

IN THE MATTER OF AN INTEREST ARBITRATION
UNDER the *Hospital Labour Disputes Arbitration Act*

BETWEEN:

Foyer des Pionniers

(the “Employer”)

- and -

Canadian Union of Public Employees and Local 1771-00

(the “Union”)

and in the matter of the renewal of a collective agreement that expired on December 31, 2020.

BOARD OF ARBITRATION:

Jesse Kugler – Chair
Irv Kleiner – Employer Nominee
Wassim Garzouzi – Union Nominee

APPEARING FOR THE EMPLOYER:

Dan McPherson, Advocate
Nathalie Morin, Administration
Danielle Plamondon, Director of Finance
Guy Catellier, Board Member

APPEARING FOR THE UNION:

Andrew Ward, Advocate
Felicia Forbes, Long-Term Care/Retirement Home Coordinator
Norm Berthiaume, National Representative
Adrianna Atkins, Bargaining Committee Member
Maureen Aubertin, Bargaining Committee Member
Manon Vaillancourt, Bargaining Committee Member

Hearing held on September 19, 2022 by video conference.

AWARD

1. This is an interest arbitration under the *Hospital Labour Disputes Arbitration Act*, RSO 1990, c H-14 (“*HLDAA*” or “the Act”). This board of arbitration is duly constituted to resolve the outstanding issues between the parties.
2. This award concerns the renewal of a collective agreement that expired on December 31, 2020. The parties have agreed to a three-year term, from January 1, 2021 to December 31, 2023.
3. The Employer is a non-profit long term care facility located in Hearst, Ontario. It is a 67-bed facility. The parties share a mature collective bargaining relationship, the Union having been certified as bargaining agent in 1974. The Union represents approximately 35 full-time employees and 53 part-time employees working as RPNs, PSWs, and housekeeping, food, and recreation staff.
4. The current collective agreement expired on December 31, 2020. The parties’ efforts towards the negotiation of a renewal collective agreement include:
 - Notice to Bargain – November 16, 2020
 - Negotiations – March 9-11, 2021
 - Conciliation – May 19, 2021
 - No Board – May 27, 2021
5. This agreement is subject to the *Protecting a Sustainable Public Sector for Future Generations Act, 2019, SO 2019, c 12* (“*Bill 124*”). Neither party welcomes this result. *Bill 124* imposes a three-year “moderation period”. Subsection 10(1) prohibits “any increase in a salary rate applicable to a position or class of positions greater than one per cent for each 12-month period of the moderation period.” Subsection 11(1) further prohibits “any incremental increases to existing compensation entitlements or for new compensation entitlements that in total equal more than one per cent on average for all employees covered by the collective agreement for each 12-month period of the moderation period.”
6. This board of arbitration is significantly constrained by the restrictions established by *Bill 124*. As a result, we are unable to properly consider and apply the criteria set out in subsection 9(1.1) of the *HLDAA* and developed in arbitral jurisprudence in our determination of this award.
7. In light of *Bill 124*, and having regard to the submissions of the parties, we hereby determine that the renewal agreement shall include all agreed upon items, any unamended and undeleted terms of the expired agreement, and the following changes:
 - **WAGES**
 - January 1, 2021 – 1%
 - January 1, 2022 – 1%
 - January 1, 2023 – 1%

- **SELF ISOLATION LANGUAGE**

If an employee is required to self-isolate as a result of the Employer policy or at the direction of the Employer, and if the employee is not entitled to WSIB benefits for the period of such self-isolation, the employee will be entitled to use sick-leave, vacation, or lieu entitlements for any hour of work lost during such period.

- **TRAINING**

When the Employer requires training outside of working hours, it will compensate employees.

- **WEEKEND PREMIUM**

(YEAR 1) – January 1, 2021 – Increase by \$0.05

(YEAR 2) – Effective Date of the Award – Increase by \$0.08

- **VISION**

(YEAR 3) – In Article 19.04, Increase to 350 dollars – Effective January 1, 2023

8. Any and all proposals not included above are rejected.

9. Pursuant to subsection 9(2) of the HLDAA, we remain seized with respect to interpretation and implementation, and to correct any inadvertent errors or omissions. We will also remain seized and grant a re-opener with respect to monetary issues should the constitutional challenge brought to Bill 124 by this Union and others be successful, should the Union be granted an exemption from the legislation or should the legislation be amended in respect of compensation.

Dated at Toronto, Ontario this 29th day of November 2022.

“Jesse Kugler”

Jesse Kugler – Chair

“I dissent in part”

Irv Kleiner – Employer Nominee

“I dissent in part”

Wassim Garzouzi – Union Nominee