

IN THE MATTER OF AN ARBITRATION

BETWEEN:

HEALTH EMPLOYERS ASSOCIATION OF BRITISH COLUMBIA

(the “Employer”)

AND:

FACILITIES BARGAINING ASSOCIATION

(the “Unions”)

ARBITRATOR:

Vincent L. Ready

COUNSEL:

Trevor Hughes for
the Employer

Bonnie Pearson for
the Unions

HEARING:

June 5, 2008
Burnaby, BC

PUBLISHED:

June 13, 2008

The parties agreed I was properly constituted as an arbitrator under the terms of the Settlement Agreement (the Agreement) reached on January 25, 2008 between the Government of the Province of British Columbia and the Health Employers Association of British Columbia (HEABC) and the Facilities Bargaining Association (FBA). The Agreement was reached following a decision of the Supreme Court of Canada striking down certain sections of the *Health and Social Services Delivery Improvement Act* (Bill 29).

On March 31, 2008, I issued a decision on two preliminary issues related to the financial issues in the Settlement Agreement: whether employees covered by local agreements are eligible to access the lump sum; and what are the criteria and categories of impact per Section 7.4 B of the Settlement Agreement.

The parties have raised an additional preliminary issue. Specifically, the parties have identified that following the enactment of Bill 29, several locals decertified from a constituent Union in the FBA. Following decertification, some employees were impacted by contracting out, including the loss of employment. In some cases, a constituent Union in the FBA has re-certified the bargaining unit and they are again party to the 2006-2010 Facilities Subsector Collective Agreement. The parties have raised the issue as to whether decertified locals are entitled to access the lump sum set out in the Settlement Agreement.

After hearing comprehensive opening statements from the parties, I award the following:

1. Employees who were covered by the Facilities Subsector Collective Agreement as of the enactment of Bill 29 and who subsequently elected to de-certify from a constituent Union in the FBA are not entitled to access the lump sum set out in the Settlement Agreement.

2. Where a constituent Union in the FBA has subsequently re-certified a bargaining unit, the employees are not entitled to access the lump sum set out in the Settlement Agreement.

It is so awarded.

Dated at the City of Vancouver in the Province of British Columbia this 13th day of June, 2008.



Vincent L. Ready