

IN THE MATTER OF AN ARBITRATION HEARING
UNDER THE *LABOUR RELATIONS ACT, 1995*

B E T W E E N

**CANADIAN MENTAL HEALTH ASSOCIATION
THAMES VALLEY ADDICTION & MENTAL HEALTH SERVICES**
("the Employer")

AND

ONTARIO PUBLIC EMPLOYEES' UNION, LOCAL 133
("the Union")

**Coordinator Grievances
OPSEU File No. 2024-0133-0007**

SOLE ARBITRATOR: COLIN JOHNSTON

For the Employer:

Elizabeth Traynor, Counsel
Alexandra Azzopardi, Articling Student
Lori Griffith, Director of Crisis and Access
Tessa Kiddie, Director of People Services
Greg Owen, Labour Relations Manager

For the Union:

Tim Hannigan, Counsel
Tischa Forster, Local President
Bob Dhillon, Grievor
Shelley Barrett, Grievor
Colleen DiPietro, Chief Steward
Amanda Picott, Staff Representative

***Hearings held by way of Video Conference
on April 13, 14, and 16, 2026***

AWARD

Background

1. The Union filed a policy grievance dated August 7, 2024, along with several individual grievances, which challenge the Employer's decision to eliminate Team Leader positions across the organization and to introduce a new classification, Coordinator, which falls outside the bargaining unit.
2. The Union argues that the Coordinator positions fall within the bargaining unit and seek a declaration confirming the same. In the alternative, if I find that the Employer properly excluded these positions, the Union seeks a declaration that the Coordinators are performing bargaining unit work in violation of Article 2.02 of the collective agreement. The Employer, for its part, asserts that the Coordinators perform managerial functions and have access to confidential information, which properly excludes them from the scope of the collective agreement. The work they perform differs from that of the Team Lead role, as they focus on managerial functions.

The Evidence

3. The parties entered the evidence using an Agreed Statement of Fact ("ASF"), comprehensive will-say statements, and a Joint Book of Documents. The evidence documents the history of changes within the organization. It details the duties performed by the new Coordinator positions and by the former Team Leader or Team Lead role, terms I use interchangeably.

AGREED STATEMENT OF FACTS

Overview

1. CMHA TVAMHS is an agency resulting from the amalgamation of CMHA Oxford, CMHA Elgin-Middlesex (originally CMHA Elgin and CMHA Middlesex) and Addiction Services of Thames Valley on April 1, 2021. CMHA TVAMHS provides community-based supports and services, including outreach programs, 24/7 crisis services, counselling, community wellness, social rehabilitation and peer support, community withdrawal support, withdrawal management, supportive housing, transitional case management, and public education to individuals in Oxford County, Middlesex County (including the City of London), Elgin County, the Municipality of Chatham-Kent, and Huron County. The amalgamated agency has approximately 660 employees in total.

2. Prior to amalgamation, CMHA Middlesex had approximately 455 non-managerial employees; ADSTV had approximately 75; CMHA Oxford had approximately 64; and CMHA Elgin had approximately 70.

3. Prior to amalgamation, OPSEU represented the employees of CMHA Elgin and CMHA Oxford. A vote was held under the Public Sector Labour Relations Act in late September 2022 and OPSEU now represents all CMHA TVAMHS employees, with the typical exceptions.

4. Between September 2023 and June 2024, changes were made to the leadership team and non-union staff.

5. In the fiscal year ending March 31, 2024, the Employer sent a media release reporting a \$2.6M deficit on revenues of \$52.5M (Media Release | CMHA TVAMHS Calls for Increased Funding - CMHA Thames Valley).

6. In March 2024, the Employer advised the Union that lay-offs were necessary. The Parties have negotiated two Memoranda of Agreement to mitigate layoffs through voluntary resignations and retirements, elimination of contract staff, and transfers of staff to vacant positions.

Team Leads / Team Leaders

7. Prior to the PSLRTA vote:

(a) CMHA Elgin's bargaining unit included **Team Leads**, a "shift differential" position which was responsible for "assuming additional administrative and clinical responsibilities" when members of management were not there;

(b) CMHA Oxford's bargaining unit included **Team Leaders**;

(c) CMHA Middlesex (non-union) utilized **Team Leads**; and

(d) ADSTV (non-union) had no **Team Leads/Leaders**.

8. **Team Leads and Team Leaders** were included in the bargaining unit for the purposes of the PSLRTA vote.¹ The Employer agreed to this inclusion.

9. After the PSLRTA vote, the Union took the position that **Team Leads** could not perform certain management duties, which could become subject to a grievance given their membership in the bargaining unit.

Changes Implemented

¹10. At certification, the bargaining unit included positions with the title "Coordinator", including Psychoses Coordinator (renamed "Transitional Case Manager, PEPP"), Peer Support Coordinator (renamed Addiction and Mental Health Worker, Peer Support at integration), and Drop-In Coordinator (one part-time position which was eliminated

¹ 1 **Team Leads/Leaders** will be referred to collectively as "**Team Leads**" hereafter.

during mitigation). Three Coordinator positions still exist in the bargaining unit: Coordinator, MicroEnterprise (provides direct service to clients, sole employee in the microenterprise program); Coordinator, Nutrition, Home, and Garden at My Sister's Place; and Coordinator, Donor Relations.

11. At the outset of the 2024 fiscal year (April 1, 2024), the Employer's workforce included 34 Team Leads in the bargaining unit.

12. In the spring of 2024, one Team Lead position was eliminated because of a program shutdown; one Team Lead position was eliminated and converted to a direct service role; and one Team Lead position was eliminated from one program which was being shut down and moved to another program. As of June 30, 2024, there were 32 Team Lead positions in the bargaining unit.

13. On July 30, 2024, the Employer confirmed to the Union that it was implementing changes which would reduce the number of Team Lead positions.

14. On August 7, 2024, the Employer posted 11 Coordinator positions.

15. On August 19, 2024, the Employer advised Team Leads of the changes and their options. They were also advised that the posting deadline for the Coordinator positions was extended to give them the opportunity to apply.

16. The result of the changes was that, effective October 12, 2024:

(a) some Team Lead positions remained;

(b) some Team Lead positions were eliminated;

(c) some Team Lead positions were converted to direct service roles at a lower rate of pay in the same programs and affected Team Leads were offered the direct service roles in their same program.

The Grievance

17. The Grievance alleges that:

(a) Coordinators are Team Leads and, as such, are included in the bargaining unit;

(b) Coordinators do not perform managerial duties which would exclude them from the bargaining unit under the Collective Agreement and the Labour Relations Act;

(c) If Coordinators are excluded from the bargaining unit, they will perform the work of the bargaining unit contrary to the Collective Agreement;

(d) The Employer's actions violate Article 2.01 and 2.02 of the Collective Agreement and the Labour Relations Act, 1995;

(e) the elimination of the Team Lead positions and creation of the Coordinator positions violate the Mitigation Memorandum of Agreement.

18. The Employer states that restructuring is permitted in accordance with Art. 11.03 of the Collective Agreement and that the Coordinator positions are properly excluded from the bargaining unit as required by the Labour Relations Act, 1995

4. In addition to the ASF, the parties introduced a comprehensive Joint Book of Documents, including an Excel chart that I refer to as the Tracker. Using the Tracker, the Coordinators or their managers document the managerial or exclusionary duties they performed on a day-to-day basis. The Tracker lists 1,666 entries from late 2024 to early 2026. Each entry details the exclusionary work the Coordinator performed that day.
5. The parties each called several witnesses who testified with the aid of comprehensive will-say statements. The Union's witnesses included Tischa Forester, Bhavendeep ("Bob") Dhillon, and Shelley Barrett. The Employer's witnesses included Lori Griffith, Melanie Archer, Josee Sanders, and Kelly Benwell.
6. Ms. Forester has worked as a clinical case manager and occupational therapist with CMHA since 1999. She works at the Oxford site where OPSEU has represented members since 2007. She represents members of OPSEU Local 133 as Local President, a position she has held since 2008.
7. Mr. Dhillon began his employment with CMHA in 2012 as an outreach worker. He transitioned into the Team Leader position in Supportive Housing at the Elgin branch in 2019, a unionized site. The Employer eliminated his Team Leader role in 2024, and he chose to transfer to a case manager position. He is also a union steward.
8. Ms. Barrett also worked at the Elgin site prior to amalgamation. She began her employment in 1996 and became a Team Leader in 2021. The Employer eliminated her Team Leader position in 2024, and she, too, chose to transfer to a case manager role.
9. Ms. Griffith is the Director of Crisis and Access. She began her employment with CMHA in 2021; prior to that, she worked for the Addiction Services of Thames Valley, where she started in 2004. She held a management role at the non-union site before moving into a senior director role. In her current position, she has one Coordinator, Josee Sanders, who reports to her. She also sat on the Employer's bargaining team to negotiate the parties' first collective agreement.

10. Ms. Sanders began working at the CHMA in 2022 as a full-time crisis worker and moved into a Team Lead position on the Crisis Assessment Team. When the Employer eliminated the Team Lead positions, she transferred to a case manager role and was eventually selected as the successful candidate for a Coordinator position in June 2025. As a Coordinator, she supports five managers at the London Crisis Centre and reports directly to the program's Director, Lori Griffith.
11. Ms. Archer began her employment with the organization in 2014. She became a Team Leader for Nicole's Choice and the Supportive Living Apartments in 2018 and worked in that position until the Employer promoted her to manager in October 2021. As the manager, she has one Coordinator who reports to her.
12. Ms. Benwell began her employment with CMHA in 2021, following its amalgamation with Addiction Services of Thames Valley. She started as an addiction counselor with the previous organization in 2017. She began as a Team Lead in 2022 in the Counseling and Treatment program, but left in September of that year for medical reasons. She returned to the Team Lead role in January 2024, where she worked until the Employer promoted her to Coordinator of Counseling and Treatment in October 2024.

Amalgamation

13. In April 2021, the CMHA Thames Valley Addiction and Mental Health Services came into existence through the amalgamation of the CMHA Oxford, CMHA Elgin-Middlesex (formerly CMHA Elgin and CMHA Middlesex), and Addiction Services of Thames Valley ("ADSTV"). Two separate OPSEU locals represented staff at the CMHA Elgin and CMHA Oxford locations. CMHA employed approximately 65 unionized staff at the Oxford site and 70 unionized staff at the Elgin site. The ADSTV site employed about 100 non-union staff. The London-Middlesex site employed approximately 560 non-union staff, which was the largest of the four sites. At the time of amalgamation, non-union staff represented approximately 80% of staff, and OPSEU represented the remaining 20% at the Elgin and Oxford sites.

14. Following the amalgamation, the parties made an application under the *Public Service Labour Relations Transition Act* (“PSLRTA”), and a vote was held in September 2022, declaring OPSEU Local 133 as the bargaining agent for employees in the amalgamated organization. At the time of the vote, the parties agreed to a recognition clause that included Team Leaders. The OLRB certified the new bargaining unit with the same recognition clause, which reads,

2.01 All Employees of Canadian Mental Health Association Thames Valley Addiction and Mental Health Services save and except persons above the rank of Team Leader, persons employed in a human resources, Communications, or payroll capacity, Assistants to the Chief Executive Officer(s), Vice-Presidents and Directors.

15. Ms. Griffith contends that the Employer’s representatives during the *PSLRTA* vote had limited labour relations experience and were unaware of the implications of including the Team Leader position in the bargaining unit description. The parties’ decision to include them was premised largely on their inclusion at the former unionized sites.
16. Ms. Griffith sat on the Employer’s bargaining team during the negotiations for a first collective agreement for the combined unit. She explained that the Employer did not take steps to exclude the Team Leader during bargaining because they assumed a freeze period was in place. The parties eventually negotiated a wage rate for the Team Leader classification and specific language covering their inclusion on a new on-call team, the latter of which never got off the ground.
17. It is worth noting that other Coordinator positions in the bargaining unit existed prior to 2024. However, those positions are clearly different from the managerial roles at issue in this dispute. The parties entered job descriptions for those positions, including Peer Support Coordinator, Drop-In Coordinator, and Community Engagement and Volunteer Coordinator, among others. It appears that the individuals who hold these positions coordinate functions within the organization and are not responsible for supervising staff. The Employer did not seek to exclude these Coordinators’ positions from the bargaining unit description, as they did not perform any managerial functions and are not comparable to the new positions the Employer introduced in 2024.

March 3, 2024 Email

18. I heard evidence regarding the significance of an email Ms. Forester sent to the Employer on March 3, 2023. In the email, the Local President raises concerns about potential conflicts in which Team Leads could be performing managerial duties. The email reads in part,

I am just writing to follow up regarding team leader positions within the bargaining unit. Could we have a copy of the job description specific to Ashley Morgan as a follow up to the Employer's request to exclude her position from the OPSEU bargaining unit. We did follow up with Ashley and she confirmed she wishes to be excluded as most of her duties fall into exclusionary duties (managerial) under the OLRA.

We also would like to address all Team Leader positions at this time. Members covered by the bargaining unit of OPSEU should not perform exclusionary duties that could create a conflict of interest linked to a grievance. We can't have situations where a member grievance is linked to the work of a team leader member also covered by OPSEU due to them performing exclusionary duties under the OLRA. [emphasis added]

Team Leader's are included in our Elgin and Oxford contracts, however, they do not hire, score or vet interview candidates as that is exclusionary and could become subject of a job competition grievance. The union would support a TL sitting in on an interview and verbally offering feedback if they think the person is a good fit for the program, however should not be scoring to determine the successful candidate.

The other exclusionary duties include: hiring. Firing , disciplinary action, performance evaluation , scheduling and approving time off, and access to confidential labour relations info ex) employees personnel records. [emphasis added]

It sounds like most of our team leader's provide clinical coaching and support to employees in their program. Some assist with scheduling, however cannot approve time off requests. Some assist with assignment of work that would be directed first by a manager or director. Most of the team Leader's in the former non-union group do not perform a significant number of these exclusionary duties and the union is requesting that these excluded duties be removed from our team Leader's job duties.

...

Could we please schedule a meeting between the parties to discuss the issues surrounding any TL conflicts of interest and how the parties can work together to resolve these concerns? If you could send us a list of Team Leader's in the former non-union group as well as the "Executive TL" and "Team Leader" job description prior to a meeting to discuss between the parties?

19. Ms. Forester was asked several questions about the email. She explained that her main concern at that time was not about Team Leaders but rather an individual employee who worked as an administrative assistant to the Director and had access to confidential information. The parties agreed to exclude that person from the bargaining unit during negotiations for the first collective agreement. She explained that, regarding Team Leaders, she intended to begin a discussion of potential conflicts in their roles as they performed different functions across the four sites. It was never her intention to have them removed from the bargaining unit.
20. She knew that Team Leads were working at all four sites and wanted to ensure they were not performing managerial functions, such as hiring, firing, or disciplining members, as this would present a conflict. She hoped to meet with the Employer to ensure that the positions could continue to function without any conflicts. She had no issue with the Team Leader providing input to managers regarding employees' performance. However, she did not want them to do formal performance evaluations that would form part of the employee's record. She recalled that one of her union stewards raised concerns about the Team Leaders being responsible for scheduling, which could lead to favoritism.
21. She recounted that the parties had discussed the role of Team Leaders back in 2010 at the Oxford site. The Employer created the role to support management by coaching the frontline staff, covering sick calls, onboarding new staff, training existing staff, serving on interview panels, and providing hiring recommendations. Regarding interviewing, the Union understood they could score external candidates but not do the same for internal applicants. The parties agreed that the Team Leaders could perform all of these tasks and remain in the bargaining unit.
22. Negotiations for a first collective agreement began in March 2023, around the same time that Ms. Forester sent her email to the Employer. The parties incorporated the bargaining unit description into Article 2.01 of the collective agreement. There were no

discussions at the bargaining table regarding the elimination of the Team Leader role or the creation of the Coordinator position. The parties ratified the first agreement on January 2, 2024.

23. It was only after the parties settled the first collective agreement that the Employer took steps to remove these duties from the Team Lead role. It did not seek to exclude them during bargaining and did not provide advance notice of this decision. Similarly, the Employer did not put the Union on notice during bargaining that it intended to introduce a new level of management within the organization and eliminate most Team Leader positions. Ms. Forester recalled discussing with Dean Astofoli, a Director with CMHA who represented the Employer in labour relations matter. He told her that it was all or nothing: either the Team Leads were out of the bargaining unit, or they could no longer perform what the parties referred to as “exclusionary duties”.
24. Ms. Griffith explained that, after amalgamation, the Employer’s goal was to standardize Team Lead roles across the organization. She stated that the Employer agreed with the concerns raised in Ms. Forester’s March 3, 2023, email regarding a conflict of interest in the Team Lead role. However, to correct this problem, the Employer would have to eliminate a significant component of the Team Leader’s job duties. After the Employer removed these exclusionary duties from their roles, managers were left to perform these functions on their own. Managers quickly became overwhelmed by these additional duties, and leadership across the organization felt the lack of management presence on the front lines.
25. She explained that other restructuring was underway within the organization at the same time, which placed additional pressure on the managers. Some managers acquired new portfolios after the restructuring and were now responsible for managing multiple sites. The Employer introduced the Coordinator role to assist the managers with these new challenges. There were too many management functions for the managers to complete; the organization needed another level of management.
26. She explained that the Employer designed the Coordinator role as an entry-level management position that would foster the next generation of leaders within the organization. In her view, Coordinators would not hesitate to move into manager roles.

The same transition did not occur among Team Leads, who generally remained in the bargaining unit. She opined that the Employer could have hired more managers. However, it wanted a position focused on supporting frontline staff to supervise their work, engage in performance management, onboarding, and staff development, in contrast to the manager's role, which focused on community engagement, program development, and supervising the programs they managed.

27. Ms. Griffith thought that if Coordinators were in the bargaining unit, their effectiveness to leadership would be significantly compromised, given the potential for divided loyalties to other bargaining unit members. She explained that because so much of the Team Leads' work involved exclusionary duties, there was little left to assign them on their administrative days. The Employer decided to phase out these positions.
28. Ms. Sanders recalled that once the Employer removed her managerial duties as Team Lead, she no longer performed screening, interviewing, or scoring job candidates for internal postings, or mentored frontline staff. The ratio of her administrative to front service duties decreased significantly, to the point that only 10% of her work involved administrative duties. In her current role as Coordinator, the ratio has flipped, and she now spends 90% of her time on administrative duties and 10% on non-managerial work. Ms. Benwell described a similar experience in which she no longer provided formal clinical supervision or feedback to staff, both of which were a large component of her work.
29. Ms. Archer's evidence supports the conclusion that managers were overwhelmed when the organization removed certain tasks from the Team Leads, including hiring, orientation, training, and direct supervision. As manager, these tasks fell to her, and the job became very challenging. There was little left for the Team Leads to do, as most of their work presented a conflict of interest. Without their assistance, she could not get her work done as a manager, as she was dedicating most of her time to the tasks that Team Leads had once handled. When the Employer finally hired Coordinators, she was able to transfer these duties to them. She conceded that many of the Coordinator's duties in her program were similar to those of the Team Leads. However, she felt that the job functioned better outside the bargaining unit.

Team Leaders – Administrative versus Direct Service Work

30. The parties put into evidence several job descriptions for Team Lead/Leader positions, including a general job description found at Tab 7 of the Joint Book. It is important to note that most Team Leads carried a case load, serving clients, in addition to their Team Leader duties. The ratio of direct client service to administrative work differed from one Team Lead to the next, depending on the manager and the program they worked in. They generally had one day a week dedicated to administrative duties, but they also performed these functions throughout the workweek. The evidence is that Team Leads at both the union and non-union sites generally carried a case load.
31. However, Ms. Archer, who worked as a Team Lead in Middlesex from 2018 to 2021, recounted that not all Team Leads at that location carried a caseload. As Team Lead, she oversaw three housing locations and transferred some of her direct service work to other frontline staff. She estimated that the ratio between her administrative (i.e., Team Lead) duties and her direct service work was 60/40. She noted that the extent to which Team Leads performed managerial duties varied by manager and program. Mesds. Sanders and Benwell confirmed that the duties performed by Team Leads differed depending on the manager and the program they supported. If a manager was overwhelmed with other work, they delegated more duties to the Team Leads.
32. Ms. Barrett testified that although she had one day per week dedicated to Team Lead duties, she still performed the job daily. As Team Leader, she was responsible for assigning clients on the waitlist to case managers, a task she performed every day. She estimated that she spent 80% of her time performing Team Lead duties, while the remaining 20% was direct service work.
33. Ms. Sanders described her role as a Team Lead. She spent one day a week performing managerial-level administrative duties. The other four days, she did direct service work but performed Team Lead functions on an *ad hoc* basis. She estimated that 35% of her work as a Team Lead was dedicated to administrative duties, while the remainder was direct service work. She recalled one Team Lead who had no service duties and was dedicated to the Team Lead job five days a week, but that was the exception.

34. Ms. Benwell described the Team Lead position as a junior management position. She worked closely with the managers in Addiction Services. She carried a case load while in the Team Lead role, but she estimated the ratio of administrative to direct service work was closer to 50/50 when she carried a full case load.

Elimination of Team Leads

35. In the Spring of 2024, there were 32 Team Leader positions across the organization. On May 15, 2024, the parties met at a Labour-Management meeting to discuss their future. The Employer raised several concerns regarding their involvement in scheduling, assigning work, and supervising staff. Ms. Forester, who was in attendance at the meeting, questioned why the Employer was raising the issue at that time rather than earlier, when the parties were in bargaining. She reminded the Employer that Team Leaders had always assisted in recommending new job candidates, scheduling, clinical coaching, onboarding, training, and providing support to managers, and that the Employer had never viewed this work as a conflict in the past.
36. She recounted that during the meeting, the Employer presented its proposal to eliminate the Team Leader positions and replace them with Coordinators as a cost-saving measure. Ms. Griffith refuted this claim, stating that the cost savings from moving forward with Coordinators were marginal and that its goal in restructuring the positions was to provide better support to management in frontline supervision. The Union warned the Employer at the May 2024 meeting that it would file grievances if it moved forward with its plans to introduce the Coordinator role to replace the Team Leaders.
37. On August 14, 2024, the Employer sent emails to individuals in Team Lead roles, including Mr. Dhillon and Ms. Barrett, advising that it was eliminating their positions effective October 12, 2024. The Team Leads were encouraged to apply for the new Coordinator roles posted that same month. Neither Mr. Dhillon nor Ms. Barrett chose to post for the new positions and instead bumped into case manager positions, which pay \$1.71 per hour less than the Team Lead rate, resulting in a loss of \$3,150 annually for each of them.

38. Ms. Griffith explained that the Employer did not eliminate all Team Lead positions, as some had no supervisory functions. She provided the example of the Oxford Crisis Team Lead, which remains in place; their job is to act as a senior support member on the team, and they perform no supervisory or managerial functions. Five Team Leads currently remain across the organization, but do not perform any managerial duties.
39. The Employer posted eleven Coordinator jobs on August 7, 2024, the same day it sent out notice to eliminate Team Leader positions. The job description for the Coordinator who replaced Mr. Dhillon as Team Leader is at Tab 10 of the parties' Joint Book of Documents. Mr. Dhillon submits that the job described at Tab 10 describes many of the duties he once performed, including staff supervision, scheduling, intake/waitlist assignment, audits, payroll input, and liaisons with community partners. The Employer posted a second position for a Tenant Services Coordinator in May 2025, found at Tab 11 of the Joint Book of Documents. Mr. Dhillon again submits that he performed the same duties as described for this position. He contends that there are no responsibilities in the Coordinator job description that he did not perform as a Team Leader. He feels that the two positions are the same. The only difference is that the Team Leader did not perform these duties full-time because they had a caseload.
40. What follows is a summation of the evidence regarding the duties performed by Coordinators and the Team Leaders. I summarize this information to assess the differences and similarities of the positions, as well as the extent to which they perform managerial functions.

Discipline

41. As the Local President, Ms. Forester represents members in disciplinary meetings. She testified that the Coordinators have not attended any disciplinary meetings in which she was present. She consulted with the union steward across the organization and could not find any examples where a Coordinator issued a suspension or termination since the inception of their role. She also reviewed the notes her stewards took during disciplinary meetings and found no evidence of Coordinators in attendance. In cross-examination, she conceded that a Coordinator did attend one disciplinary meeting, but only as an observer.

42. Ms. Griffith countered that Coordinators are privy to disciplinary matters involving frontline staff. However, she conceded that once the matter moves to the disciplinary stage, the Director and the Manager are the primary individuals involved.
43. Ms. Archer testified that the Coordinator working in her program has not been involved in any disciplinary matters, as the occasion has not yet arisen during her tenure. However, she expects her Coordinator to be involved in future discipline should the need arise. She recalled an instance where a Coordinator was involved in a disciplinary matter that ultimately led to the termination of an employee. The Coordinator attended the disciplinary meeting along with the Director, Manager, and Human Resources, but was not involved in the decision to terminate the employee, as the Employer had already made that decision before the meeting.
44. Ms. Sanders gave evidence that she has not attended any disciplinary meetings, as none have arisen in her department since taking on the Coordinator role. Her manager has advised that, if the occasion arises, she will be permitted to attend, something that would not have occurred when she was Team Lead.
45. I heard testimony from Ms. Benwell that she investigated a potential privacy breach by a staff member and reported it to management. She recalled another instance in which she observed an employee with problems with their clinical skills. She sat in on a client session with the staff member to assess their skills, then reported back to management. The Manager and Director then came to observe the employee on their own. She was not aware whether they had taken steps to discipline the individual. Her job was to identify the issue, and she trusted that management would address it. She recalled that, as Team Lead, she did not have the same level of involvement.
46. Coordinator Joanna Rodger documents in the Tracker that she met with her manager and the Director after discovering that an employee was driving on a suspended driver's license, which they had failed to disclose. Ms. Rodger does not document whether she had any further involvement in the employee's actual discipline. Coordinator Kim Rodgers documents in the Tracker that she spoke to a staff member about inappropriate comments made during a staff meeting. There is no further information to suggest the

Employer disciplined this individual. Manager Jay MacDonald documents the role his Coordinator, Sarah Ryckman, played in investigating a complaint against a staff member, which included reviewing surveillance footage and interviewing a client. There is no evidence that Ms. Ryckman had any further involvement in disciplining this individual.

Professional Consultation

47. I heard that both Coordinators and Team Leaders conduct clinical consultations with frontline staff when they have concerns about clinical skills. Ms. Griffith explained that 'professional consultation' is a clinical term used by social workers and psychotherapists to describe informal discussions regarding professional competency. Many of the staff are social workers or psychotherapists, so their professional responsibilities extend beyond the workplace and include duties owed to their respective colleges.

48. The witnesses often used the terms professional and clinical consultation interchangeably. However, the term 'professional consultation' has a specific meaning in the collective agreement, as set out in Article 9.01,

9.01 (a) The Employer may opt to arrange a meeting with an Employee prior to imposing discipline to provide a "Letter of Professional Consultation" and meet with the Employee concerned to discuss the professional issues. The Professional Consultation meeting shall be scheduled to allow for Union representation and notice for the meeting shall be provided to the Employee concerned and the Local President. A Letter of Professional Consultation shall not be considered discipline, but rather an option to discuss issues before they may become a matter involving discipline.

49. As the provision suggests, this formal process may result in the Employer placing a letter in the employee's file. However, the letter itself is non-disciplinary, and the employee cannot grieve it. As the Union president, Ms. Forester attends the meetings contemplated in Article 9.01. She could recall only one instance in which a Coordinator attended a formal professional consultation meeting. The Manager led the meeting, and the Coordinator took notes.

50. I heard evidence that the Team Leaders regularly provided clinical consultations, which did not trigger Article 9.01. The job description for the Team Lead position at the Elgin

branch lists one of their duties as providing support by conducting clinical consultations in support of the program manager. A clinical consultation typically involves one-on-one discussions with an individual staff member to provide coaching and professional direction.

51. Ms. Barrett testified that clinical consultations with staff accounted for a significant portion of her job as Team Leader. Her job description as Team Lead describes the role of the position as follows: *“Through individual discussion and case conferencing, to coach and provide clinical consultation to direct support staff in service planning, referrals, and responding to complex client presentations; To collaborate with other staff in developing and facilitating therapeutic or educational group programming.”*
52. The Team Leaders were not involved in the formal professional consultations, although their feedback to management could trigger that process. The evidence suggests that Coordinators continue to conduct clinical consultations with staff and have a limited role in professional consultations. Ms. Benwell provided evidence that, as Coordinator, she attended a formal professional consultation with her Director, but only because the program manager was absent. It is not clear to me whether she would perform this duty if a manager were present. Several Coordinators, including Ms. Sanders, document on the Employer’s Tracker that they are performing professional consultations with staff, but many of these references refer to informal consultations. For instance, Ms. Sanders documented several instances in which she provided clinical feedback to frontline staff. Coordinators Brianna Hieple and Joanna Rodger document in the Tracker that they attended a professional consultation meeting with a staff member and the manager.
53. Ms. Griffith admitted that many of the interactions documented as ‘professional consultation’ on the Employer’s Tracker refer to these informal consultations and not the process recognized under the collective agreement. If they were formal professional consultations, Ms. Forester would be aware of this fact, given her involvement in the process. Ms. Archer further clarified that Coordinators do not sign off on professional consultations, as this requires a more senior leader’s signature. She also agreed that the letter was non-disciplinary.

Performance Evaluations

54. The job description for the Team Lead in Elgin provides that the Lead monitors clinical service milestones and ensures appropriate documentation in accordance with management's direction, best practice, and program standards. The Team Lead was also responsible for generating reports on workers and service quality variables on an ongoing basis as directed by their manager or management.

55. Ms. Barrett testified that, as Team Lead, she did not participate in any formal performance reviews of other staff. Her job description as Team Leader listed the following duties:

"To monitor client service milestones and ensure appropriate documentation completion in accordance with management direction, best practices, and program standards. To generate, prepare, analyze, and present reports on various client, worker, and service quality variables on a regular and ongoing basis, or as directed by the Program Manager or other management."

56. Despite the duties outlined in the job description, Ms. Barrett clarified that she did not see it as her role to formally consult her manager about employees' performance issues. She did, however, perform file audits, which involve reviewing the clinical documentation of other staff members. She was unaware that the Coordinator in her program was conducting staff performance reviews.

57. As a Team Lead, Ms. Archer did performance reviews for part-time and temporary staff at one location. Her manager conducted all other performance reviews, including those for full-time permanent staff.

58. Ms. Sanders recalled, as Team Lead, performing quarterly file audits to ensure that staff were properly documenting their work and reporting her findings to her manager. The manager would follow up with team members whose documentation fell short. The Team Lead would shadow with frontline staff and report their observations to the manager. If there were gaps in the employee's practice, the manager would decide if the employee required additional training or further monitoring by the Team Lead. She provided regular feedback to probationary employees and reported any concerns to her manager. Her job

description as Team Lead specified that one of her responsibilities was to “*complete relief supervision and provide input into staff performance evaluations*”. As Coordinator, she now completes quarterly chart audits and provides feedback directly to frontline staff. As Team Lead, she conducted the chart audits but left it to the manager to follow up with staff if there were concerns about their documentation.

59. Ms. Benwell recalled participating in performance reviews as a Team Lead. She kept her manager apprised of any performance concerns. She described feeling conflicted in that role as a member of the bargaining unit. She also provided feedback to frontline staff in one-on-one sessions. She testified that as a Coordinator, she works closely with her managers to report on and monitor staff performance issues. She documents in the Employer’s Tracker examples of completing file audits for two employees and sharing that information with their managers for their performance evaluations.

60. The standard job description for the Coordinator position describes their role as “*consults with the Manager to address performance issues. Assists in performance reviews for staff members, as assigned by the Manager(s). Completes staff work observations and supports professional consultations, as needed.*” The job posting for Tenant Services Coordinator describes one of their job duties as, “*consults with Manager to address performance issues.*” The job posting for the Coordinator for Justice and Court Case Manager describes their responsibility to “*consults with Manager to address performance issues. Completes staff work observations and supports professional consultations, as needed.*” It goes on to state that the Coordinator “*performs file audits and quality reviews, coordinates any resulting follow-up with the Manager.*”

61. From the evidence, it appears that both the Team Lead and Coordinators were involved in evaluating the performance of frontline staff and reported their findings to the manager for follow-up. The Employer suggests that Coordinators now have the authority to follow up on these issues.

Supervision

62. The evidence shows that both the Team Leader and the Coordinator supervise frontline staff to a limited extent. In most cases, their job appears to be to serve as a resource to the team and provide clinical support if problems arise. Ms. Barret's job description as Team Leader described her duties as including working in cooperation with management to direct support staff in providing efficient and coordinated services. Ms. Archer recalled that as a manager, she had two Team Leads reporting to her who were responsible for the day-to-day supervision of the frontline staff. She explained that it would have been impossible for her to supervise the staff on a day-to-day basis, given all of her other job duties as a manager.
63. Ms. Sanders testified that, as Team Lead, she conducted monthly meetings with frontline staff to update them on leadership news, highlight program trends, and conduct training, including health and safety drills. If staff had concerns, she would bring them forward to management. She recalled staff raising concerns about violence in the workplace, which she reported to her manager. As Team Lead, she served as a resource for staff when they had a difficult client or issue; they could come to her to troubleshoot. She may also provide coverage for frontline staff if an employee needs assistance or is short-staffed.
64. The job posting for the Tenant Services Coordinator describes their role as, "*assists manager with organizing and directing the day-to-day work of staff, including assigning program tasks and distributing work amongst staff members.*" The job posting for the Court Services Coordinator describes their role to "*provide staff members with supervision,*" which is similar to the standard Coordinator job description.
65. There are several entries in the Tracker documenting Coordinators performing supervisory roles, but there are few details explaining what this work involved.

Hiring and Interviewing Internal/External Candidates

66. I heard a lot of evidence about the role of Team Leads and Coordinators in the hiring and job posting process. Team Leads regularly sat and scored external candidates for positions within the organization and provided input on candidate recommendations for hiring.
67. Mr. Dhillon documented his participation in interviews in October 2018, August 2019, and September 2021, along with his manager. He participated in the interview process by asking questions and scoring the candidates. Ms. Barrett also assisted her manager in hiring new staff. She was involved in hiring both external and internal applicants from other sites. She attended interviews, asked questions, and scored the candidates. She made recommendations to her manager about hiring. She also had some involvement with interviewing internal hires.
68. Ms. Archer provided evidence that, as a Team Lead at the Middlesex-London branch, she supported both internal and external hires. She screened resumes and pre-screened external candidates over the phone. She would then recommend to her manager which candidates to interview. As Team Lead, she attended all of the interviews with the manager. Both would ask questions and score the candidates. The manager would consider her input and make the final decision.
69. Ms. Archer testified that, as a manager, she has the ultimate authority to hire candidates, but does so with the Coordinator's full input. The two conduct interviews together. She recalled an instance when the Coordinator interviewed candidates on her own when she was ill. She trusts that the Coordinator in her program will eventually hire staff on her own, but that has not happened to date. She agreed that if there were a disagreement over candidates, the manager would have the final word.
70. As Team Lead, Ms. Sanders recalled participating in both internal and external hiring. She would screen the candidates and participate in the interviews. Both she and the manager would ask questions and grade the candidates using a scoring rubric. She would recommend which candidates to interview to her manager, who would make the

final decision. The manager had ultimate hiring authority but considered her recommendations for both internal and external candidates.

71. In her role as Coordinator, Ms. Sanders continues to screen resumes for external candidates, and some managers grant her independent authority to select candidates for interviews. Some managers choose to select the candidates on their own. She participates in interviews for both internal and external candidates, asking questions and scoring them based on a rubric. She says the difference now is that the hiring decision is made jointly between her and the manager.
72. She documents 34 instances of her involvement in the interview process on the Tracker from October to December 2025. In one instance, she documents making a hiring decision alongside her manager. In cross-examination, counsel asked Ms. Sanders what would happen if there were a dispute over selecting a candidate. She responded that this had never happened but conceded that she did not have the authority to hire someone on her own.
73. Ms. Griffith testified that Ms. Sanders was involved in job competitions for two internal candidates. She scored the candidates and had equal input in selecting the preferred candidate. The two would score the candidates to ensure their decisions relied on objective factors. If she disagreed with the manager over a candidate, the two would work collaboratively to resolve it. However, she admitted that the manager has the authority to overrule the Coordinator if they disagree.
74. Ms. Benwell described her role as Team Lead in the hiring process, which included screening candidates, participating in interviews, asking questions, and scoring candidates. Her manager had the final say in choosing the successful candidate, but considered her opinion. As a Coordinator, Ms. Benwell continues to screen job applications and attend interviews to hire both external and internal candidates. She explained that the difference is that her input and scoring of the candidates now carries the same weight as the manager's. She further explained that the evaluators used a scoring rubric that removed discretion from the process. She did not think her manager or her Director would select a candidate over her objection, but admitted that she did not have the final say.

75. She described a recent experience sitting on an interview panel that included her manager, a community member, and someone from the local hospital. They were hiring for positions at the Hart Hub. She states that this is not something she would have participated in as a Team Leader.
76. The standard job description for a Coordinator described their role, *“Works with Manager to screen, interview, score, and hire new staff, both internally and externally.”* Several Coordinators document their participation in job interviews on the Tracker, including Kristina Morgan, who includes dozens of entries in late 2024.

Assignment of Work

77. The Employer uses a wait-list to assign clients to case managers. Team Leaders originally assigned this work, and it is now the Coordinators' responsibility, although some managers chose to handle it on their own.
78. Mr. Dhillon testified that his job as Team Leader included intake or waitlist management, which meant he assigned clients to other case managers. He used his discretion to assign clients, matching their specific needs with the case manager's experience. Ms. Barrett also assigned new clients to other staff members. She too used her professional judgment to decide which staff member best fit a client placement. The manager typically did not get involved in this process. Ms. Barrett's job description as Team Leader listed her duties as including assigning client files, coordinating program waitlists, and ensuring timely and efficient case assignment.
79. As Local President, Ms. Forester was aware that Team Leads assigned work/clients to other case managers and did not see anything improper in that role, so long as the work assignment was within the staff member's normal caseload. If the Team Lead assigned work outside their normal assignments, she saw that as a conflict, but was not aware of it ever happening.
80. Coordinators now manage the waitlist and assign clients to case managers. Ms. Archer estimated that the Coordinator spends 40% of her time managing the client waitlist, as

she is responsible for three different programs. As Coordinator, Ms. Sanders manages the waitlist for one program she developed, *Talk-in-Counseling*.

81. The standard job description for the Coordinator position describes their duties as including: resolving scheduling conflicts and directing or reassigning staff as needed to support program functions. It goes on to state that they are responsible for intake and the waitlist, and for assigning clients based on client needs and existing staff caseloads.

82. The posting for the Coordinator position in the Housing program describes similar duties. However, the posting for the Coordinator in Court Services stipulates that the Coordinator manages the waitlist only in the manager's absence; otherwise, it is the manager's responsibility.

Mentoring and Onboarding

83. Mr. Dhillon testified that, in his role as Team Leader, he mentored and trained new staff. His job description as Team Lead listed staff orientation and development as part of the position's duties. Ms. Barrett also trained and oriented new staff.

84. Onboarding new employees and training existing staff are now the responsibility of the Coordinators. Ms. Sanders testified that as Coordinator, she is responsible for training new hires, monitoring their documentation, and providing feedback throughout the probationary period. She explained that new-hire training typically lasts 2 to 4 weeks. She regularly checks in with probationary staff, normally three to four times a month. She monitors their performance during the training and onboarding processes and provides them with feedback, including on their interactions with clients. If there are any concerns about their performance, she will report them to her manager. She documents numerous examples of her onboarding new staff and providing training for existing staff in the Employer's Tracker.

85. Her assessments of the probationary candidates form part of their human resources files. Ms. Sanders recalled an instance in which she recommended extending an employee's probationary period to provide them with additional training, and the manager followed her recommendation. She did not make that decision herself.

Coordinator Serena Gravelle documents in the Tracker that she completed a probation review and that the Employer extended the employee's probationary period. The entry does not indicate whether Ms. Gravelle extended the probation herself or made that recommendation.

86. As Team Lead, Ms. Benwell also provided training and onboarding for new hires. She testified that she met with new hires regularly and monitored their progress. As Coordinator, she has developed training programs for new hires across the organization. She provided an example of a learning model, *Community of Practice*, which she designed with the assistance of other Coordinators to train staff in the Treatment and Recovery department.

87. The job postings for the Coordinator positions in the Housing and Court Services programs describe their role as supporting the orientation and training of new and existing staff.

Leadership Meetings

88. I heard evidence that both the Coordinators and the Team Leads attend leadership meetings, but the latter did not participate in the full meetings.

89. Ms. Griffith explained that once the Employer identified that Team Leads were in a conflicted role, they were no longer allowed to attend leadership meetings or had to be excluded from a significant portion of the meeting if the topics included staff performance, leave requests, budgeting, or collective bargaining.

90. Ms. Archer recalled that as Team Lead, she attended supportive housing leadership meetings for the Supportive Housing Program. She also attended the quarterly Extended Leadership meeting ("XLT meetings"), which included all managers, directors, and team leads across the organization. However, the Team Leads were only allowed to attend the first half of the meeting. The second half was reserved for senior leadership to discuss topics directly affecting staff, policies and procedures, and organizational changes. She clarified that Coordinators now attend the full XLT quarterly meetings, giving them access to high-level, confidential information, including issues in bargaining.

91. Ms. Sanders recounted that as a Team Lead, she attended the first 30 minutes of the bi-weekly leadership meeting in the Crisis program. In the meetings, they discuss strategies to better support the staff.

92. Ms. Benwell testified that, as a Coordinator, she regularly attends the leadership meetings for the Treatment and Recovery program, where they discuss program updates and staff-related issues. She also documented on the Employer's Tracker that she co-chaired an XLT meeting in April 2025.

Coverage for Managers

93. Mr. Dhillon recalled that, as Team Leader, he provided coverage for his manager in their absence, but that other managers were available if needed. Ms. Barrett testified that she, too, provided coverage for program-related matters when her manager was absent, but she had limited authority.

94. Ms. Archer also stated that she provided coverage for her manager when she was a Team Lead, but an on-call manager was also available. In contrast, Ms. Sanders testified that, as Team Lead, she never provided coverage for her manager and that other managers covered her absence. She clarified that in her role as Coordinator, she does not formally cover for managers in their absence, but is part of what is called the '*Shoulder Tapping Team*' that staff can go to before speaking to their manager.

95. Ms. Benwell recalled that as Team Lead, she was responsible for supporting staff in the manager's absence. Her job description explicitly stated that the Team Lead provided coverage for the primary manager when the primary manager was absent. As Coordinator, she leads team meetings in the manager's absence. She also covers for managers at some sites if a leadership member is needed; that is not something she could do as Team Lead. She recounted providing coverage for a manager who was off work for two extended periods. In her absence, she facilitated group supervision meetings, approved time-off and mileage/expense requests, assigned work, and responded to client complaints, among other duties. She has, on other occasions, covered for managers who were on vacation. She is currently covering for a manager

on parental leave. She performs some of his managerial duties, including waitlist management and client assignments, and directs his service team. She testified that she provided coverage for a Director who was off work and attended a Drug and Alcohol Committee meeting on her behalf.

96. Several Coordinators document in the Tracker their role in covering for their managers. It is worth noting that the CMHA currently has on-call Managers available 24 hours a day, 7 days a week to address any issues that arise with frontline staff, so Coordinators are not solely responsible for covering managers.

Scheduling/Approving Time Off

97. It appears that Team Leads and Coordinators did not play a significant role in drafting work schedules for other staff, but in some cases had the authority to approve days off and sick time. Mr. Dhillon testified that, as Team Leader, he had the authority to approve employees' time-off requests, including vacation requests. The Union produced an email supporting this claim. His job description also listed staff scheduling as a duty.
98. Ms. Barrett provided evidence that, as Team Leader, she also approved time-off requests until the Employer removed that responsibility in 2022. As Team Leader, she approved payroll requests, ensured employees' time cards matched their actual hours worked, and ensured they were otherwise accurate. Her job description listed her Team Lead duties to include: populating staff schedules, coordinating coverage in response to time-off requests and sick calls, and reviewing and approving staff time-off requests in accordance with internal procedures. It also lists her responsibility as Team Leader to: *"record staff attendance and review workers' submitted timecards for accuracy prior to payroll submission."*
99. The general Team Lead job description lists, as part of its duties, responding to time-off requests and sick calls. The Team Lead had the authority to approve time-off requests in accordance with internal procedures. They are also responsible for recording staff attendance and reviewing time cards submitted by frontline staff for accuracy.

100. Ms. Archer recalled that, as Team Lead, she assisted in making the schedule, but the manager approved the final schedule. She often had to call in staff to fill gaps. She did not have the authority to approve time off except when the manager was absent. As Coordinator, she has the authority to send employees home if they are sick, without consulting the manager, but will inform them after the fact. She explained that she must follow a procedure before she can approve sick time.
101. As a Team Lead, Ms. Sanders lacked the authority to approve time-off or vacation requests independently. However, she explained that if a manager was off-site and an employee suddenly became ill, she could approve the employee going home and inform the manager afterward. In her new role as Coordinator, Ms. Sanders still does not approve time off, as administrative support staff performs this function.
102. Ms. Benwell gave evidence that she has the authority to approve time-off requests as a Coordinator, but this rarely occurs because the managers she works with prefer to handle that task. She had some opportunities to approve time-off requests while covering for a manager on leave. She documents on the Employer's Tracker instances of approving vacation days, flex time, sick time, and time-off requests.
103. The standardized job description for Coordinators lists their duties as including scheduling and approving time-off requests. The job postings for the Coordinator positions in the Housing and Court Services programs describe similar job duties. Several Coordinators document in the Tracker instances of them approving time off, vacation time, requests to work from home, or requests to leave work early.

Budget and Payroll

104. Mr. Dhillon confirmed that, as Team Lead, he prepared reports and statistics for managers. He was also issued a Visa card to make purchases for the housing program. He was trained on the new payroll system and could access information on other employees. After the amalgamation, the Employer changed the process to clarify that managers had final approval over payroll matters. The job description for his position included responsibility for monitoring CMHA-sponsored residences to ensure they remain on budget. He was involved in the budgeting process and produced emails

detailing his work preparing draft budgets for the managers to review. The emails confirm he had access to information regarding annual housing budgets. He also provided documents showing that he engaged contractors to obtain estimates for repairs at various homes, but had sought the manager's approval for the construction costs.

105. He collected tenant financial information, projected future program expenses, and provided input to the Director of Finance. He prepared draft budgets for the Finance and Operations Department to submit to funders. He provided an example of a draft budget he submitted in 2017 for the Mental Health & Addictions Housing Programs. He was directly involved in budgeting for maintenance and property-related work within the Housing Programs.

106. Ms. Barrett also had a credit card to purchase items for her program. Her job description included responsibility for *“To monitor and reconcile petty cash expenditures and submit required documentation to the Finance Department for processing.”*

107. Ms. Archer testified that, as Team Lead, she had no involvement in budgeting matters and played no role in approving payroll. She could make small purchases using a company-issued credit card. The Coordinators in her program have not received training to do payroll approvals, so they are not performing that function. She explained that there is a payroll clerk outside the bargaining unit who handles payroll and scheduling matters for her program. Coordinators do not play any role in those matters. Regarding purchases, the Coordinators have the same purchasing authority as the Team Lead.

108. As Team Leads, Ms. Sanders and Ms. Benwell were not involved in any budgeting or payroll functions. Neither had a company credit card. Ms. Sanders testified that in her role as Coordinator, she has no responsibility for day-to-day budgeting. However, she is now privy to the organization's budget data, some of which was disclosed and discussed at the XTL leadership meetings.

Confidential Information/ Collective Bargaining

109. Ms. Griffith confirmed that, as Director, she was responsible for determining the Employer's collective bargaining priorities. In fulfilling this function, she relies on all levels of the leadership team, including Coordinators, who provided their input. The leadership team has access to financial data used to set collective bargaining priorities.
110. Ms. Sanders provided an example in which Ms. Griffith asked her to review proposed changes to the collective agreement before bargaining. She shared her input with the Employer's bargaining team. Ms. Benwell testified that she regularly attends leadership meetings where they discuss staff issues, including matters that may arise in collective bargaining. Ms. Archer testified that her Coordinator provides input to management to assist them in developing bargaining proposals.
111. Mesd. Sanders and Benwell testified that, as Coordinators, they have access to other types of confidential information, including reasons an employee was absent from work and the employee's accommodation needs. Ms. Benwell similarly provided evidence that, as the Coordinator, she is privy to the reasons employees are absent, accommodation requests, and employee performance evaluations. She also has access to information regarding employees' sick banks, vacation requests, personal absence days, and accommodations related to childcare obligations.
112. The Tracker documents that the Coordinator, Christine Meyers, participated in a collective bargaining survey for the Employer in August 2025. There are no details regarding what this work entailed. Coordinator Kim Wilson documents on the Tracker a meeting regarding a grievance filed on behalf of the Union, but there are no further details about that matter. Ms. Wilson also includes an entry on the Tracker referencing a workplace injury/incident report. She does not detail her involvement in this incident.

Other Duties

113. Mr. Dhillon's job description listed his duties as including serving on various committees and liaising with community groups, third parties, and government agencies. He was also responsible for preparing monthly reports for the CMHA's Board of

Directors. As Team Lead in Supportive Housing, he liaised with landlords, assisted with lease signings, and interacted with community groups.

114. Ms. Sanders testified that she supported the organization's efforts to maintain accreditation, a job she performed both as Team Lead and Coordinator. She explained that her role now is more involved at the strategic level. The standard job description for the Coordinator lists "*ensures program is conforming to accreditation standards*" as one of the position's responsibilities.

115. As Coordinator, Ms. Benwell supports the monthly Health and Safety Code drills. She also attends external meetings with third-party organizations representing the CMHA in a leadership capacity. Coordinator Serena Gravelle documents her approval of mileage claims in the Tracker while her manager was absent.

116. The preceding paragraphs summarize the evidence regarding the 'managerial duties' performed by both the Team Lead and the Coordinator positions. Any job functions not summarized above are, in my view, not relevant to the determination in this case.

Position of the Union

117. The Union advances three arguments in support of the grievances. First, it argues that the Coordinator and Team Leader roles are the same position but with different titles. By virtue of the recognition clause granted by the Ontario Labour Relations Board, the Coordinators are in the bargaining unit, as their roles are equivalent to those of the Team Leaders they replaced. The parties would have to amend the collective agreement's scope clause to exclude them.

118. Second, if I find the positions are not equivalent, the Union argues that the Coordinator role is not above the rank of Team Leader and therefore still falls within the bargaining unit. There is no evidence that the Coordinators perform managerial or confidential labour relations duties beyond those performed by the Team Leaders, or that such duties would exclude them from union representation.

119. Third, if I find that the positions are outside the bargaining unit, they perform the same duties as the Team Leader role, in violation of Article 2.02 of the collective agreement, which prohibits persons outside the bargaining unit from performing such work. The fact that the employer eliminated several Team Leader positions to make way for hiring Coordinators and transferred duties from one position to another provides strong evidence in support of this submission.
120. Regarding the first argument, the Union contends that the parties voluntarily agreed to the current recognition clause pursuant to the Minutes of Settlement reached under *PSLRTA*, which included Team Leaders in the bargaining unit. The Team Leaders perform the duties now performed by Coordinators. If the Employer felt that these duties were managerial and excluded them from collective bargaining, they should have raised the issue at that time, but did not. The OLRB endorsed the parties' recognition clause and issued a certificate. The parties went on to bargain a first collective agreement, which includes wage rates and specific provisions relating to the Team Leader role.
121. During bargaining, the parties expressly agreed to exclude an individual who performed exclusionary work. The Employer did not raise any objections or propose any measures to exclude Team Leads from the bargaining unit. It was only after the parties concluded their first agreement that the Employer gave notice to the Union that it was eliminating 32 Team Leader positions and, at the same time, introduced several Coordinator positions across the organization. Those whom the Employer laid off had the option to either apply for Coordinators' jobs outside the Union or bump into case manager positions, which are lower classifications.
122. The Union contends that the titles of these jobs are not relevant; what is relevant is the actual work they perform. The Employer suggests that the roles of Team Lead positions differed between unionized and non-unionized sites before amalgamation, but the evidence suggests otherwise. The two jobs were strikingly similar at both the union and non-union locations.
123. The witnesses testified that the work they performed as Team Leaders was nearly identical to that done by Coordinators. Mr. Dhillon gave evidence that he performed intake, was responsible for the waitlist, liaised with landlords, attended

meetings with community partners, trained staff, participated in interviews, and conducted file audits of frontline staff, among other duties. Ms. Barrett did onboarding with new staff, participated in interviews, handled payroll, and provided coverage for managers, among other functions. The Union contends that there is no significant difference between the jobs they performed as Team Leaders and the Coordinator's current role. The only key difference is that the Team Lead also performed direct service work when not in a lead role.

124. The Union asks that I not place much weight on the evidence presented by the Employer in its Tracker document. A lot of the tasks described in the document are not managerial functions. The Tracker makes several references to professional consultation. However, the entries suggest these are informal clinical consultations with frontline staff, not the more formalized process identified in the collective agreement. Regardless, the process described in the agreement is non-disciplinary; the fact that Coordinators are involved in formal consultations does not prove they perform managerial functions. It further notes that much of the evidence in the Tracker is hearsay and concerns actions taken by Coordinators who did not testify at the hearing. It asks that I focus on the duties performed by those who testified.

125. The Union asserts that arbitrators have recognized that the parties can voluntarily negotiate to include positions in the bargaining unit that perform some managerial duties. It cites a recent line of arbitral awards that rely on the Divisional Court's decisions in *Re Miller et al. and Algoma Steelworkers Credit Union Ltd. et al.*, 1974 CanLII 860 (ON SC), to support the proposition that the parties can voluntarily recognize employees in the bargaining unit who perform managerial duties. The role of the arbitrator is to interpret and apply the recognition clause in the collective agreement and not enforce the restriction set out in section 1(3)(b) of the Act. The Union submits that *Miller and Algoma* is still good law.

126. In support of its second position, the Union asserts that the job descriptions for both the Team Leader and Coordinator positions demonstrate that the latter is not above the rank of Team Leader. It points to one job description in particular, found at Tab 2G of the Joint Book of Documents, which describes the Team Lead as falling within the job class of Coordinator.

127. It refutes the Employer's claim that Coordinators perform managerial duties that exclude them under section 1(3)(b) of the Act. The Coordinators do not affect the economic lives of bargaining unit members as they lack the authority to hire, fire, or grant wage increases. The fact that Coordinators consult with managers and have some input into decision-making, including hiring staff, does not make their jobs managerial. The Employer must demonstrate that there is more than just a sprinkling of managerial duties. There is no evidence that Coordinators have effective decision-making authority, and if they did, they would have to exercise it frequently to bring them outside the bargaining unit.

128. The Union contends that there is a distinction in the case law between professional supervision of employees with specialized skills versus managerial supervision; only the latter would exclude an individual from the right to collective bargaining. On that point, it emphasizes that exclusion from the bargaining unit effectively denies employees the right to bargain and should not be imposed without sufficient evidence of managerial functions.

129. Similarly, an employee's access to confidential labour relations information must be regular and involve material involvement in confidential matters to deny them the right to union representation. Simply having access to confidential information is not enough; it must be consistent exposure to such information. There is no evidence that the Coordinators were involved in any confidential labour relations matters or collective bargaining. Their role is to provide clinical guidance or supervision to frontline staff. The fact that the Coordinators may share information with the Employer that senior management uses to formulate proposals at the bargaining table does not exclude their positions.

130. If the Employer seeks to change the status quo by excluding positions that have historically been in the bargaining unit, there must be evidence of a significant change in their job duties. If the Employer felt that there was a conflict in Team Leaders performing their roles, they should have consulted with the Union instead of taking unilateral steps to eliminate their positions and replace them with jobs outside the bargaining unit. The Employer relies on an email the Union president sent at the start of bargaining, raising

concerns about potential conflicts. If the parties had engaged in further dialogue and investigated the matter, they could have come to a different conclusion.

131. Finally, the Union submits that if the Coordinator positions are outside the bargaining unit, the duties they perform are clearly bargaining unit work. The performance of this work is contrary to Article 2.02 of the agreement, which prohibits persons outside of the bargaining unit from performing such work. There is much evidence comparing the job duties of both roles, and there is considerable overlap. The Employer directly transferred these duties from one position to another when it eliminated the Team Lead positions and replaced them with the Coordinators. The Employer's actions in this case undermine the integrity of the bargaining unit and violate the collective agreement.

132. The Union relies on the following case law to support its position: *Halton District School Board v. O.S.S.T.F., District 20*, 2002 CarswellOnt 4878, *Joseph Brant Memorial Hospital and ONA, Re*, 2008 CarswellOnt 10247, *Thunder Bay (City) v. C.U.P.E., Local 87*, 1981 CarswellOnt 982, *Credit Valley Hospital v. ONA*, 2012 CarswellOnt 16321, *Cottage Hospital (Uxbridge) v. O.N.A.*, 1980 CarswellOnt 914, *York University Staff Assn. v. York University*, 1975 CarswellOnt 795, *Carling O'Keefe Breweries of Canada Ltd. v. Western Union of Brewery, Beverage, Winery & Distillery Workers, Local 287*, 1987 CarswellAlta 808, *Benwind Industries v. U.S.W.A., Local 5338*, 1994 CarswellOnt 1254, *Canadian Waste Services Inc. and UFCW, Local 175 (Prieur) re*, 2000 Carswell 9008, *Health Sciences North and CUPE, Local 1623*, 2018 CarswellOnt 16578, *Canadian Media Guild and CMG Employees Union*, 2024 CarswellOnt 9426, *CUPE, Local 543 and Windsor (City) (55/20), Re*, 2026 CanLII 9834 (ON LA).

Position of the Employer

133. The Employer contends that it created the Coordinator role in response to events following the amalgamation of CMHA sites. The organization consisted of four main sites: two unionized, Elgin and Oxford, and two non-union, London-Middlesex and Addiction Services of Thames Valley. At the time of amalgamation, the four sites employed 660 employees; 20% were unionized, and the other 80% were non-union. In October 2022, the OLRB conducted a vote under *PLSRTA*, and OPSEU, which

represented employees at the Elgin and Oxford sites, became the bargaining agent for staff at all four sites.

134. Prior to amalgamation, Team Leaders at three of the four sites performed similar duties, including managerial functions, which the parties refer to as exclusionary duties. The local OPSEU President asserted that some of these managerial functions presented a conflict of interest for its members working in Team Lead roles. It points to the March 3, 2023, email from the local President, Tischa Forester. Her email listed the exclusionary duties she identified as presenting a conflict for its members. The Employer does not dispute her assessment of the potential conflict with these positions. The Employer did not address these concerns immediately because it was in a freeze period during bargaining. However, Ms. Forester raised these concerns again in another email dated February 5, 2024, after the parties ratified their collective agreement, again claiming that the Team Leaders were performing managerial duties in conflict with their role as bargaining unit members. She explicitly listed the exclusionary duties as including performing professional consultations, approving time off, and scoring candidates at job interviews. The Employer took the Union's concerns seriously and took action, removing these duties from the Team Lead role.

135. Unfortunately, these actions quickly overwhelmed the managers, who were now responsible for duties once performed by the Team Leads. The Employer began receiving complaints from staff and clients that the managers were unable to complete all these functions. It became clear to management that it needed to create another level of management to perform these tasks, which led to the creation of the Coordinator position. The role of the Coordinator differs from that of the Team Leader in that the former does not perform any direct service work, whereas the latter does so four days a week.

136. The Employer refutes the claim that it merely transferred the job duties from one position to another. The jobs are qualitatively different, as the Coordinators perform those functions as part of the management team. It also refutes that it did not consult with the Union before making these changes. The parties discussed the new roles at their Labour-Management meetings before the Employer rolled out the jobs. The Employer forwarded a draft job description for the Coordinator role to the local President

for review before posting the jobs, but she never responded. The Employer drafted the job description to include all of the managerial duties performed by the Team Leads.

137. The Employer submits that Coordinators are not ‘employees’ under section 1(3)(b) of the *Labour Relations Act, 1995*, as they exercise managerial functions and engage in confidential labour relations matters. It relies on the decision of Arbitrator Abramsky in *VHA Home Healthcare* and on the line of cases holding that the parties cannot voluntarily include managerial positions in the bargaining unit. These cases distinguish the Ontario Divisional Court’s decision in *Miller and Algoma*, which limited arbitrators’ role to interpreting the scope clause negotiated by the parties, regardless of whether managerial positions fall within the bargaining unit. The case law offered by the Employer supports the conclusion that *Miller and Algoma* is no longer good law. The arbitrators in those cases conclude that they must interpret the scope provision in the collective agreement within the confines of section 1(3)(b) of the Act. Individuals who perform managerial and confidential functions are not ‘employees’ as defined under the recognition clause. Even if a position has historically been in the bargaining unit, an arbitrator can exclude it per section 1(3)(b) of the Act if there is evidence that the job performs managerial functions.

138. The Employer refutes the claim that, to be managerial, Coordinators must have direct decision-making authority. It cites the decision of Arbitrator Waddingham in *University of Windsor* for the proposition that employees who directly impact the economic life of other employees are managerial in nature and therefore excluded. If such employees have the power to make effective recommendations, they are in managerial positions.

139. The Coordinator position lies above the Team Leader rank because they perform managerial functions. Their position does not consist merely of a sprinkling of managerial duties, as the Union suggests. The Employer’s Tracker demonstrates that they regularly and consistently perform these duties.

140. Some of their duties differ from those of the Team Lead role; for example, the onboarding and training performed by Coordinators include a performance evaluation component. The training is not limited to teaching or transferring skills and knowledge,

but also to assessing how the employee is advancing and to deciding whether to extend their probation. If Team Leads had performed this role in the past, they crossed the line by carrying out managerial duties. The same is true if Team Leads were scoring candidates in job interviews.

141. The Coordinator's role differs in that they not only score candidates but also have the authority to select the successful candidate. The Coordinator and Manager decide jointly who to hire. Some Coordinators interview candidates without a manager present. They are uniquely qualified to make these decisions as they are more familiar with the work performed on the frontline. Some select candidates for interview without the manager's input. Their ability to independently screen out candidates is evidence of their managerial authority. The evidence gathered in the Employer's Tracker demonstrates that Coordinators repeatedly interview both internal and external candidates for job postings, which is beyond a sprinkling of managerial duties.

142. The Employer concedes that Coordinators have not played an extensive role in discipline to date, but that will change. Ms. Archer testified that the Coordinators in her program have the authority to discipline, but the opportunity has not yet arisen. She has full confidence in their ability to make these decisions going forward.

143. Coordinators are involved in completing performance evaluations for frontline staff. Some Coordinators have made independent decisions to extend the probationary period for new staff who are struggling. They are also involved in professional consultations, which represent the first step in the process of warning employees before the Employer formally disciplines them.

144. Both Coordinators and Team Leaders approved time off for other staff, which again crosses the line regarding the performance of managerial duties. Coordinators are also responsible for assigning work or clients to frontline staff by managing the client waitlist. All of these duties present conflicts of interest with bargaining unit membership.

145. The evidence shows that Coordinators frequently cover for managers when they are absent. Ms. Benwell's evidence was the clearest on this point, as she covered for three managers at once for extended periods.

146. The Coordinators also have access to confidential labour relations information. They attend bi-weekly leadership meetings and other senior management meetings that discuss sensitive labour relations matters, including issues at the bargaining table. They attended the entire XLT meeting with senior management, while the Team Leads were excluded from certain parts of the meeting. The Coordinators are now privy to all this information, including staff discipline and accommodation requests, among other confidential matters. They also provide valuable labour relations information to senior staff to assist them in formulating positions at the bargaining table with the Union.

147. The Employer asks that I dismiss the grievances and relies on the following decisions in support of that position: *Canadian Media Guild (CMG) v CMG Employees Union (CUPE Local 1281)*, 2024 CanLII 56792 (ON LA), *Re VHA Home Healthcare and OPSEU (2011-0548-0009)*, 2013 CarswellOnt 3812, *University of Windsor v Canadian Union of Public Employees, Local 1393*, 2016 CanLII 24756 (ON LA).

Union Reply

148. The Union reminded me that OPSEU became the bargaining agent for employees at the Elgin site in 2008. The Team Leads have been performing quasi-managerial duties for many years.

149. It refutes the claim that the Union initiated the discussion to remove job duties from the Team Lead role. Ms. Forester's March 3, 2023, email primarily focuses on one individual who was working in a confidential capacity. The parties agreed in bargaining to exclude this individual from the bargaining unit. Regarding the Team Leads, the Union requested a meeting to discuss potential conflicts in the role, but that conversation never took place. Instead, the Employer took unilateral steps to introduce the Coordinator job and eliminate Team Leader positions. It refutes the Employer's claim that consultation took place on this issue.

150. The Union also refutes the claim that Coordinators have the authority to make effective recommendations. The witnesses all acknowledge that the manager has the final say, particularly when it comes to hiring candidates in job competitions. There is no

evidence that the Coordinator plays any role in the formal professional consultations contemplated under the collective agreement.

Analysis

151. I begin with the Union's first argument: that the Team Lead and Coordinator jobs represent the same position. The parties presented extensive evidence of the specific duties performed by each job. The evidence shows considerable overlap in duties. However, the two jobs are not the same position. The Team Leaders performed direct service work when they were not fulfilling their team-leader duties. Some had no direct service work, but that was rare. Most dedicated one day per week performing administrative duties and continued to perform some of these duties throughout the week, including such duties as waitlist management and clinical consultations while they carried a case load. The ratio of administrative to direct service work performed by Team Leaders varied by program and manager. The Coordinators, on the other hand, do not carry a case load or perform direct service work. There was some evidence that Coordinators may step in from time to time to provide coverage or assist a case manager with a difficult client. The two jobs are not identical.

152. When I compare Team Lead's administrative duties with those of the Coordinator, the two jobs are very similar. I heard evidence that both Coordinators and Team Leaders spend a lot of their time managing the waitlist, providing clinical consultations to frontline staff, interviewing, training, and onboarding new staff. The Employer suggests that the Coordinators have a different focus in the functions they perform. Despite this claim, I did not hear evidence to convince me that managing the waitlist, consulting with staff, onboarding, or the other duties performed were fundamentally different when carried out across the two classifications. I find that much of the evidence was impressionistic, focusing on what witnesses perceived as conflicted duties, such as reporting performance concerns to the manager. However, these functions alone do not exclude the positions from the bargaining unit.

153. The recognition clause in the agreement excludes individuals above the rank of Team Leader. The job description for the Coordinator position, dated July 2024, states that the Coordinator reports to the program managers, not the Director. The description

states that the position is “*above the rank of Team Lead/ Team Leader,*” but I do not place much weight on these words in the absence of other supporting evidence. Furthermore, the Employer eliminated the Team Lead role at the same time it introduced the Coordinator jobs, so it is difficult to conclude one ranks above the other.

154. The Union similarly relies on a job description for the Team Lead at the Elgin Branch, which describes the position as a ‘Coordinator’ arguing that this supports its claim that two positions rank at the same level within the organization. Again, I do not place much weight on this notation, as the Employer drafted the job description long before creating the current Coordinator roles.

155. I did not hear much evidence regarding reporting structures. Ms. Griffith testified that the Coordinator in her program, Ms. Sanders, reports to both her and the managers at the Crisis Center. Ms. Sanders’ testimony contradicted this evidence; she testified that she did not report to the program’s managers and that her direct report was to the Director. The Team Leaders testified that they reported to the manager. They supervised frontline staff, but the staff did not report to them. The same is true for Coordinators; they provide professional supervision, but there is no formal reporting structure.

156. The Employer suggests that, because the Coordinators perform managerial duties, they rank above the Team Leader position. I do not think there is sufficient evidence to support the claim that the Coordinator’s duties are significantly different from those of the Team Leads. Ultimately, I conclude that the two positions have the same ranking in terms of their responsibilities and reporting structure.

157. The Employer placed significant emphasis on Ms. Forester’s March 3, 2023, email. It suggests that the Union insisted that Team Leads could not perform these exclusionary duties. However, upon careful reading of Ms. Forester’s email, it is clearly an invitation to discuss the Union’s potential conflicts of interest and ways to avoid them, rather than a demand to remove those duties from the Team Leader’s role. The merits of this case will rise or fall on the evidence regarding the actual work that Coordinators perform.

158. The Employer cites a line of cases holding that arbitrators must interpret the recognition clause in the agreement to exclude individuals who are not “employees” as defined in section 1(3) of the LRA, 1995. These decisions depart from the Divisional Court’s ruling in *Miller v. Algoma Steelworkers Credit Union Ltd.* (1974), 53 D.L.R. (3d) 669 (Ont. Div. Ct.), which held that arbitrators do not have authority to apply s. 1(3)(b). The Court ruled that the role of an arbitrator was to interpret the recognition clause in the collective agreement, based on its language, rather than the exclusionary provisions of the statute. The Union presented a more recent line of cases that rejects the decisions relied on by the Employer and upholds the ruling in *Re Miller and Algoma* as still good law.

159. If this were simply an interpretation issue, the focus would rest on the parties’ intention in including the language “Team Leaders” in the recognition clause. It is reasonable to conclude that the meaning of ‘Team Leaders’ rests on the parties’ understanding of how the positions functioned when the organization amalgamated. This interpretation favours the Union’s position, as the Team Leads performed many of the exclusionary duties now carried out by the Coordinators.

160. However, I also cannot ignore that the OLRB eventually granted the same recognition clause by way of a certificate. I do not think the Board would have issued a certificate that included managerial positions in the workplace, contrary to the Act. This observation favors the Employer’s position if I ultimately find that Coordinators perform sufficient managerial functions to warrant exclusion of their positions.

161. Regardless, I do not need to resolve these conflicting positions, as the Coordinators do not, in my view, perform managerial duties as envisioned in section 1(3)(b) of the Act. The leading case on point is the OLRB’s decision in *Re Corporation of the City of Thunder Bay*. The test is whether the individual has authority to hire, fire, promote, discipline or otherwise impact the economic lives of their fellow employees.

In the case of so-called ‘first line’ managerial employees, the important question is the extent to which they make decisions which affect the economic lives of their fellow employees thereby raising a potential conflict of interest with them. Thus, the right to hire, fire, promote, grant wage increases or discipline employees are all manifestations of managerial authority, and the exercise of

such authority is incompatible with participation in trade union activities as an ordinary member of the bargaining unit.

The Board went on to state,

There must, of course, be a rational relationship between the number of superiors and subordinates, consultation or "input" should not be confused with decision-making, and neither technical expertise nor the importance of an employee's function can be automatically equated with managerial status.

162. Applying this test, there is no evidence that Coordinators play any role in firing or disciplining other staff members. I discuss their role in hiring and promoting other employees below. They have the authority to approve sick and flex time, as well as requests for absences. The evidence is not compelling that the Coordinators perform true managerial functions, and those they do perform do not affect the economic lives of other bargaining unit members. Much of the evidence I heard concerned quasi-managerial functions, which do not, in my view, engage the exclusion under section 1(3)(b) of the Act.

163. One must look at the totality of the evidence supporting the exercise of managerial functions and the frequency of those tasks. One cannot look at the job duties line by line or in isolation, as stated by the OLRB in *City of Thunder Bay*,

In other words, in determining an individual's status, one cannot look at a portion of his duties in isolation. If the functions of an allegedly "managerial" character occupy only a minor part of his time, it is unlikely that he will be excluded from the ambit of collective bargaining unless those functions involve a decisive impact on his fellow employees. (For example, a unilateral decision to fire an employee would be highly significant, even if the exercise of such power is infrequent; while incidental supervisory responsibilities do not raise the kind of conflict of interest underlying section 1(3)(b).

164. I will begin with their supervisory roles. I do not dispute that Coordinators perform a front-line supervisory role, but their supervision is professional in nature. They report back to management if they observe that staff are not performing to the standards expected of them. The case law appears well settled that employees with specialized skills can provide professional supervision to other staff, and that such supervision is not managerial in nature. The OLRB discussed this distinction in *Ottawa General Hospital*,

[1984] OLRB September 1199 at paragraph 13 which is cited in the *University of Windsor* case.

Persons who exercise skills, or perform functions which reflect their own specialized training or responsibilities, will necessarily have a specialized role to play in respect of those with lesser or different training and experience. Frequently, it is only the most experienced, highly trained, or specialized employees who will fully understand the technical requirements of a particular job, and whether it is being done in the safest and most efficient manner. It is part of their job to ensure that appropriate techniques are being applied, and that the work is being done properly. Their expertise and technical judgment are an integral part of the group effort. In such circumstances, it is inevitable that they will have a special place on the "team" and will have a role to play in co-ordinating and directing the work of other employees — but this does not mean that they exercise managerial functions in the sense contemplated by section 1(3)(b) and must therefore be excluded from the ambit of collective bargaining. [...] This is not to deny that professional or technical employees may also exercise managerial functions" within the meaning of section 1(3)(b). It is simply that there must be a careful appraisal of the context, and the focus should be upon those powers exercised by the disputed individual which have a significant, direct, and provable impact (positive or negative) upon the terms and conditions of employment of the alleged subordinate employees. It is that kind of function which raises the "collective bargaining" conflict to which section 1(3)(b) is addressed, and it is this collective bargaining purpose which must be kept in mind when the Board is exercising the broad authority granted to it under section 1(3)(b), and is forming its "opinion" in particular cases. [emphasis added]

165. In my view, the Board's analysis applies equally to this workplace. The evidence from both Team Leaders and Coordinators demonstrates that they provide supervision and support to frontline staff in their professional capacities. The Coordinator and Team Lead roles are no different from those of a nurse clinician or a charge nurse in a hospital setting, who professionally supervises other nursing staff. The CMHA does not operate as a hospital; however, its staff is largely composed of professionals, many of whom hold degrees in social work or psychotherapy.

166. I heard testimony that Coordinators engaged in clinical and professional consultation with the frontline staff, many of whom are social workers and psychotherapists. However, this function serves as another example of professional supervision. Several Coordinators documented their professional interactions with staff in the Employer's Tracker. It appears that most of these interactions were clinical

consultations, not professional consultations as envisioned in Article 9.01(a) of the collective agreement. Some witnesses testified that they did engage in professional consultations. However, Ms. Forester's evidence suggests that with one exception, they do not attend these meetings. It is also clear that professional consultations occur infrequently in the workplace. Regardless, even if the Coordinator played a larger role in this process, it is not disciplinary action.

167. Most of the Coordinators and the Team Leads before them are/were responsible for managing the waitlist, which involves assigning clients to frontline staff. I accept that this function is akin to assigning work to bargaining unit members. It appears that, for some Coordinators, managing the waitlist consumes much of their time. However, I am not convinced that this is strictly a management function. I heard evidence that the Coordinators and Team Leads use their professional judgment to assign clients to case managers, considering the specific needs of the client and the skills and experience of the case manager. They also consider other factors, such as a case manager's existing caseload. This function is similar to a charge nurse assigning patients to other nurses on their unit. Again, I view this task as a form of professional supervision and not a true managerial function that would exclude them from the bargaining unit.

168. Moving on to the function of interviewing and hiring staff, there is little evidence that Coordinators have final authority to hire. Most of the Employer's witnesses gave evidence that, if there was a dispute over hiring, the manager had the final word. Both the Team Leads and Coordinators have input on hiring decisions but do not have final authority to make them. The Employer suggests that the manager and Coordinators make the hiring decision together and that the latter have effective recommendation authority. However, the witnesses testified that they score candidates against objective standards, intended to reduce discretion in the process. Team Leads participated in the interviews similarly and therefore would have had equal input through their roles in scoring the applicants. I do not equate scoring candidates as an effective recommendation, even if the manager rarely second-guesses the Coordinator or Team Leader's scoring. The OLRB described the authority to make 'effective recommendations' in *Credit Valley Hospital* in paragraph 109,

109 The Board in Simcoe Muskoka District Health Unit also pointed out, at paragraph 131, that in order to fall within the managerial exclusion, it is sufficient the employee at issue make "effective recommendations" with respect to the "core elements" of the employment relationship i.e. employees' wages, benefits or job security. "Effective recommendations", as described in Thunder Bay (City) v. C.U.P.E., Local 87, [1981] O.L.R.B. Rep. 1121 (Ont. L.R.B.), are recommendations affecting the economic destiny of an individual's fellow employees, "which are so frequently forthcoming and consistently followed by superiors, that it can be said that, in fact, the effective decisions are made by the challenged individual."

169. The facts in this case do not support the conclusion that Coordinators frequently make recommendations to management that managers consistently follow and that affect the economic lives of other staff in the workplace. The evidence I heard is that Coordinators participate in the hiring and interview process and have joint input on candidate selection, but the manager has the final word. They can also recommend extending a new employee's probationary period, but the decision is left to the manager. The Tracker documents numerous examples of Coordinators participating in job interviews but provides few details about whether they are making effective recommendations to hire candidates. At best, the evidence shows that the Coordinators have input into the selection process, mainly through their scoring of candidates.

170. As I stated previously, there is no evidence that the Coordinators were involved in disciplinary matters. At most, the record shows that Coordinators have identified issues for management to follow up on (e.g., potential privacy breaches), but are not involved in the disciplinary process. I heard one example of a Coordinator sitting in a disciplinary meeting.

171. The Employer tendered evidence that Coordinators frequently cover for managers in their absence. The Employer's Tracker documents numerous instances of Coordinators accepting this role. In some cases, they have led meetings normally handled by the manager, approved time off, or even attended interviews on their own in the manager's absence. However, Ms. Griffith testified that the Employer has on-call managers available 24 hours a day, 7 days a week. I did not hear evidence that a Coordinator disciplined someone when the manager was unavailable, or that a Coordinator hired someone without management's approval.

172. The witnesses from both sides testified that a large part of their work as Team Leads and Coordinators is to train, mentor, and onboard new staff. Several Coordinators document this task in the Employer's tracker. I do not view this type of work as exclusively a management function. Bargaining unit members can do training and mentorship. The Employer suggests that Coordinators use these opportunities to assess new hires and determine whether to extend their probation.
173. In *VHA Home Healthcare*, Arbitrator Abramsky found that the excluded positions completed performance reviews of probationary employees and had the authority to extend their probation or terminate their employment. I heard that the Coordinators may recommend an extension of probation, but the manager makes the final decision. The Coordinators do not have the authority to terminate employees, including probationary staff. The arbitrator also noted that the excluded positions conducted annual performance appraisals of non-probationary employees. I heard that Coordinators play a role in performance evaluations with the manager, but there is no evidence that they conduct these appraisals themselves. At most, they provide their input as the Team Leaders did when they performed that function.
174. The arbitrator in *VHA Home Healthcare* viewed it as significant that the excluded positions had the authority to schedule staff and to approve or decline vacation and sick leave requests. The evidence before me supports the conclusion that Coordinators (and Team Leads before them) have, or had, the authority to approve time-off and sick leave requests within certain parameters. There is no evidence that they approve vacation requests other than the occasional day off. There is little evidence to support that Coordinators set the schedules for other staff members.
175. Finally, regarding confidential labour relations information, the evidence confirms that Coordinators attend the XLT and other leadership meetings where management discusses labour relations matters. The XLT meeting is a high-level meeting that can include discussions on a broad range of issues, including discipline, accommodations, and collective bargaining. However, these meetings only occur four times a year. Other leadership meetings occur more regularly, but the extent to which Coordinators are exposed to confidential labour relations information is unclear. Ms. Griffith stated that she sought input from the entire leadership team, including Coordinators, in preparing for collective bargaining. At best, the evidence supports the conclusion that senior

management consulted with Coordinators, but the latter did not play any effective role at the bargaining table.

176. The OLRB in *the Simcoe Muskoka District Health Unit* sets out the test for excluding individuals who perform confidential work. Arbitrator Waddingham cites the decision in the *University of Windsor* award in paragraph 180.

180. *The key principles applied by the Board in determining whether or not an individual is captured by this exclusion are also set out. In order to fall within the exclusion, "the disputed individual must be employed in a confidential capacity; the material with which the employee works must be confidential; and the material must be related to labour relations." The requirements have been summed up in a number of ways:*

... a consistent exposure to confidential information on matters relating to labour relations so as to constitute such exposure an integral part of the employee's service to the employer's enterprise (York University, [1975] OLRB Rep. 945 at 951).

... a regular material involvement in matters relating to labour relations which are confidential because their disclosure would adversely affect the interest of the employer (Falconbridge Nickel Mines Ltd., [1969] OLRB Rep. Sept. 379).

181. *Conversely, "mere access to" or "occasional or peripheral involvement in" confidential labour relations matters are not sufficient to exclude a person from the bargaining unit.*

177. I am not convinced, based on the evidence before me, that Coordinators are exposed to confidential labor relations information with such frequency as to justify their exclusion. Their attendance at a leadership meeting where labour relations issues could be discussed demonstrates that they have occasional exposure to such information, but not enough to justify their exclusion from the bargaining unit.

178. In summary, and looking at the totality of the evidence, I am not convinced that Coordinators or the Team Leads before them perform sufficient managerial duties to exclude them from the bargaining unit.

179. Moving to the Union's third and final position regarding the prohibition on performing bargaining unit work, the evidence demonstrates that the work performed by

the Coordinators significantly overlaps with that of the Team Leaders. Both positions involve the day-to-day professional supervision of frontline staff, interviewing new hires, training and onboarding, clinical consultation, assigning work on the waitlist, granting sick leave and single-day vacations, among other duties. The Employer asserts that the Coordinator's function is qualitatively different, in that they carry out these roles to support management and report any issues of concern. I do not share this view. According to the job descriptions, the Employer designed the Team Leader role to support management and serve as a liaison between frontline staff and program managers. I find that any differences in the two roles are superficial. The work Coordinators perform is largely the same as that of Team Leaders. Article 2.02 of the collective agreement reads,

2.02 Employees not covered by the terms of this Agreement shall not perform duties normally assigned to those Employees who are covered by this Agreement, except when leadership personnel or non-Union Employee is needed for the purposes of instruction, emergencies, and/or to assist in client matters when Bargaining Unit Employees require additional support.

180. The Coordinators clearly perform the duties previously assigned to Team Leaders, and do so so frequently that they do not fall within the exceptions cited in the article. If I did not conclude that these positions fell within the bargaining unit, Article 2.02 would prohibit most of the work they perform.

Disposition

181. After considering the evidence, the parties' submissions, and the relevant case law, I conclude that the Employer violated the collective agreement by removing Coordinators from the bargaining unit. The parties are not seeking a decision on the remedy at this juncture. I will leave it to the parties to resolve that issue and will remain seised if the matter remains unresolved.

Dated this 27th day of May 2026 in the Municipality of Halton, Ontario

"Colin Johnston"

Colin Johnston - Arbitrator