

IN THE MATTER OF AN ARBITRATION UNDER
THE *LABOUR RELATIONS CODE* R.S.B.C. 1996 c. 244

BETWEEN:

COMMUNITY SOCIAL SERVICES BARGAINING ASSOCIATION OF UNIONS
(“CSSBA”)

AND:

COMMUNITY SOCIAL SERVICES EMPLOYERS’ ASSOCIATION
(“CSSEA”)

(Delayed Wage Increases and Retroactive Payments Policy Grievance)

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| ARBITRATOR: | Christopher Sullivan, Chair |
| COUNSEL: | Ming Lin for CSSBA Kathryn Rogers for CSSEA |
| DATE OF HEARING: | October 21, 2023 |
| PUBLISHED: | October 24, 2023 |

The parties agree I have jurisdiction to hear and determine the matter in dispute. The case involves a policy grievance by the CSSBA initiated on May 2, 2023, and formalized on June 26, 2023, regarding outstanding wage increases and retroactive payments under the 2022-2025 collective agreements.

The effective date for certain wage increases was April 1, 2023, but there was delay by some CSSEA member employers/agencies in implementing the increases and paying retroactivity back to the effective date. The new agreements covered about two hundred CSSEA member agencies with multiple varied funding sources and, as at the date of these arbitration proceedings, the parties were aware that three agencies had yet to implement the current wage rates and six agencies had not yet made the required retroactive lump sum payments. At this point in time the parties are unaware of any other agencies that have not yet implemented the current wage rates or made the retroactive lump sum payments; however, this potential is addressed later in this award, just in case.

The policy grievance was referred to arbitration. Most instances of delayed wage increases and retroactive payments at CSSEA member agencies were resolved during the grievance process leading up to arbitration, including a small number of employers that have committed to make these payments no later than October 31, 2023.

The parties adjourned an arbitration hearing scheduled for September 11, 2023, while mutual efforts to secure and confirm payment of wage increases and retroactive payments continued. As some CSSEA member employers had not made, or committed to make, these payments in the intervening time, the parties proceeded to arbitration on October 21, 2023.

At these proceedings the parties provided an agreed statement of facts and made extensive submissions in support of their respective positions. Put very briefly, the CSSBA sought all required payments be made and confirmed immediately and that interest be paid on all delayed funds. The CSSEA asserted it was doing what it could to ensure timely payment and that an award of interest would not be appropriate given all of the surrounding factors including funding complexities of the community health sector.

I was informed that the parties shared a desire to minimize further delay for those employees still awaiting wage increases or retroactive payment and they therefore requested an expedited decision.

DECISION

From a broad, high-level, perspective the Union policy grievance achieved a significant goal in pressuring employer agencies to address whatever funding issues they may have so that they can pay the newly negotiated higher wage rates, with retroactivity back to April 1, 2023. Aside from the identified handful of identified agencies, it appears all CSSEA members are now in compliance with the commitment to pay the new wage rates effective April 1, 2023.

Having considered all of the relevant factual circumstances, together with the parties' respective submissions, I hereby award the following:

1. CSSEA member employers that have not paid wage increases and/or retroactive payments by October 31, 2023, will, by December 31, 2023:
 - pay the wage increases and retroactive payments; and
 - pay interest, calculated in accordance with the *Court Order Interest Act*, in relation to wages earned (including retroactive payment owing) from September 11, 2023, to the date the monies are paid.

2. To facilitate implementation, all CSSEA member employers that have not paid wage increases and/or retroactive payments by October 31, 2023, will, to CSSEA:
 - immediately disclose the delay in implementation or payment;
 - disclose when they implement the wage increases and pay retroactive payments; and
 - provide calculations and confirmation of payment of interest owing.

3. CSSEA will collect the above information and relay it to CSSBA as it secures such, and in any event by January 5, 2024.

This award constitutes full and final resolution of the matters in dispute and is based on the extremely unique factual circumstances surrounding the current policy grievance in the specific context of the parties' last round of collective bargaining. Novel aspects warrant the awarded outcome, which cannot in any way be taken as a formula or precedent for future cases between these parties or any others.

I shall remain seized with respect to issues regarding implementation between these or other parties.

It is so awarded this 24th day of October, 2023.



Christopher Sullivan