

BETWEEN: IN THE MATTER OF an arbitration

TRILLIUM HEALTH PARTNERS

(The "Hospital")

- and -

CANADIAN UNION OF PUBLIC EMPLOYEES, LOCAL 5180

(The "Union")

and in the matter of a job posting grievance of Carolene Siloch (# CV-13-33)

Russell Goodfellow – Chair
Victor Trotman – Hospital Nominee
Joe Herbert – Union Nominee

APPEARANCES FOR THE HOSPITAL:

Amanda Hunter, counsel
Antonietta Baruzzo

APPEARANCES FOR THE UNION:

Mark Wright, counsel
Joe Ricci
Pasquale Romano
Louis Rodrigues

AWARD

The Union filed a grievance on December 31, 2013, dealing with the right of employees to return to work at the Hospital pursuant to article 9.07 of the collective agreement after having transferred to work with a third-party contractor, Steripro, to which the work they had previously performed for the Hospital had been contracted out.

In an award dated 14 September 2015, a majority of the Board dismissed the grievance (the Union Nominee, Mr. Herbert, dissented). The Board did, however, remain seized of "any possible estoppel argument." This award deals with that estoppel argument.

To establish its estoppel argument, the Union relies on representations made to it, and to the affected employees, by the Hospital. The Union filed notes from a meeting between the Union and the Hospital on May 1, 2012. In those notes the Hospital advised the Union that employees transferring to Steripro would maintain their Hospital service and seniority for a period of four years from the date of transfer.

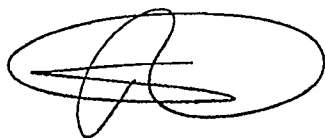
The Hospital terminated its contract with Steripro before the four year period had elapsed, and the sterilization work returned to the Hospital. Three of the employees who initially transferred with the work are now back working at the Hospital: Gay Cabase, Haezel Llemos, and Marisa Baon. However, none of the three have been given credit for their past service and seniority with the Hospital as they and the Union had anticipated.

Having considered the position of the parties on these facts, we are of the opinion that the elements of an estoppel have been made out: the parties have a collective bargaining relationship, the Hospital made a clear representation by which it intended to be bound, and the Union and the returning employees relied on that representation to their detriment.

We therefore order that the three employees, Gay Cabase, Haezel Llemos, and Marisa Baon, be credited with their previously accumulated seniority and service with the Hospital.

We remain seized with respect to any issues that arise from the implementation of this award.

DATED this 7th day of December, 2016.



Russell Goodfellow – Chair

"Victor Trotman"

Victor Trotman – Hospital Nominee

"Joe Herbert"

Joe Herbert – Union Nominee