

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

BETWEEN:

TEAMSTERS LOCAL UNION 847 (the Union)

And

MAPLE LEAF SPORTS AND ENTERTAINMENT (the Employer)

RE: SMART SERVE UNION GRIEVANCE

APPEARING FOR THE UNION:

LISA TRIANO, COUNSEL

FERNANDA SANTOS, PRESIDENT

JEFF SNOW, VICE – PRESIDENT

DOUG SMART – STEWARD

PAUL MARLING - STEWARD

APPEARING FOR THE EMPLOYER

ANDRE NOWAKOWSKI, COUNSEL

LES FISHER, DIRECTOR OF LABOUR
RELATIONS AND OHSA

RAPHAEL ALFONZO, MANAGER GUEST
SERVICES

HANA KIM, SENIOR MANAGER HR.

SOLE ARBITRATOR:

NORM JESIN

DATE OF HEARING:

November 12, 2024

DATE OF AWARD:

November 19, 2024

AWARD:

1. The grievance in this case alleges that the Employer violated the collective agreement between the parties by requiring certain employees working in non- alcohol serving/handling classifications (Usher, Concierge and Gate Staff) to attend training for Smart Serve Certification/Recertification at the employees' own cost.
2. The parties agreed that I could determine this matter by way of mediation/arbitration in accordance with the provisions of *s. 50 of the Labour Relations Act, 1995*. The parties presented me with an agreed statement of facts to assist in my determination of this matter. The facts giving rise to this matter may briefly be described as follows:
3. In or about July 2022, the Alcohol and Gaming Commission of Ontario (AGCO) implemented on-line training for Smart Serve certification and/or recertification. Prior to this change the Employer provided the training for these employees at its cost. It also paid for the certificates. After the move to online certification, the Employer determined that it was not required to pay for the online training under Article 12.03 which provided as follows:

An employee required to attend compulsory training shall receive a minimum of four (4) hours pay at his regular rate of pay for attending in-class training and a minimum of two (2) hours pay at his regular rate of pay for on-line training. This provision shall not apply when the training is scheduled immediately prior to or following the employee's scheduled shift. Employees who do not attend compulsory training shall be held out of service until training is completed.

4. As a result of the Employer's position the Union filed its grievance on May 2, 2023. In addition, the Union sought a change to article 12.03 in the negotiations for a new collective agreement. As a result, the following was added to the collective agreement that came into effect in the summer of 2023:

Employees that are not required to handle/serve alcohol as part of their regular duties but are required by the Company to hold a Smart Serve Certificate, will be reimbursed the cost of one certificate test and one four (4) hour training session for the initial acquisition or renewal.

5. After hearing the submissions of the parties I agree with the Employer that the collective agreement that was effective at the time of the grievance does not support the Union's position. Once the certification process moved online the practice that pertained to the provision of training by the Employer was not applicable. However, I cannot agree with the Employer that the certification process did not constitute training as contemplated by the original article 12.03. In my view the online process did indeed constitute training and therefore the employees that are subject of the grievance were entitled to a minimum of two hours pay. There was some suggestion by the Union that more than two hours were involved in the training. However, in light of all the evidence presented and the submissions made, the Employer should be required to reimburse each affected employee for two hours pay in satisfaction of the grievance. As Article 12.03 under the previous agreement did not address the cost of the certificate, I would not award the Employer to reimburse the employees for the cost of the certificate.
6. In light of the foregoing the Employer is directed to reimburse each affected employee under the grievance with two hours pay.

7. I remain seized to deal with any difficulty in implementing this award.

Dated at Toronto, this 19th day of November 2024.



Norm Jesin, Sole Arbitrator