



A publication of OPSEU's Correctional bargaining unit

Summary of monetary bargaining and arbitration

On April 20, 2018, the parties began negotiating monetary issues. (Please refer to *Employer Monetary Demands* and *LockTalk 16*, which contains a link to our monetary positions.)

The employer was unwilling to agree to any union demands unless there were concessions, takeaways and administrative “cost savings” equal to any gains. The employer also attempted to incorporate Enhanced Mandatory Generic (Drug) Substitution – a specialty drug case management system – as well as an annual dispensing fee, frequency caps, a prior authorization plan, and a reduction and added step to the Correctional Officer 1 (CO1) wage grid, among other concessions.

Despite repeated attempts, the bargaining team was unable to push the employer off their net-zero monetary bargaining philosophy. Because the parties were unable to come to any agreement regarding the remaining issues, they applied for conciliation on May 2.

The conciliation officer was unable to effect a collective agreement, and on May 3, she issued

a statement to the Minister of Labour, indicating she was unable to facilitate an agreement between the parties.

On May 4, the parties agreed to refer the outstanding issues to a single arbitrator, William Kaplan.

On June 4, the parties were scheduled to complete the mediation step of the arbitration process. The union came fully prepared to mediate. However, the employer simply stated that, due to the upcoming election, they would not be participating or supplying any information.

The arbitrator found this reasonable and, as such, ordered further mediation, which occurred on November 1, 2018. Although this was disappointing to the team, it allowed us and our legal counsel, Nini Jones, to seize this opportunity to sit with the mediator and explain our issues.

During this period, our legal counsel educated us on the principles of arbitration, noting that arbitrators often rule partly in favour of the union and partly in favour of the employer. She

emphasized the possibility of gradualism (slow catch-up), replication and incremental increases. She also pointed out the possibility we would achieve a contract of no more, and no less, than what we would have reached through collective bargaining.

On November 1, 2018, the parties and the mediator met to complete mediation. An additional MERC member (Article 4.1.1.) was the only item that was mediated. After speaking with each party separately, the arbitrator determined that we should proceed to arbitration.

This day was beneficial, as our lawyer and the bargaining team were able to advance our issues. We scheduled March 30 and 31, 2019, for arbitration, as these were the next dates that were available to all parties.

On March 30, 2018, the parties met for arbitration, and final verbal submissions were made. Both parties gave the arbitrator briefs in advance. (Please see *Union Brief to Arbitrator* and *Employer Brief to Arbitrator*.)

On April 1, 2018, the arbitrator released his decision (please see *Arbitrator's Decision*). Please note that the rationale for a decision is within the sole purview of the individual arbitrator. Mr. Kaplan did not provide a rationale for what was, or was not, included/accepted in his decision. This is disappointing, but Mr. Kaplan has often not included any rationale in his decisions.

While the union did not get all of its monetary demands, as laid out in our final brief, it is important to note that there are no concessions, nor did the employer get any of their monetary demands.

Further, it is important to note that the stage is set for future gains for other classifications. The Burkett award of May 26, 2016, was minimal, but in hindsight, it became the foundation for the current award. The current award is now a foundation for nurses and other classifications.

With respect to benefit coverage, the union sought expanded psychological benefits for all of its members. The arbitrator accepted the union's proposal in part – in that the existing \$25-per-half-hour cap on psychological services was to be eliminated. As a result, Correctional Officers and Youth Workers can access psychological services with no cap per half-hour (although the \$1,400 annual cap remains in effect).

Further, the half-hour cap has been raised to \$40 for everyone else in the correctional bargaining unit and all dependants.

This decision constitutes the arbitrator's acknowledgement of the unique and pressing mental health challenges our members face in the workplace. The bargaining team recognises that early and meaningful access to psychological treatment can make all the difference.

This was a material advancement, which will be a game changer for the health and wellness of many of our members. Although not all members are eligible for the full cap removal, the stage is set for overall improvements in future rounds.

The team continues to liaise with Ms. Jones with respect to interpreting this decision.

Any questions or issues should be sent directly to your local president/RERC chair so they can put the issue forward at the upcoming All Presidents/RERC Chairs meeting set for May 13,

2019. (Details will be forwarded to presidents and RERC chairs shortly.)

We would like to thank OPSEU for all the staff and resources given to the team, with special recognition to Gissel Yanez, Anastasios Zafiriadis, Tim Humphries and Danielle Lynch.

We would also like to thank the membership for your support and patience during the creation of this new stand-alone corrections collective agreement.

With the arbitrator’s decision, your bargaining team has been dissolved. Should you have any questions, please forward them to a member of your MERC team.

We convey our best wishes to the next bargaining team who, we trust, will build on these gains using the structural framework we have achieved.

In solidarity,
Your Corrections Bargaining Team

Bargaining team members

Chris Jackel (Chair) | CO
Glenna Caldwell (Vice-Chair) | PO
Chad Oldfield | CO
Ken Steinbrunner | CO
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