IN THE MATTER IF AN ARBITRATION PURSUANT TO THE LABOUR RELATIONS ACT, 1995

BETWEEN:

TEAMSTERS LOCAL UNION 230 (the Union)

AND

TORONTO REDI-MIX (the Employer)

Appearing for the Union:	Steven Bosnick, Watson Jacobs Bosnick LLP
Appearing for the Employer:	Glenn P. Christie, Hicks Morley LLP
Sole Arbitrator:	Norm Jesin
Hearing Dates:	April 10, 2024; October 10, 2025: January 16 and March 31, 2026.
Date of Decision:	April 28, 2026

AWARD:

1. In this case the Union grieves that the Union the Employer has failed to pay its employees daily overtime at time and one half after 9 hours work in a day, in contravention of Article 9.03 and any other relevant provisions of the collective agreement. In the grievance, the Union also alleges that the Employer is in violation of relevant legislative provisions.
2. The Employer claims that it has agreed to daily overtime or weekly overtime. It is the Employer contention that it agreed to pay daily overtime "up to 44 hours in a week" and only weekly overtime after 44 hours worked in a week. The Union asserts that the entitlement to daily overtime is not limited to overtime earned "up to" 44 hours in a week and that the Employer agreed to provide daily overtime after 9 hours in a day and weekly overtime after 44 hours in a week. The facts giving rise to the dispute are as follows:
3. The Employer is engaged in the production and delivery of redi-mix concrete in the greater Toronto Area. The Union represents a bargaining unit of employees employed by the Employer. The prior collective agreement between the parties had an expiry date of November 30, 2021. Article 9.01(b) of the previous agreement provided that the normal work week for full-time employees was 44 hours from Monday to Friday. However, Article 9.03 provided that overtime was to be paid after 43 hours in a week. There was no daily overtime provided for in the previous agreement.
4. Collective bargaining for the renewal agreement took place in November of 2021 and continued into early February of 2022. There were two contentious issues causing difficulty. The first had to do with the administration of a "wheel system" for weekend work. That issue is not pertinent to these proceedings.

5. The other issue concerned proposals regarding overtime. The Employer sought to expand the work week from a five-day work week (Monday to Friday) to a six-day work week (Monday to Saturday). In addition, the Employer sought to amend the provision for weekly overtime so that it would now be paid after 44 hours in a week. The Union opposed the Employer proposals and introduced its own proposal for daily overtime after 8 hours in a day.
6. By February 11, 2022, the parties had been unable to reach agreement. As a result, the Employer submitted a final offer which was put to a vote the employees. The final offer did not contain the Employer's previous proposed amendments to the work week. The Employer now offered to pay weekly overtime after 42 hours. Once again, no daily overtime was offered. The vote on the Employer's offer was held on February 13, 2022. The vote was very close and contentious. The Employer's offer was rejected.
7. Ken Hall is the President of the Union. He was present at the meeting at which the Employer's off was rejected. He testified that he preferred to avoid a strike as it would be difficult to manage a strike with covid restrictions that were still in place. Mr. Hall asked Domenic Colangelo, the Union's Secretary Treasurer at the time, to approach the Employer to see if he could make the deal better. Mr. Hall chose Mr. Colangelo to speak the Employer because Mr. Colangelo had better relationship with the Employer's owner, Robert Zanetti, than Mr. Hall did.
8. Mr. Colangelo explained that the overtime issue was a very contentious one. He added that the membership had voted to go on strike if agreement could not be reached. He stated that throughout the negotiations the Employer had opposed any proposal to

introduce daily overtime into the collective agreement. However, in an attempt to reach an agreement the Employer proposed reducing the threshold for weekly overtime from 43 hours to 42 hours. This proposal was included in the Employer's final offer presented to the Union, which was rejected as outlined above.

9. On the morning of the vote Mr. Colangelo received a call informing him that his father had passed away from covid. As a result of Covid restrictions in place at the time, he had been unable to visit his father in the hospital. Mr. Colangelo explained that he had struggled with a decision as to whether to go to the hospital immediately or attend the ratification meeting. In the end he decided to attend the meeting.
10. According to Mr. Colangelo the meeting was contentions. The offer was not accepted. The members wanted the Union to see if the offer could be improved and the Union did not wish to go on strike if it could be avoided. According to Mr. Colangelo, the members had asked Ken Hall to contact Rob Zanetti to see if the Union could "squeeze" anything more. In response Mr. Hall asked Mr. Colangelo to contact Mr. Zanetti to see if the offer could be improved.
11. Mr. Colangelo called Mr. Zanetti to seek an amendment to the Employer's last offer. According to Mr. Colangelo's testimony in chief, he was able to resolve the dispute over the wheel system. Mr. Colangelo added that Mr. Zanetti offered to pay daily overtime "to 44 hours" per week. Mr. Colangelo added that he then contacted Mr. Hall and told him that the first issue had been resolved and that Mr. Zanetti was now offering daily overtime "up to 44 hours per week". The amended proposal was then put to the membership and was accepted.

12. Following the ratification meeting Mr. Colangelo prepared a draft agreement. In the draft Article 9.03 provided that overtime would be paid "for hours worked in excess of (9) nine hours per day or forty-four (44) hours Monday to Friday commencing Dec. 1, 2021." The draft was sent to Mike Steffi, one of the Employer's managers. Several revisions to the draft were made by the parties to correct typos. However, the wording regarding entitlement to overtime did not change.

13. Mr. Hall testified for the Union. He recalled that after the Employer's offer was rejected he instructed Mr. Colangelo to contacted Mr. Zanetti to see if the Employer's offer could be improved. According to Mr. Hall, Mr. Colangelo informed him that Mr. Zanetti agreed to offer daily overtime after nine hours in a day, but that the weekly overtime threshold would go to 44 hours. Mr. Hall then made a handwritten note confirming his understanding of the proposal as relayed by Mr. Colangelo. The note read "42 to 44 – 9 HRS Daily". He put those changes to the membership, and the membership approved the changes by a margin of one vote.

14. Mr. Hall asserted that he had a phone call with Mr. Zanetti prior to the second vote. According to Mr. Hall, Mr. Zanetti proposed that weekly overtime would occur after 44 hours and that employees would receive daily *and* [emphasis added] weekly overtime. He maintained that the wording drafted by the Union did not reflect the wording that had been proposed by Mr. Zanetti as it provided for daily over time "or" weekly overtime. Mr. Hall sated that the proposal confirmed by Mr. Zanetti was that employees could receive daily and weekly overtime, even after 44 hours. In cross examination it was suggested that Mr. Hall did not speak to Mr. Zanetti prior to the second vote and that Mr. Zanetti

never explained the proposal to Mr. Hall. Mr. Hall maintained his evidence although he conceded that he made no notes of the conversation with Mr. Zanetti.

15. Mr. Zanetti testified for the Employer. His evidence was that after the first vote rejected the Employer's proposal, he was contacted by Mr. Colangelo to see if his offer could be improved. He agreed for the first time that he would offer daily overtime, but not if the employees reached 44 hours in a week. He testified that he did not speak to Mr. Hall before the second vote. He did indicate however that Mr. Hall called him after the second vote to congratulate him on the outcome. He stated that Mr. Hall was glad that the Union did not have to conduct a strike.

16. In argument counsel for the Union submitted that I should prefer the evidence of Mr. Hall that the Mr. Zanetti clearly indicated that the Employer proposed to pay daily "and" weekly overtime. He also submitted that even on the language contained in the draft I should treat the word "or" as inclusive rather than disjunctive. He conceded that the word "or" is generally disjunctive unless the context suggests otherwise. In this case he submits that considering the dispute and how it was resolved the context supports an inclusive interpretation and that basically the word "or" should be read as "and".

17. Although counsel relied on several cases setting out general interpretive principles, in my view this is a dispute that must be resolved on the evidence. The proposal that the Employer was prepared to make was conveyed directly to Mr. Colangelo. Mr. Colangelo confirmed in his evidence was that the proposal was to pay daily overtime "up to 44 hours". Mr. Colangelo drafted the agreement on behalf of the unit and sent it to the Employer. It is apparent on the evidence that Mr. Colangelo accepted that the proposal

made by Mr. Zanetti was for daily "or" weekly overtime, but not both. As Mr. Zanetti stated, the proposal would provide benefit to those employees who worked daily overtime in a short week – that is, when they worked less than 44 hours in a week.

18. I also accept Mr. Zanetti's evidence that he never indicated directly to Mr. Hall that he was proposing to offer daily and weekly overtime. This conclusion is consistent with Mr. Colangelo's evidence as to what was offered and is consistent with the draft prepared and sent to the Employer by the Union. I would also add that the note made by Mr. Hall after does not confirm, in my view, that Mr. Zanetti offered daily and weekly overtime rather than daily or weekly overtime. In all the circumstances I find that the evidence of Mr. Colangelo, including his role in preparing and submitting the draft, confirms the likelihood that the Employer's position reflects was what was agreed to.

19. For these reasons it is my determination that the grievance must be dismissed.

Dated at Toronto this 28th day of April 2026.

Norm Jesin, Sole Arbitrator