

IN THE MATTER OF AN ARBITRATION

B E T W E E N:

Corporation of the City of St. Catharines

(“the City”)

- and -

**St. Catharines’ Professional Fire Firefighters’ Association,
IAFF Local 485**

(“the Association”)

AWARD

Before: Lindsay Lawrence, Arbitrator

Re: Entitlement to Accidental Death and Dismemberment Benefit

Appearances

For the City:

Mark H. Mason, Counsel
Dave Upper, Fire Chief
Jeanette Pillitteri, Director of Corporate Support Services
Gail Flaminio, Manager of Human Resources
Reva Eckhardt, Human Resources Consultant
Veronica Golden, Human Resources Consultant

For the Association:

Howard Goldblatt, Counsel
Sabrina Sukhdeo, Counsel
Ryan Madill, President, IAFF Local 485
Mark D’Ilario, Vice President, IAFF Local 485
Jake Martin, Secretary, IAFF Local 485
Chris Bartley, Treasurer, IAFF Local 485
Patricia Kraft, WSIB Representative, IAFF Local 485

Hearing Date: April 8, 2026

1. The Association is the exclusive bargaining agent of approximately 170 full-time regular employees employed by the City's Fire Services pursuant to the provisions of Part IX of *the Fire Protection and Prevention Act*, SO 1997, ch 4. The City and the Association are parties to a collective agreement with a term of January 1, 2024, to December 31, 2026. This grievance is about whether, under the collective agreement, the Accidental Death and Dismemberment ("AD&D") benefit applies to retired firefighters who died from an occupational disease that was diagnosed after retirement.

2. Both parties maintain that the language of the collective agreement supports their respective positions but have requested that I address the estoppel argument raised by the Association as a preliminary matter. Accordingly, this decision addresses the question of whether, as a preliminary matter and prior to any determination on the merits of the grievance, the City is estopped from halting payment of the AD&D benefit to the estates of retired firefighters who died from an occupational disease that was diagnosed after retirement.

3. For the reasons that follow, I conclude that an estoppel applies.

Facts

4. The parties entered into an Agreed Statement of Facts, upon which they each based their arguments. The Agreed Statement of Facts is attached in full at Appendix A. No additional evidence was called, and the parties proceeded to argument on the estoppel issue. The following is a short summary of the agreed upon facts.

5. The 2024-2026 collective agreement (and agreements since 2013-2015) provide for payments related to Line of Duty Death ("LODD"), which includes an AD&D benefit. Article 12.03 provides as follows:

12.03 – The Corporation will provide by contract with an insurer licensed under the Insurance Act, compulsory group life insurance for the Fire Fighters, except Probationers, in an amount two (2) times the basic annual salary, to the nearest \$500.00, with accidental death and dismemberment rider, and the Corporation will contribute one hundred per cent (100%) of the amount of the premiums for the insurance on the life of each Fire Fighter. Coverage shall normally be adjusted effective on the first day of the month following a permanent increase in salary, but adjustments arising from the terms

of a new or revised agreement shall be made effective as soon as possible after the signing of the Terms of Settlement.

6. On July 28, 2020, Arbitrator Brian Sheehan issued a rights arbitration award in respect of the language of Article 12.03: *Corporation of the City of St. Catharines v St. Catharines Professional Fire Fighters' Association*, 2020 CanLII 88352 (ON LA) ("the *Cookson* decision"). That decision determined that AD&D benefits extend to firefighters who are diagnosed with an occupational disease while employed but who are retired at the time of death.

7. Since the *Cookson* decision and up until May 2025, the City has paid (or is in the process of paying) the AD&D benefit to the estates of all retired firefighters who were diagnosed with an occupational disease after retirement and who had submitted an AD&D claim to the City. In a May 2025 letter, the City advised that it would be halting any further application to the estates of firefighters with a post-retirement diagnosis. This letter was sent after negotiations and well into the interest arbitration process underway for the determination of the 2024-2026 collective agreement.

8. In June 2025, the Association objected to the City's letter and that letter forms the basis of the grievance, which was subsequently referred to arbitration before me.

Arguments

9. The Association submits that this is a clear case requiring the application of an estoppel. In the *Cookson* decision, Arbitrator Sheehan specifically stated that he was not addressing the situation of a firefighter who is diagnosed post-retirement. While the City may have viewed that issue as unresolved, the Association has always been of the view that there is an entitlement, regardless of when an individual retires and is diagnosed with an occupational disease. The City's practice of paying regardless of the diagnosis/ retirement sequence has been consistent. The Association has relied upon the City's conduct to its detriment. There is clear detriment not only to the estates of affected firefighters, but also to the Association. Had it not been for the City's practice, the Association would have filed a grievance and/or made proposals in bargaining. It would be unfair and inappropriate to allow the City to change its position at this time.

10. The City argues that its practice has improperly captured individuals who were diagnosed with an occupational diseases post-retirement. From the City's perspective, payment of individuals diagnosed post-retirement is not required by the collective agreement language and was not determined in the *Cookson* decision. The City intends to proceed with its arguments on the merits of the case so that the parties may have clarity when they are next in bargaining. In the meantime, the City should not be required to continue payments which are a misinterpretation of the language and/or an overbroad application of the *Cookson* decision. The City had no intention of altering the legal positions of the parties. If the City's interpretation is wrong, then the City will be ordered through arbitration to make payments. If, however, the City's interpretation is correct, but an estoppel is found and payments are made on that basis, this is a liability that the City would not be able to recover.

11. Both parties relied upon the section on estoppel from *Canadian Labour Arbitration*, 5th ed. at para. 2:47 ("Brown and Beatty"). The Association also relied upon: *Re Corporation of the City of Kitchener and Kitchener Fire Fighters' Association, International Association of Fire Fighters, Local 457*, 1983 CanLII 4844 (ON LA); *International Brotherhood of Electrical Workers, Local 1687 v Moreau Électrique*, 2025 CanLII 49045 (ON LRB); *Re Int'l Ass'n of Machinists, Local 1740, and John Bertram & Sons Co. Ltd.*, 1967 CanLII 1039 (ON LA), and *Woodstock (City) v Woodstock Professional Firefighters' Association*, 2014 CanLII 34077 (ON LA). The City relied upon: *Coca-Cola Bottling Co. and U.F.C.W., Loc. 393W (Re)*, 2003 CanLII 89604 (ON LA); and *Fearmans Pork Inc. (Sofina Foods Company) v United Food and Commercial Workers Canada, Local 175*, 2025 CanLII 7597 (ON LA).

Analysis and Decision

12. The doctrine of equitable estoppel is an established legal principle, and it is not uncommon for labour arbitrators to be asked to apply the doctrine (see Brown and Beatty, and for example, the discussion in decisions such as *Fearmans Pork* and *Moreau Électrique, supra*). The doctrine generally applies to prevent a party from relying upon certain rights when it would be unjust to do so. The elements of estoppel in the labour relations context are (i) a clear and unequivocal representation concerning the interpretation or application of the collective

agreement; (ii) made by words or conduct, which may include silence or acquiescence; (iii) intended to be relied on by the other party and which in fact affects the legal relations between the parties to the collective agreement; (iv) some reliance on the representation; and (v) detriment resulting from such reliance.

13. The City's practice with respect to payment of the AD&D benefit in circumstances involving post-retirement diagnosis has been consistent since the *Cookson* decision. It is in the nature of an estoppel that the conduct at issue is not in keeping with the collective agreement and/or that there is provision of a benefit outside of what is legally required. It does not matter that post-retirement diagnosis was not the issue determined in the *Cookson* decision. It equally does not matter whether the City applied that decision overbroadly and/or misinterpreted the collective agreement language. What matters is that there has been an open, clear and consistent practice with respect to payment.

14. When the caselaw refers to conduct "intended to be relied on by the other party", this does not mean that for an estoppel to apply one party must have intended to act outside of their strict legal rights. "Intention" in this context means the intention that the conduct be relied upon, not that one party intended to act outside of their strict legal rights under the collective agreement. In this case, there can be no question that the administration and payment of AD&D benefits is conduct upon which the Association and its members were intended, and indeed entitled, to rely.

15. There is clear detriment in the form of a lost opportunity to bargain. Had the benefits not been paid consistently, the Association could have filed a grievance earlier and/or sought to negotiate either a clarification or a change to what the collective agreement required. This lost opportunity was detrimental to the Association, thereby completing the elements necessary to establish an estoppel in the labour relations sense.

16. It is true that, if no estoppel applies but the City's interpretation is ultimately incorrect on the merits, members improperly denied the benefit would be compensated. However, the converse is not true. If an estoppel is applied and the City's interpretation is incorrect on the

merits, there will be payments made that were not strictly required by the collective agreement language. Again, however, that is in the very nature of the doctrine of equitable estoppel. While not required under strict legal rights, the conduct is being continued on an equitable basis because the previous conduct was clear and consistent and because there was detrimental reliance.

17. Accordingly, I find it appropriate to exercise my discretion and apply the equitable doctrine of estoppel. The City is precluded from halting payment of the AD&D benefit to the estates of retired firefighters who died from an occupational disease diagnosed after retirement until the termination of the current collective and until the parties have completed negotiations (and/or interest arbitration) for their next collective agreement.

18. I remain seized with respect to any dispute regarding the interpretation or implementation of this Award, as well as with the merits of and any remaining issues requiring determination with respect to this grievance.

Dated at Toronto this 22nd day of April, 2026.

“Lindsay Lawrence”

Lindsay Lawrence – Arbitrator

Appendix “A” – Agreed Statement of Facts

1. The City and the Association (collectively, the “Parties”) agree to the following facts in respect of the above-noted matter and further agree that the hearing scheduled for April 8, 2026 shall proceed with legal argument and without the need for further evidence. The Parties reserve the right to make arguments about the relevance and weight provided to any of the facts set out below.

Collective Agreement

2. The Association is the exclusive bargaining agent of approximately 170 full-time regular employees employed by the City’s Fire Services pursuant to the provisions of Part IX of the Fire Protection and Prevention Act, SO 1997, ch 4.

3. The City and the Association are parties to a collective agreement with a term of January 1, 2024 to December 31, 2026. The Parties agreed upon certain matters in the course of negotiations for the 2024-26 collective agreement, which is attached at Tab 1. The outstanding matters for the 2024-26 collective agreement were resolved through an interest arbitration decision by Arbitrator Brian Sheehan on July 28, 2025, which is attached at Tab 2.

4. As the Parties have not yet finalized an updated 2024-26 collective agreement document, the prior collective agreement with a term of January 1, 2019 to December 31, 2023 is attached at Tab 3.

5. The 2024-26 collective agreement provides for payments related to Line of Duty Death (“LODD”), which includes an Accidental Death and Dismemberment (“AD&D”) benefit. Articles 12.03 and 12.13 provide as follows:

12.03 – The Corporation will provide by contract with an insurer licensed under the Insurance Act, compulsory group life insurance for the Fire Fighters, except Probationers, in an amount two (2) times the basic annual salary, to the nearest \$500.00, with accidental death and dismemberment rider, and the Corporation will contribute one hundred per cent (100%) of the amount of the premiums for the insurance on the life of each Fire Fighter. Coverage shall normally be adjusted effective on the first day of the month following a permanent increase in salary, but adjustments arising from the terms of a new or revised agreement shall be made effective as soon as possible after the signing of the Terms of Settlement.

Issues in Dispute

6. The issue in dispute between the Parties is whether, under the collective agreement, the AD&D benefit applies to retired firefighters who are diagnosed with an occupational disease after retirement (the “interpretation issue”).

7. The Parties further disagree about whether the City is nonetheless estopped from halting payment of the AD&D benefit to retired firefighters who are diagnosed with an occupational disease after retirement (the “estoppel issue”).

8. The Parties agree that the estoppel issue is to be addressed by the Arbitrator before the interpretation issue.

Background to the Grievance

9. On July 27, 2016, Arbitrator Stephen Raymond issued an interest arbitration award in respect of the parties’ negotiation of a collective agreement with a term of January 1, 2013 to December 31, 2015 (the “Raymond Award”) (Tab 4). One of the issues in dispute was the Association’s proposal to amend and clarify the provisions related to LODD payments, which were the same as the current provisions in the 2024-26 collective agreement reproduced above. The Raymond Award provided:

The Association has a proposal in respect of Line of Duty Death which asks that the existing Accidental Death and Dismemberment benefit apply to firefighters’ occupational diseases, as defined by the Workplace Safety and Insurance Act and its Regulations. We have reviewed this matter and, in particular, have considered the recent rights arbitration award of arbitrator Luborsky in the City of Mississauga which addressed this issue. The collective agreement is clear that accidental death benefits would be provided in the event of a death caused by an occupational disease, as defined by the Act and its Regulations.

10. The Parties agree that the Raymond Award extends AD&D benefits to firefighters who are diagnosed with an occupational disease while employed and who remain actively employed at the time of death.

11. On July 28, 2020, Arbitrator Brian Sheehan issued a rights arbitration award in respect of a grievance dealing with whether firefighters are entitled to AD&D benefits when they are actively employed at the date of diagnosis of an occupational disease but are not actively employed at the time of death (the “Cookson decision”) (Tab 5). In the Cookson decision, Arbitrator Sheehan stated:

In conclusion, it has been determined that a loss of life AD&D claim on behalf of an employee who has retired, such as Mr. Cookson, is not invalid if the accident that forms the basis of the claim occurred while the employee was covered by the collective agreement.

12. The Parties accordingly agree that the Cookson decision extends AD&D benefits to firefighters who are diagnosed with an occupational disease while employed but who are retired at the time of death.

Past Practice

13. Since the *Cookson* decision was issued on July 28, 2020, the City has paid the AD&D benefit to the estates of all retired firefighters who have been diagnosed with an occupational disease after retirement and who have submitted an AD&D claim to the City, including the following (date of death by occupational disease in brackets):

- (i) Thomas Rapson (June 28, 2023)
- (ii) Donald Bowman (March 31, 2000)
- (iii) Larry Hall (April 30, 2006)
- (iv) Robert Scharer (March 3, 2018)
- (v) Doug Slack (June 26, 2007)
- (vi) Dennis Naldjieff (June 7, 2015)
- (vii) Richard Gatenby (December 18, 2004)
- (viii) Ford Peacock (April 11, 1992)
- (ix) John Cerminara (2003)
- (x) Alexander Lobsinger (November 28, 2020)
- (xi) Manfred Martens November 30, 2020
- (xii) Lewis Rees (1990)
- (xiii) Walter Bosak (November 6, 2019)
- (xiv) Stephen Bridges (September 20, 2021)
- (xv) Robert Gill (December 21, 2021)
- (xvi) Charles Pollack (January 27, 1997)

Events leading to the Grievance

14. The issues giving rise to the grievance arise from a letter sent by the City to the Association on May 29, 2025. The City advised that it would be halting any further payments of AD&D benefits to firefighters who were diagnosed with a WSIB-approved presumptive illness after retirement such that the date of injury/illness is post-retirement until it obtains “clarification of the [Cookson] decision or until this issue is otherwise resolved” (Tab 6).

15. The City further proposed that the matter be referred to Arbitrator Sheehan, either as part of a request for clarification of the Cookson decision, or in the alternative, as part of the interest arbitration process for the parties’ 2024-26 round of bargaining.

16. On June 25, 2025, the Association responded to the City, advising that the Association does not agree that retired firefighters are not entitled to AD&D benefits if they are diagnosed post-retirement. The Association further asserted that, in the alternative, the City is now estopped from denying payments to the estates of prior members diagnosed post-retirement as the City has been making payments to the estates of such members for years. The Association further asserted that Arbitrator Sheehan did not have jurisdiction as either a rights arbitrator or interest arbitrator to determine the matter (Tab 7).

17. On July 14, 2025, the City responded to the Association, advising that it would be maintaining its decision to halt any further payments to individuals diagnosed post-retirement until it obtained "clarification on entitlement or until the issue is otherwise resolved". The City further agreed that the matter would not be referred to Arbitrator Sheehan as the rights arbitrator for the Cookson decision or as part of the interest arbitration process (Tab 8).

18. Since issuing the May 29, 2025 letter, the City has refused to pay the AD&D benefit to the estates of the following members, who have each submitted claims:

- (i) Gord Lessard
- (ii) Robert Barber

19. The grievance was subsequently referred to arbitration. The Parties agree that Arbitrator Lindsay Lawrence has jurisdiction to hear this matter.