

IN THE MATTER of the Policy Grievance dated May 25, 2009 re: 12 month to 10 month 10 day gratuity, and the 57 Individual Grievances on the same subject, under the Labour Relations Act, 1995, and the applicable collective agreement;

MEMORANDUM OF SETTLEMENT

BETWEEN:

THE SIMCOE COUNTY DISTRICT SCHOOL BOARD
of the First Part

and

THE ONTARIO PUBLIC SERVICE EMPLOYEES UNION
AND ITS LOCAL 330
of the Second Part

Whereas the Union filed a policy grievance dated May 25, 2009 and 57 individual grievances alleging an unfair exercise of management rights causing undue hardship regarding the retirement gratuity calculations of the secondary office staff, Library Technician, and affected Education Centre staff who were moved to 10 month and 10 day status (“the grievances”);

And Whereas the Parties have a desire to resolve these matters;

The Parties have settled the grievances as follows:

Notwithstanding Articles 17.07 and 17.08 of the current collective agreement, the Parties agree that employees who are affected by the current restructuring initiative and are being moved by the Board from twelve month status to ten month and ten day status effective September 1, 2009, shall have their sick leave administered as follows:

1. Accumulated sick leave, up to a maximum of 200 days, shall be transferred to the employee’s new ten month sick leave bank on September 1, 2009 based on the proportion existing in the 12 month sick leave bank;
2. These employees will begin earning sick leave credits on a ten month basis beginning September 1, 2009 in accordance with Article 17.01 (a);
3. Accumulated sick leave in excess of 200 days, to a maximum of 60 days, as of August 31, 2009 will be placed in a separate account and may only be utilized for sick leave absences where the ten month sick leave bank has been exhausted;
4. Employees covered by this agreement who retire and who qualify for a retirement gratuity in accordance with Article 17.10, shall be provided with two retirement gratuity calculations as follows, and will be paid the gratuity that provides the greater benefit:

- a. Calculate the retirement gratuity using the ten month formula that includes 200 days as the divisor, and the retirement gratuity may not exceed one-half year of the employee's earnings as a ten month employee as of the employee's retirement date.
 - b. The number of sick leave days remaining in the employee's 10 month sick leave bank on retirement will be calculated as a proportion of the total possible 200 sick leave days, and that proportion will be used to calculate the 12 month retirement gratuity.
 - c. Calculate the retirement gratuity using the best five (5) years of the employee's salary and apply the proportion of sick leave days determined in the 10 month calculation. The retirement gratuity may not exceed one-half year of the employee's earnings as a twelve month employee on August 31, 2009.
5. At the point that the ten month salary exceeds the twelve month salary, the dual calculations will no longer be performed.
 6. This settlement is only available to the employees who work in the secondary office, Library Technician, and affected Education Centre classifications, on August 31, 2009. This settlement will remain in effect for these employees, subject to the terms of this settlement, for the period of time that they hold an OPSEU position with the SCDSB;
 7. The Union and the 57 grievors agree to withdraw the policy grievance and the 57 individual grievances relating to the issue of the retirement gratuity calculation;
 8. This Memorandum of Settlement is made without prejudice and/or precedent with respect to any other matter between the Parties;
 9. The Union and the individual grievors agree not to pursue any complaint, grievance, application or any other legal proceeding against the Board, its employees, or any individual or organization, with respect to the above noted grievances that were withdrawn.

Signed this _____ day of _____, 2009.

SIMCOE COUNTY DISTRICT
SCHOOL BOARD

THE ONTARIO PUBLIC
SERVICE EMPLOYEES'
UNION AND ITS LOCAL 330

