parties from September 23, 2010 to October 4, 2010 is attached as **Exhibit 7**.

The Grievances

33. On January 23, 2013, the Grievor filed Grievance #2013-I-004, alleging a failure to appoint as a Teaching Assistant in Math 1P05 and 1P06 for the Winter 2013 academic term. A copy of Grievance #2013-I-004 is attached as **Exhibit 8**.
34. On January 1, 2014, the Grievor filed Grievance #2014-I-003, alleging a failure to appoint as a Teaching Assistant in Math 1P97 for the Winter 2014 academic term. The Grievor had never requested to be evaluated for Math 1P97. The Grievor indicated that the 87% he received in Math 1P05 should demonstrate his proficiency in Math 1P97 because he felt that Math 1P05 was more difficult. A copy of Grievance #2014-I-003 is attached as **Exhibit 9**.
35. On October 27, 2015, the Grievor filed Grievance #2015-I-023, alleging a failure to appoint as a Teaching Assistant and Marker-Grader in Math 1P98 and Math 1P20 for the Fall 2015 academic term. The Grievor had never requested to be evaluated for Math 1P98 and Math 1P20. The Grievor indicated that the 87% he received in Math 1P05 should demonstrate his proficiency in Math 1P98 and Math 1P20 because he felt that Math 1P05 was more difficult. A copy of Grievance #2015-I-023 is attached as **Exhibit 10**.
36. On January 16, 2016, the Grievor filed Grievance #2016-I-001, alleging a failure to appoint as a Teaching Assistant in Math 1P97 and Math 2P04 for Winter 2016 academic term. The Grievor had never requested to be evaluated for Math 1P97 and Math 2P04. The Grievor indicated that the 87% he received in Math 1P05 should demonstrate his proficiency in Math 1P97 and Math 2P04 because he felt that Math 1P05 was more difficult. A copy of Grievance #2016-I-001 is attached as **Exhibit 11**.
37. On February 6, 2017, the Grievor filed Grievance #2017-I-003, alleging a failure to appoint as a Teaching Assistant in Math 1P40 and Math 3P41, and Marker-Grader in Math 1P97 for the Winter 2017 academic term. The Grievor had never requested to be evaluated for Math 1P40, Math 3P41 and Math 1P97. The Grievor indicated that the 87% he received in Math 1P05 should demonstrate his proficiency in Math 1P40 and Math 3P41 because he felt that Math 1P05 was more difficult. A copy of Grievance #2017-I-003 is attached as **Exhibit 11**.
38. On February 7, 2018, the Grievor filed Grievance #2018-I-004, alleging a failure to appoint as a Marker-Grader in Math 1P97 for the Winter 2018 academic term. A copy of Grievance #2018-I-004 is attached as **Exhibit 13**.
39. On September 27, 2018, the Grievor filed Grievance #2018-I-021, alleging a failure to appoint as a Teaching Assistant in Math 1P01, Math 1P05 and Math

1P20 for the Fall 2018 academic term. The Teaching Assistant appointments in Math 1P01 and 1P05 were offered and accepted by students with preferences in hiring. A copy of Grievance #2018-I-021 is attached as **Exhibit 14**.

40. On January 28, 2019, the Grievor filed Grievance #2019-I-003, alleging a failure to appoint as a Marker-Grader in Math 1P06 for the Winter 2019 academic term. A copy of Grievance #2019-I-003 is attached as **Exhibit 15**.
41. On September 16, 2019, the Grievor filed Grievance #2019-I-041, alleging a failure to appoint as a Teaching Assistant and Marker-Grader in Math 1P01, Math 1P05, Math 1P20 and Math 1P70 for the Fall 2019 academic term. The Teaching Assistant appointments in Math 1P05 were offered and accepted by students with preferences in hiring. A copy of Grievance #2019-I-041 is attached as **Exhibit 16**.
42. On September 30, 2021, the Grievor filed Grievance #2021-I-010, alleging a failure to appoint as a Teaching Assistant and Marker-Grader in Math 1P05 and Math 1P12 in the Fall 2021 academic term. One of the two Teaching Assistant appointments in Math 1P05 were offered and accepted by students with preferences in hiring. A copy of Grievance #2021-I-010 is attached as **Exhibit 17**.

Other Relevant Information

43. A copy of a sample posting for a Marker-Grader position in the Department of Mathematics is attached as **Exhibit 18**.
44. A copy of a sample posting for Teaching Assistant position in the Department of Mathematics is attached as **Exhibit 19**.
45. A copy of the most recently applicable collective agreement is attached as **Exhibit 20**.

Having regard to the agreed facts and having heard the submissions of the parties, my decision is as follows.

DECISION

The parties entered into Minutes of Settlement dated July 14, 2009 that expressly set out a procedure to be followed by the grievor to: 1) be deemed qualified for appointment to a Marker-Grader position in the Department of Mathematics; and 2) be deemed to have met the threshold of academic qualifications for a Teaching Assistant position in the Department of Mathematics. These Minutes were entered into by way of resolution to earlier grievances filed by the grievor on January 28, 2008 and June 25, 2008 and in an effort to establish an individualized process for the grievor with respect to any future qualification for a Marker-Grader or Teaching Assistant position in the Department of Mathematics, which took into consideration the grievor's learning disability as identified at that time. In fact, the Minutes expressly state at paragraph 2 that the Minutes "are intended to resolve the issues between the University and Grievor in relation to applications by the Grievor for Teaching Assistant and/or Marker-Grader positions in the Mathematics Department referenced in the grievances noted above and thereafter." (emphasis added)

This individualized process is separate and apart from the typical qualification process set out in the collective agreement. Typically, applicants are deemed qualified if they meet the minimum qualifications set out in the postings for a particular position in accordance with article 15.01(c) of the collective agreement. In the event that there is more than one qualified and eligible applicant, seniority and preference in hiring are

used to determine the successful applicant. Typically, the Marker-Grader positions in the Department of Mathematics require, *inter alia*, applicants to have their second year complete and have achieved an A standing in at least four credits in mathematics. Typically, the Teaching Assistant positions in the Department of Mathematics require, *inter alia*, applicants to have their second or third year complete in a mathematics program (subject to the specific course) and have achieved an A standing in mathematics courses.

The Union seems to be asserting alternative processes for the grievor to be deemed qualified, which do not follow the mutually agreed upon process set out in the Minutes, or which generally apply to employees in the bargaining unit as set out in the collective agreement. The University submits that the Union cannot unilaterally create a process by which the grievor is deemed qualified and the correct process to follow is that which was agreed to by the parties through agreement of the Minutes.

Paragraphs 3 and 4 of the Minutes identify the process that would need to be followed in order for the grievor to be deemed qualified for any future position as a Marker-Grader in the Department of Mathematics. First, the grievor must be deemed qualified for the Marker-Grader position in Math 1P06. In particular:

- (i) the grievor would, on a trial basis, be appointed to a Marker-Grader position in Math 1P06 in the winter term of the 2009-2010 academic year;

- (ii) the grievor would need to complete the work assigned by the University to a standard consistent with University and course expectations/standards; and
- iii) if the grievor completed all the work assigned to him respecting Math 1P06 in a manner that is consistent with the expectations of the University and course expectations/standards, then he would be deemed to be academically qualified for Math 1P06.

Provided that the grievor is able to carry out the steps above and is deemed academically qualified as a Marker-Grader in Math 1P06, then the grievor, in any subsequent term, would be able to apply to be deemed qualified for a Marker-Grader position for one course in the Department of Mathematic, for which course the grievor has not previously worked as a Marker-Grader, subject to the following conditions:

- (i) the grievor must apply for the position and be the successful candidate, i.e. seniority and preference in hiring would continue to govern;
- (ii) the grievor's appointment to the Marker-Grader position would be on a trial basis;
- (iii) the grievor would need to complete the work assigned by the University to a standard consistent with University and course expectations/standards;
- (iv) if the grievor completed all the work assigned to him respecting the course in a manner that is consistent with the expectations of the University and

course expectations/standards, then he would be deemed to be academically qualified for that course.

Paragraph 5 and accompanying paragraph 6 of the Marker-Grader identify the criteria that the grievor would need to follow in order to be deemed to have met the threshold academic qualifications for a Teaching Assistant position in the Department of Mathematics. In particular, the process requires that:

- (i) the grievor requests to be evaluated in respect of his knowledge and understanding of the content and the underlying concepts in a particular course (which he has not previously asked to be evaluated in);
- (ii) the University evaluates the grievor at a time to be mutually agreed to, provided that such evaluation must take place within a year after the grievor has identified that he wishes to be evaluated in the course; and
- (iii) the grievor achieves an A standing in the evaluation, based on meeting the standards/expectations that students in that course are required to meet in order to obtain an 80% grade.

For the evaluation, the grievor would be provided with accommodations which he identifies he requires, including the ability to audit the course prior to the evaluation (subject to specific conditions), the provision of a scribe and reader during the evaluation and performing the evaluation in the University's Student Services Office.

The grievor failed to follow the procedures set out in the Minutes in respect of each of the allegations of a failure to appoint raised in the 10 grievances. There has been

no violation of the collective agreement in respect of each of the 10 grievances as alleged. The 10 grievances must therefore be dismissed.

Marker-Grader Positions

The grievor did not satisfy the first criterion of the process set out in paragraph 3 of the Minutes as was required for him to be deemed qualified for any future Marker-Grader position, i.e. to be deemed qualified as a Marker-Grader in Math 1P06. The parties agreed that the obligation under paragraph 3 of the Minutes, i.e. that the grievor first be deemed qualified for the Marker-Grader position in Math 1P06, would be satisfied by offering a trial appointment to the grievor in the Marker-Grader position in Math 1P97, which was a lower level course taught in the Department of Mathematics. Accordingly, the grievor was appointed to the Marker-Grader position in Math 1P97 on a trial basis for the winter 2010 academic term of the 2009-2010 academic year. The grievor failed to complete the assigned tasks to a standard consistent with University and course expectations/standards and was deemed unqualified as a Marker-Grader for Math 1P97. The requirement that the grievor be deemed qualified for Math 1P97 was a precondition to the grievor applying to be deemed qualified for any future Marker-Grader position in the Department of Mathematics. As the grievor did not satisfy this precondition, he could not be deemed qualified for any future Marker-Grader position.

Teaching Assistant Positions

The grievor did not complete any evaluations as set out in paragraph 5 of the Minutes, required for him to be deemed to have met the threshold academic qualifications for any Teaching Assistant position in the Department of Mathematics. To be clear, he did not request to be evaluated in accordance with the Minutes for any course, save and except Math 1P05, which evaluation he then requested to postpone and did not reschedule. The grievor requested to be evaluated for Math 1P05 on August 31, 2009. On August 27, 2009, the Union, on behalf of the grievor, requested that the evaluation be postponed and that the grievor be permitted to audit the course instead. The grievor did not schedule a further evaluation for Math 1P05 in accordance with the Minutes. To date, the grievor has not requested to be evaluated for any other course in the Department of Mathematics and as such, cannot be deemed to have met the threshold academic qualifications for any Teaching Assistant position in the department.

There has been no violation of the collective agreement as alleged. Each of the 10 grievances is dismissed.

- Grievance #2013-I-004 – The Union alleged that the University had violated the collective agreement by failing to appoint the grievor as a Teaching Assistant in Math 1P05 and Math 1P06 for the winter 2013 academic term. However, the grievor had not been evaluated for Math 1P05 and had never requested to be

evaluated for Math 1P06. The grievor had not been deemed to have met the threshold academic qualifications for a Teaching Assistant position in Math 1P05 and Math 1P06. Grievance #2013-I-004 must therefore be dismissed.

- Grievance 2014-I-003 – The Union alleged that the University had violated the collective agreement by failing to appoint the grievor as a Teaching Assistant in Math 1P97 for the winter 2014 term. At this time, the grievor claimed that the 87% he received by taking the Math 1P05 course as a student should demonstrate his proficiency in Math 1P97 because Math 1P05 was more difficult. The grievor had never requested to be evaluated for Math 1P97. The grievor had not been deemed to have met the threshold academic qualifications for a Teaching Assistant position in Math 1P97. It is irrelevant that he received an 87% mark as a student in Math 1P05. Grievance #2014-I-003 must therefore be dismissed.
- Grievance #2015-I-023 – The Union alleged that the University had violated the collective agreement by failing to appoint the grievor as a Teaching Assistant and Marker-Grader in Math 1P98 and Math 1P20 for the fall 2015 academic term. At this time, the grievor claimed that the 87% mark he received by taking the Math 1P05 course as a student should demonstrate his proficiency in Math 1P98 and Math 1P20 and entitle him to a Teaching Assistant position in both courses because Math 1P05 was more difficult. With respect to the Teaching

Assistant positions, the grievor had never requested to be evaluated for Math 1P98 and Math 1P20. The grievor had not been deemed to have met the threshold academic qualifications for a Teaching Assistant position for Math 1P98 and Math 1P20. With respect to the Marker-Grader positions, the grievor had not satisfied the condition that he first be deemed qualified as a Marker-Grader in Math 1P97, prior to applying to be deemed qualified for the Marker-Grader position in Math 1P98 and Math 1P20. Grievance #2015-I-023 must therefore be dismissed.

- Grievance #2016-I-001 – The Union alleged that the University had violated the collective agreement by failing to appoint the grievor as a Teaching Assistant in Math 1P97 and Math 2P04 for the winter 2016 academic term. The grievor had never requested to be evaluated for Math 1P97 and Math 2P04. The grievor had not been deemed to have met the threshold academic qualifications for a Teaching Assistant position in Math 1P97 and Math 2P04. Grievance #2016-I-001 must therefore be dismissed.
- Grievance #2017-I-003 – The Union alleged that the University had violated the collective agreement by failing to appoint the grievor as a Teaching Assistant in Math 1P40 and Math 3P41 and Marker-Grader in Math 1P97 for the winter 2017 academic term. With respect to the Teaching Assistant positions, the grievor had

never requested to be evaluated for Math 1P40 and Math 3P41. The grievor had not been deemed to have met the threshold academic qualifications for a Teaching Assistant position in Math 1P40 and Math 3P41. The grievor was deemed unqualified as a Marker-Grader for Math 1P97 on July 10, 2010. Grievance #2017-I-003 must therefore be dismissed.

- Grievance #2018-I-004 - The Union alleged that the University had violated the collective agreement by failing to appoint the grievor as a Marker-Grader in Math 1P97 for the winter 2018 academic term. The grievor was deemed unqualified as a Marker-Grader for Math 1P97 on July 10, 2010. The grievor did not request to be re-evaluated for this work. Grievance #2018-I-004 must therefore be dismissed.
- Grievance #2018-I-021 – The Union alleged the University had violated the collective agreement by failing to appoint the grievor as a Teaching Assistant in Math 1P01, Math 1P05 and Math 1P20 for the fall 2018 academic term. The grievor had never requested to be evaluated for Math 1P01 and Math 1P20. The grievor had not been deemed to have met the threshold academic qualifications for a Teaching Assistant position in Math 1P01 and Math 1P20. While the grievor may have received an 87% mark as a student in Math 1P05, he never requested to be evaluated for Math 1P05 in accordance with the Minutes. In any

event, the Teaching Assistant appointment to Math 1P05 was offered to and accepted by a student with preference in hiring. Grievance #2018-I-021 must therefore be dismissed.

- Grievance #2019-I-003 – The Union alleged that the University had violated the collective agreement by failing to appoint the grievor as a Marker-Grader in Math 1P06 for the winter 2019 academic term. The grievor had not satisfied the condition that he first be deemed qualified as a Marker-Grader in Math 1P97, prior to applying to be deemed qualified for the Marker-Grader position in Math 1P06. Grievance #2019-I-003 must therefore be dismissed.
- Grievance #2019-I-041 - The Union alleged that the University had violated the collective agreement by failing to appoint the grievor as a Teaching Assistant and Marker-Grader in Math 1P01, Math 1P05, Math 1P20 and Math 1P70 for the fall 2019 academic term. With respect to the Teaching Assistant positions, the Grievor had never requested to be evaluated for Math 1P01, Math 1P20 and Math 1P70. The grievor had not been deemed to have met the threshold academic qualifications for a Teaching Assistant position in Math 1P01, Math 1P20 and Math 1P70. While the grievor may have received a 87% mark as a student enrolled in Math 1P05, he never requested to be evaluated for Math 1P05 in accordance with the Minutes. In any event, the Teaching Assistant appointments

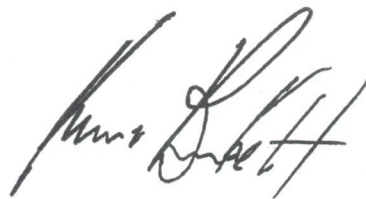
to Math 1P05 were offered and accepted by a student with preference in hiring. With respect to the Marker-Grader positions, the grievor had not satisfied the condition that he first be deemed qualified as a Marker-Grader in Math 1P97, prior to applying to be deemed qualified for the Marker-Grader positions in Math 1P01, Math 1P05, Math 1P20 and Math 1P70. Grievance #2019-I-041 must therefore be dismissed.

- Grievance #2021-I-010 – The Union alleged that the University had violated the collective agreement by failing to appoint the grievor as a Teaching Assistant and Marker-Grader in Math 1P05 and Math 1P12 in the fall 2021 academic term. The grievor had never requested to be evaluated for Math 1P12. The grievor had not been deemed to have met the threshold academic qualifications for a Teaching Assistant position in Math 1P12. While the grievor may have received a 87% mark as a student enrolled in Math 1P05, he never requested to be evaluated for Math 1P05 in accordance with the Minutes. In any event, one of the two Teaching Assistant appointments to Math 1P05 was offered and accepted by a student with preference in hiring. With respect to the Marker-Grader positions, the grievor had not satisfied the condition that he first be deemed qualified as a Marker-Grader in Math 1P97, prior to applying to be deemed qualified for the Marker-Grader positions in Math 1P12 and Math 1P05. Grievance #2021-I-010 must therefore be dismissed.

Even in the absence of the Minutes of Settlement entered into and the individualized qualification process set out therein, the grievor has failed to establish that he would have satisfied the minimum posted qualifications necessary to be deemed qualified for the Marker-Grader and/or the Teaching Assistant positions in each of the instances of a failure to appoint raised in the 10 grievances.

Neither the grievor's mark (87%) in the mathematics 1P05 course which the grievor took as a student in 2013 nor the level of supervisory support during trial grading exercises alters any of the foregoing. Accordingly, this is to confirm that each of the 10 grievances under adjudication is dismissed.

Dated this 23rd day of June 2022 in the City of Toronto.

A handwritten signature in black ink, appearing to read "Kevin Burkett", is written above a horizontal line.

KEVIN BURKETT