

In the Matter of an Arbitration

Between

Laurentian University (employer)

And

Laurentian University Faculty Association (union)

And

In the Matter of Appointments to University Committees

Before: M. Brian Keller

Michael Kennedy, for the employer

David Wright, for the union

Hearing in Sudbury, January 18, 2018

AWARD

The union filed a grievance on October 24, 2013 alleging a violation of article 5.15.29 as a result of the employer failing to provide notice of opportunities for members to participate in university governance.

Article 5.15.29 provides as follows:

In order to ensure equality of opportunity to participate in university governance, the Employer agrees to circulate notice of openings on all university bodies above the Department / School / Library level to eligible Members at least two (2) weeks prior to the time that the vacancies must be filled.

The parties met at arbitration in November 2014 and attempted to resolve the grievance. Minutes of Settlement were entered into and I was seized with respect to the interpretation or implementation of the terms of the settlement. Paragraph 1 of the MOS previously entered into by the parties is confirmed, subject only to the terms of this award and reads as follows:

“The University hereby confirms that, in accordance with article 5.15.29 of the Collective Agreement, it will provide two weeks notice to faculty members of vacancies on University committees, including Sensate (i.e. ACAPLAN) and Presidential Committees (i.e. REB).”

Unfortunately, issues arose and the matter was again scheduled for hearing before me.

During the course of the hearing day I heard the submissions of the parties. Based on those submissions, the grievance is allowed, in part, as follows.

For the purpose of determining what a “body” is in article 5.15.29 it is not possible, in my view, to provide a bright line or precise definition. Rather, indicators, or indicia should be considered on an individual basis for each such body. Hopefully, with some passage of time those indicators, or others will be able to provide the parties with clearer guidance.

The indicia are: Whether the body is part of collegial governance.

Whether the body is ongoing in the sense, for example, that it meets annually and/or more than once per year.

Whether the body has a defined mandate and/or purpose.

Whether Faculty i.e. LUFA members participation is sought and/or required, but does not include bodies properly composed of only members of Administration.

In the application of the above indicia, it is to be kept in mind that they are indicators only and not necessarily determinative. It is possible, for example, that a body meet only one time yet still be a body within the meaning of the article depending on the other characteristics of the body. It is also to be understood that not all indicators need to be present in each circumstance.

I find that the following Committees are bodies within the terms of the article, as claimed by the union:

Retention Committee

Teaching Awards Committee

Teaching and Learning Committee

Governor General Award Committee

Research Ethics Board

Coordinator Committee

Computer Committee

Before any of the above listed bodies meet again, the requirements of article 5.15.29 must be followed.

The employer is, within 30 days of this award, to provide the union with a list of bodies within the meaning of the article. It will provide, as well, the most recent notice pertaining to the populating of those bodies, and advise when each is to be populated next. If the Union has concerns about the response of the University it may follow up with me.

The employer, when providing notice to members pursuant to article 2.50.2 (s), will also provide notice to the union.

I remain seized as required. In the event of a dispute, the matter will be heard on an expedited, informal basis.

Ottawa this 26th day of March, 2018



M. Brian Keller, arbitrator