

**IN THE MATTER OF A MEDIATION/ARBITRATION UNDER SECTION 50 OF THE
LABOUR RELATIONS ACT, 1995**

BETWEEN:

LABOURERS' INTERNATIONAL UNION OF NORTH AMERICA, LOCAL 3000

(the "Union")

-and-

PROVIDENCE CARE

(the "Employer")

Grievance of Kaitlyn Giddy

Jesse Kugler – Sole Arbitrator

APPEARING FOR THE UNION:

Georgina Watts – Counsel
James Roddy – Union Representative
Kaitlyn Giddy – Grievor

APPEARING FOR THE EMPLOYER:

Clarence Willms – Vice-President, Mission, Values and People
Laura Harpell – Director, People Services
Summer Jimmett – Employee Relations Associate Consultant
Tory Gowland-Wood – Employee and Labour Relations Assistant

Hearing conducted by video conference on May 2, 2025.

AWARD

1. The parties appeared before me on May 2, 2025.
2. The Grievor was employed as a PSW at the Employer's Long Term Care facility. The Grievor had approximately five (5) years of service at the time of her termination from employment on February 26, 2025.
3. In brief, it is conceded that on January 23, 2025 the Grievor lost her temper with a resident, raised her voice and spoke inappropriately to the resident. It is also conceded that the Grievor has, on more than one (1) occasion, been absent and/or late for work without providing appropriate notice and has taken extended breaks inconsistent with the requirements of Article 9.2 of the collective agreement, which reads:

9.2 - Break Periods

- (i) Employees working a shift of more than six (6) hours in duration will have a 15-minute paid break period in each half of the shift and an additional half-hour unpaid meal break;
- (ii) Employees working a shift of more than four (4) but less than six (6) hours will have one 15-minute paid break period and an additional half-hour unpaid meal break;
- (iii) Employees working a four (4) hour shift will have one 15-minute paid break;
- (iv) Employees working a twelve (12) hour shift will have two 15-minute paid breaks and an additional half-hour unpaid meal break in the first eight (8) hours of the shift and a further 15-minute break in the last four (4) hours of the shift;
- (v) Employees working authorized overtime of at least three and three-quarter (3-3/4) hours will have an additional 15-minute break period.

The supervisor will determine the time of the break periods.

4. In response, the Grievor's employment was terminated by the Employer via letter dated February 26, 2025. The Union filed the unjust termination grievance at hand on the same day. The matter was referred to me for adjudication via s. 49 of the *Labour Relations Act, 1995* (the "*Act*").

5. The Grievor had no discipline on her employment record at the time of the termination. The Grievor was subject to the Employer's Attendance Support Program at the time of her dismissal from employment.

6. The Union and Grievor concede that the Grievor has misconducted herself but assert that termination is too harsh a penalty. The Union requests that I exercise my discretion pursuant to s. 48(17) of the Act and substitute a lesser penalty. The Employer asserts the penalty was appropriate and asks that the grievance be dismissed.

7. Having heard the submissions of the parties I have determined that there was just cause for the imposition of discipline but in all the circumstances the termination of the Grievor's employment was excessive given the Grievor's length of service, her disciplinary record at the time of events and the nature of the misconduct. I hereby exercise my discretion to substitute a lesser penalty. A five (5) day suspension effective February 26, 2025 is hereby substituted on the Grievor's employment record.

8. The Grievor shall be returned to work in a pro-rated position (0.8 FTE) effective May 20, 2025 and she will be assigned to Sydenham 4. The Grievor will return to the schedule that she had prior to her termination of employment with the start time of the shift beginning at 6:00 a.m. No monetary compensation is ordered.

9. The Grievor will follow the Employer's absence notification process and adhere to the break periods as specified by Article 9.2 of the collective agreement.

10. As a condition of continuing employment, the Grievor shall forthwith attend and complete a monitored Employee and Family Assistance Program. The Employer will assist with coordinating this program and support the Grievor in the successful completion of the program.

11. I remain seized to deal with any matter arising from the interpretation, application and/or administration of this award.

Dated this 2nd day of May, 2025.



Jesse Kugler – Sole Arbitrator