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Our File: 205-19-041 KM

October 31, 2019

Alberta Labour Relations Board
501, 10808 – 99 Avenue
Edmonton, AB T5K 0G5

FAX No. (780) 422 0970

PAGES: 13

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Attention: Tannis Brown, Director of Settlement

Dear Madam:

Re: An Unfair Labour Practice Complaint and Application for Enhanced Mediation brought by the United Nurses of Alberta affecting Alberta Health Services

Please find enclosed the United Nurses of Alberta's complaint against Alberta Health Services. The parties are scheduled to engage in interest arbitration by November 22, 2019, and the subject of this complaint could affect the interest arbitration. UNA respectfully requests this Board to expedite a hearing of the within complaint, such that it may be determined prior to November 22, 2019.

Yours truly,

CHIVERS CARPENTER

A handwritten signature in blue ink, appearing to read 'K. McLeod', is written over a light blue horizontal line.

PER: KRISTAN A. MCLEOD
(Email: kmcleod@chiverslaw.com)
KM/ljn

Enclosure

c.c. Neuman Thompson, Attn: Craig W. Neuman, Q.C. – via email
Alberta Health Services, Attn: Jackie Laviolette – via email
United Nurses of Alberta, Attn: David Harrigan – via email

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LABOUR RELATIONS BOARD

UNFAIR LABOUR PRACTICE COMPLAINT AND APPLICATION FOR ENHANCED MEDIATION

Pursuant to Sections 12(2)(a) & (e) and 16(1) of the *Labour Relations Code*, RSA 2000 c. L-1 [the *Code*].

I. COMPLAINANT:

United Nurses of Alberta (the “Union” or “UNA”)

MAILING ADDRESS:

#700, 11150 Jasper Avenue, Edmonton, AB T5K 0C7

CONTACT PERSON:

David Harrigan

LEGAL COUNSEL:

Kristan McLeod
Chivers Carpenter
10426 – 81 Avenue, Suite 101,
Edmonton, AB T6E 1X5

PHONE: 780-425-1025

PHONE: 780-439-3611

FAX: 780-426-2093

FAX: 780-439-8543

**II. NAME OF EMPLOYER AGAINST WHOM THE COMPLAINT IS BEING MADE
(RESPONDENT):**

Alberta Health Services (“AHS” or the “Employer”)

MAILING ADDRESS:

900, 9925 – 109 Street NW, Edmonton, AB T5K 2J8

CONTACT PERSON:

Dennis Holliday

PHONE: 780-342-2000

FAX: 780-424-4309

LEGAL COUNSEL:

Craig W. Neuman, Q.C.
Neuman Thompson
#301, 550 - 91 Street S.W.
Edmonton, AB T6X 0V1

PHONE: 780-482-7645

FAX: 780-488-0026

Jackie Laviolette
Legal and Privacy, Alberta Health
Services
10301 Southport Lane S.W.
Calgary, AB T2W 1S7

PHONE: 403-943-0924

FAX: 403-943-0972

**III. SECTION AND SUB-SECTION WHICH ARE ALLEGED TO HAVE BEEN
VIOLATED:**

The Union alleges that the Employer has violated sections 60(3) and 148(1)(a)(ii) of the *Code*.

Background

1. The Union is the certified bargaining agent for all direct nursing employees of the Employer, as well as Covenant Health, Lamont Health Care Centre, and the Bethany Group (Camrose).
2. The Union served notice to bargain to the Employer on December 14, 2016, and reached a Collective Agreement in November, 2018 which included a wage re-opener provision solely for the wages in Year 3 of the Collective Agreement which is April 1, 2019 to March 31, 2020.
3. The wage re-opener provision states as follows:

WAGE RE-OPENER

Year 3 - The Parties shall commence negotiations to reach agreement on the wages payable in Year 3 (April 1, 2019 to March 31, 2020) of the Collective Agreement on February 15, 2019.

The Parties agree that the only item open for negotiations shall be the wages in the Salary Appendix of the Collective Agreement. This re-opener shall not be construed in any way as "opening the agreement" for negotiations on any other issues by either side.

If the Parties have not been able to agree upon the wage adjustment, at any time after March 31, 2019, either Party may give written notice to the other Party of its desire to submit resolution of the wage adjustment to interest arbitration before a three-member panel comprised of a nominee of both parties and a chair chosen by the parties from among the following arbitrators: David Phillip Jones, Andrew C. L. Sims, or W. D. McFetridge.

If the parties are unable to agree upon the chair, the Director of Mediation Services shall choose the chair from among the arbitrators named above.

The arbitration hearing shall be held by no later June 30, 2019. In reaching its decision, the arbitration panel shall consider the matters identified in section 101 of the Alberta Labour Relations Code.

4. The parties exchanged proposals on wages on February 15, 2019, with the Union proposing a 3% increase to the wage grid, and the Employer proposing a 0% change to the wage grid.
5. The interest arbitration was set to proceed on May 13 and 17, 2019. The Employer requested an adjournment of the interest arbitration after the election of a new provincial government, and the Union opposed the request. The Arbitrator granted the adjournment, and scheduled new interest arbitration dates on July 2, 3, and 8, 2019.
6. On June 13, 2019 Bill 9 was introduced into the Legislature of Alberta, and on June 28, 2019 Bill 9 received Royal Assent and became law. Bill 9 postponed the wage reopener interest arbitration between these and other public sector parties until after October 31, 2019.
7. New arbitration dates for the Union and Employer are scheduled for November 22 and 23, 2019. The parties agreed to exchange written argument and economic reports on November 8, 2019.
8. On October 29, 2019, the Government of Alberta announced it was issuing new mandates for itself and other public sector employers engaged in wage reopener interest arbitrations, requiring public sector employers to seek between 2%-5% wage rollbacks. The announcement was made via press release and was announced broadly in the province by mid-afternoon on October 29, 2019.
9. On October 29, 2019 before noon, the AHS Executive Director of Labour Relations & In-Scope Classification and Compensation Dennis Holliday called the Union and spoke with Manager of Labour Relations Lee Coughlan and indicated AHS would be sending over a new proposal seeking a -3% to the wage grid.
10. On October 29, 2019 at 1:54pm, AHS Vice President Todd Gilchrist sent an internal memo entitled "Update on wage reopener arbitrations" and stated that while "AHS originally tabled proposals for 0% increases for the final year of the agreements" AHS had received a revised mandate from the Government of Alberta on October 25, 2019, and "will change proposals." With respect to UNA, AHS announced its proposal will shift to "minus 3%". The memo also

stated that “we have just notified the unions of these changes and that we will continue through the arbitration process” (Attachment “A”). This memo was posted in various workplaces across AHS sites; it was provided to UNA by one of its members.

11. On October 29, 2019 at 3:49pm, the Mr. Holliday emailed Mr. Coughlan with AHS’s change in position for the 2019 wage reopener from 0% to a reduction of 3% (Attachment “B”), and confirmed AHS would submit that revised position to the interest arbitrator.

12. No information has been shared with UNA with respect to any rationale for the changed position, any decreased funding provided to AHS by the provincial government for the 2019-2020 year, or other changes to the financial status of AHS. The provincial government is not the Employer; AHS is the Employer. Yet AHS has allowed the provincial government to dictate bargaining positions and communications directly to union members. The Employer has provided no explanation or analysis to the Union to justify their position or allow the Union to seek additional information.

IV. SUMMARY AND BASIS OF THE APPLICATION

Bad Faith Bargaining

13. The Employer has failed to negotiate in good faith, contrary to s. 60(3) of the *Code*, by resiling from its previous wage position immediately prior to the interest arbitration. The receding horizon of this position is solely because of directives by the provincial government, and not because AHS has made any claim that their funding for the year in question has been affected.

Prohibited Practice

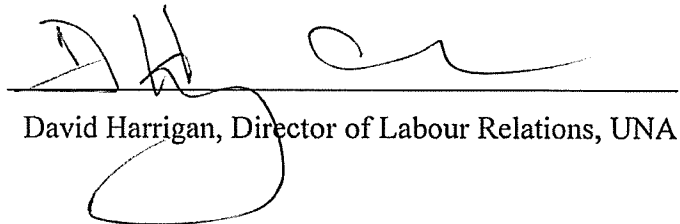
14. In addition to the Employer’s failure to bargain in good faith, the Employer has interfered with the Union’s representation of its members by notifying AHS employees of its wage position prior to providing a revised proposal to the Union. AHS provided the revised proposal with no explanation or rationale aside from the fact it has been directed by the government who is not a party to the agreement. This undermines the role of the Union as exclusive bargaining agent with respect to its members, and interferes with the Union’s ability to effectively represent their members.

V. REMEDIES REQUESTED

15. On the basis of the above, the Union seeks the following remedies:

- a) A declaration that the Employer has violated the *Code*;
- b) An order that the Employer cease and desist in violating the *Code*;
- c) An order directing the Employer to bargain in good faith, revert to its previous position of 0% wage increase, and cease engaging in bargaining that resiles from previous positions;
- d) An order providing the Union and its individual members general damages resulting from the Employer's conduct and interference with the Union's representational rights and the members' rights to representation.
- e) An order that the Employer post notices for employees setting out the Board's orders in this matter;
- f) Any of the above remedies on an interim basis; and
- g) Any other order or direction that is appropriate in the circumstances.

DATED at the City of Edmonton, in the Province of Alberta, this 31st day of October, 2019.



David Harrigan, Director of Labour Relations, UNA

ATTACHMENT A

Posted on our unit today.

Hilary Salmonson

From: AHS Human Resources
Sent: Tuesday, October 29, 2019 1:54 PM
To: AHS Leadership Matters
Subject: Update on wage reopener arbitrations



Message from
Todd Gilchrist

Vice President, People



Update on wage reopener arbitrations

To all leaders,

With the release of the Government of Alberta's budget last week, we received notification that wage reopener arbitrations will be proceeding and AHS will be required to change our position with our unions.

AHS agreements with all of our unions included a 0% wage increase for the first two years and a requirement to reopen wage negotiations in the third year, effective April 1, 2019.

During wage reopener negotiations, AHS originally tabled proposals for 0% increases for the final year of the agreements, which all unions rejected and moved to arbitration.

However, under the revised mandate received on October 25, we will change our proposals as follows:

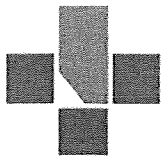
- AUPE – General Support Services: minus 2%
- AUPE – Auxiliary Nursing: minus 2%
- UNA: minus 3%
- HSAA: minus 5%

The changes reflect information collected by government during the temporary suspension required by the Public Sector Wage Arbitration Deferral Act, including the Mackinnon Report on Alberta's Finances. The report identified significant spending problems and the need for Alberta to bring public sector compensation rates in line with other comparable provinces.

We have just notified the unions of these changes and that we will continue through the arbitration process. The final outcome of the arbitration will be determined by an independent third-party arbitrator.

Additional background information on the wage reopener process is attached.

We recognize that this will be difficult news for most of your staff.



Date: Oct. 29, 2019

- AHS agreements with all of our unions: United Nurses of Alberta (UNA), Health Sciences Association of Alberta (HSAA), Alberta Union of Provincial Employees (AUPE)-General Support Services (GSS), and AUPE-Auxiliary Nursing (ANC) are set to expire March 31, 2020.
- The current agreements include:
 - A three-year deal from April 1, 2017 to March 31, 2020.
 - Wage increases as follows:
 - 0% effective April 1, 2017;
 - 0% effective April 1, 2018; and,
 - Wage reopener for the third and final year.
- A wage reopener is the requirement to negotiate wages (base-rate of pay) only.
- AHS met with representatives from all unions early in 2019 to begin the wage reopener process.
- The wage reopener process includes provisions to advance to arbitration if an agreement cannot be reached.
- During wage reopener negotiations, AHS originally tabled proposals for 0% increases for the final year of the agreements.
- The unions tabled following proposals:
 - AUPE-GSS: 7.85%
 - AUPE-ANC: 7%
 - UNA: 3%
 - HSAA: 5%
- Agreements could not be reached between AHS and the unions, so negotiations moved to arbitration.
- A revised mandate requires AHS to change our proposals as follows:
 - AUPE-GSS: minus 2%
 - AUPE-ANC: minus 2%
 - UNA: minus 3%
 - HSAA: minus 5%
- AHS notified the unions of this change on Oct. 29, 2019.
- AHS had begun arbitration with AUPE-GSS and AUPE ANC when Bill 9 (Public Sector Wage Arbitration Deferral Act) came into effect, which delayed arbitration and decisions until after Oct. 31, 2019.
- AHS continues to prepare for upcoming wage arbitration:
 - AUPE arbitration will resume after Oct. 31.
 - UNA arbitration dates are scheduled for Nov. 22 and 23.
 - HSAA arbitration dates will be scheduled.
- The final outcome of the arbitration with each union will be determined by an independent third-party arbitrator.

ATTACHMENT B

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From: Dennis Holliday
Sent: Tuesday, October 29, 2019 3:49 PM
To: 'Lee Coughlan (Manager)' <lcoughlan@una.ca>
Cc: Raelene Fitz <Raelene.Fitz@albertahealthservices.ca>
Subject: AHS Letter - Follow Up to Our Discussion This Morning

Hi Lee, thanks for taking my call this morning. As promised, here a letter confirming our revised Wage Re-Opener position.

Dennis Holliday
Executive Director
Labour Relations &
In-Scope Classification and Compensation
Alberta Health Services
Ph: 780-426-8534

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Negotiations &
Labour Relations

October 29, 2019

Lee Coughlan
Manager, Labour Relations
United Nurses of Alberta
11150 Jasper Avenue NW
EDMONTON AB T5K 0C7

Dear Lee,

Re: Change in AHS Wage-Reopener Position

Further to our conversation earlier today, this letter summarizes the AHS change in position for the 2019 wage-reopener from 0% to a reduction of 3 percent (-3.0%).

This change in position is required due to a change in the AHS mandate set by the Government of Alberta.

The 2019 provincial budget tabled on October 24, 2019, identified the serious financial situation that faces the province. As an organization receiving the vast majority of our funding from the provincial government we need to ensure our wages are not significantly higher than comparable provinces.

The MacKinnon Report provided insights into broad public sector compensation challenges and calls on the government to make changes to bring broad public sector spending in line with other provinces. AHS Registered Nurses wages, as an example, are the highest when compared to similar healthcare collective agreements in the Ontario-West comparator groups.

Therefore, at the interest arbitration in November, AHS intends on submitting our revised position to Arbitrator David Jones for participating Employers (AHS, Covenant, Lamont and Bethany). These changes do not change the value we place on our employee's dedication and hard work.

Sincerely,

A handwritten signature in black ink, appearing to read "Dennis Holliday".

Dennis Holliday
Executive Director
Negotiations and Labour Relations

Copy: Raelene Fitz, AHS