



Association of Justice Counsel
Association des Juristes de Justice

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BY FACSIMILE

July 9th, 2010

Hélène Laurendeau
Assistant Secretary (Labour Relations and Compensation Operations)
Treasury Board of Canada
400 Cooper Street
Ottawa, Ontario
K1A 0R5

RE: Finalizing the LA Collective Agreement

Dear Ms Laurendeau:

The time has come to finalize the collective agreement governing over 2700 Federal Crown counsel, the members of the Association of Justice Counsel and LA bargaining unit.

As you know, when the arbitral award was released last October, the Association had sought a vital clarification regarding insurance and disability coverage for articling students. The central question was whether articling students, who are full status members of the Association, would continue to receive life insurance, AD&D, dependents and disability coverage on terms that are at par with the Public Service Management Insurance Plan (PSMIP). These are important benefits.

At the arbitration hearing, all parties operated from the same premise that LA-DEVs (students) were subject to the same terms and conditions as LA1s (entry lawyers) in all matters except salary. Nevertheless, the LA-DEV classification was omitted from the provisions of the arbitral award providing the aforementioned categories of benefits to all other members of the LA-1 classification. We believed this was an inadvertent oversight on the part of the arbitrator, however he declined to clarify his ruling on the merits.

We then approached the Treasury Board negotiation team to propose an amendment to the arbitral award on consent that would have resolved the quandary. This should not have been contentious from our point of view because the employer's negotiators at arbitration at no time proposed that students receive different coverage from LA1s, and moreover, because the aim was to preserve status quo coverage, at zero increase in cost to the employer. However, an answer was not forthcoming.

We followed up with your branch on numerous occasions during the winter months of 2010. In early March, you and I had a brief conversation at a meeting of the National Joint Council, where you openly acknowledged that the Association's inquiries into this matter were fair, and that we were, at a minimum, entitled to know the employer's position before signing the collective agreement. You then assured me that your officials would get back to us.

Yet, weeks and months would pass after our March discussion, and still we did not hear anything in the way of a response. I raised the delay as a concern with the Deputy Minister of Justice and Director of Public Prosecutions, who were also interested in seeing a signed collective agreement. A summary of my comments on this subject are duly reflected in the minutes of the DOJ and PPSC National Labour Management Consultation Committee meetings.

On June 3rd, 2010, I met with the President of the Treasury Board. During our conversation, I brought him up to speed, and underlined that the Association expected a prompt response from the employer so that the collective agreement could be concluded. I believe the Minister shared our sense of urgency.

The following morning, I received a faxed letter from Carl Trottier, Acting Executive Director (Compensation and Labour Relations), who invited me to meet with him and other officials from the Pensions and Benefits branch within Treasury Board. That meeting took place on June 17th, 2010. Then, and for the first time, the employer spelled out its position with respect to articling students, which may be distilled as follows:

- As per the terms of the PSMIP, current articling students in the PSMIP may choose to remain in the PSMIP.
- As per the LA Arbitral Award, all new LA DEV employees will be excluded from the PSMIP coverage, but those who meet the eligibility criteria for the group benefit plans are entitled to the same plans as all other represented federal public servants, namely:
 - PSHCP (health);
 - PSDCP (dental); and
 - Disability Insurance (DI Plan)

During the same presentation on June 17th, and quite apart from the articling student question, it also became clear that there were other elements of the arbitral award with respect to LA benefits that had not yet been implemented. Specifically, paragraph 15(f) of the award states:

Long-Term Disability Insurance

All lawyers shall be covered under the Disability Insurance Plan.

Lawyers at the LA-1 and LA-2A levels shall pay fifteen per cent (15%), and the Employer shall pay eighty-five per cent (85%), of the required premiums.

For lawyers at the LA-2B and LA-3 levels, the required premiums shall be paid by the Employer.

However, we have been made to understand that the administration of these provisions has not yet been completed, despite the employer being well outside the 90 day implementation period prescribed under s.157 of the *Public Service Labour Relations Act*. We also note that the employer has not, to date, requested an extension so that all lawyers may be registered under the Disability Insurance Plan.

Nevertheless, we have been assured by Bill Jones, Assistant Secretary (Pension and Benefits Sector), that his team is working to bring the employer into compliance with the terms of the arbitral award. We look forward to on-going updates and progress from him in this regard. We also express our appreciation to Mr Trottier for his recent efforts at convening the June 17th meeting and ensuring that all the right people were at the table so that we could take the next critical step towards signing the collective agreement.

To be clear, we fundamentally disagree that future articling students should be treated differently than all other LAs for the purposes of insurance and disability coverage, and reserve the right to dispute the employer's interpretation. We are also very concerned that the employer's protracted implementation of the arbitral award has passed beyond the statutory timelines, without notice to the Association or a request for an extension to the PSLRB. Nevertheless, we believe it is in the interests of the membership as a whole that the Association takes the final step of executing the collective agreement. We must turn the page.

It has taken more than four years to arrive at this moment. Going forward, we must do more than pay lip service to the core principles of collective bargaining – openness, fairness and good faith. We must live up to them. We will do so by addressing several simple and incontrovertible facts: that we are working harder than ever before; that our resources are stretched more than ever before; and that the challenge of recruiting and retaining the best people is more difficult, and more important, than ever before. Our ability to ensure law and order hinges on these things.

The path from certification to concluding our first round of bargaining was long, winding and marked with controversy. It could have, and should have been more direct. As we head back to the negotiating table in 2011, we are prepared to work hard with the employer, but we expect a partner who will listen and respond to the needs of Federal Crown counsel, the public servants who are so essential to the administration of justice.

Yours truly,

Marco Mendicino
President
Association of Justice Counsel

Copies to:

President of the Treasury Board, the Honourable Stockwell Day
Secretary to the Treasury Board, Michelle d'Auray
Deputy Minister of Justice, Myles Kirvan
Director of Public Prosecutions, Brian Saunders