

Carleton University's response (using MSWord tracked change) on Article 34.1 with respect to collective bargaining with the Carleton University Academic Staff Association (CUASA) CUASA proposal

Without Prejudice

Date: May 8, 2012 August 30, 2012

## **ARTICLE 34: BINDING ARBITRATION**

~~34.1 The parties agree that in negotiating the collective agreement for the period commencing May 1st, 2009, all non-monetary issues shall be settled prior to arbitration on monetary issues. Included within the meaning of non-monetary issues shall be the principle of introducing new forms of benefits. (The cost-sharing of such new benefits, if agreed to in principle, shall be a monetary issue). Any dispute as to whether a proposal on benefits constitutes a new form of benefits shall be settled at an arbitration as outlined in Article 34.2 before the monetary issues are submitted to arbitration. If agreement is not reached within sixty (60) calendar days of the agreement by the respective principals on non-monetary issues, either party may submit the unresolved monetary issues to a form of binding arbitration. The form of binding arbitration shall be that established pursuant to Article 34.3 below unless changed by agreement of both parties.~~

The parties agree that in negotiating the collective agreement for the period commencing May 1st, 2016, all non-monetary issues shall be settled prior to arbitration on monetary issues. Included within the meaning of non-monetary issues shall be the principle of introducing new forms of benefits. (The cost-sharing of such new benefits, if agreed to in principle, shall be a monetary issue). Any dispute as to whether a proposal on benefits constitutes a new form of benefits shall be settled at an arbitration as outlined in Article 34.2 before the monetary issues are submitted to arbitration. If agreement is not reached within sixty (60) calendar days of the agreement by the respective principals on non-monetary issues, either party may submit the unresolved monetary issues to a form of binding arbitration. The form of binding arbitration shall be that established pursuant to Article 34.3 below unless changed by agreement of both parties.

~~34.2~~34.2 ~~Should the parties agree to go to mediation or arbitration, they shall retain the services of a mediator or arbitrator to determine whether a benefit issue is monetary or non-monetary, the parties agree to submit the dispute to a mediator or arbitrator chosen~~ to determine whether a benefit issue is monetary or non-monetary, the parties agree to submit the dispute to a mediator or arbitrator chosen ~~from the list of arbitrators in effect under Article 30.12 in the fashion specified in Article 30.12.~~ In any dispute as to whether a benefit issue is monetary or non-monetary, the parties agree to submit the dispute to an arbitrator chosen from the list of arbitrators in effect under Article 30.12 in the fashion specified in Article 30.12.

~~34.3(a) The form of arbitration utilized shall be final offer selection by a three (3) person board of arbitration.~~

~~(i) The three (3) person board of arbitration shall consist of one (1) appointee named by the employer, and one (1) named by the Association; the second of the two (2) appointees shall be named within ten (10) working days of the appointment of the first. The two (2) appointees so selected shall, within ten (10) working days of the appointment of the second of them, appoint a third person who shall be chairperson, from a list agreed upon by the parties and attached hereto. Failing agreement by the parties'~~

sidesmen within ten (10) working days, or within twenty (20) working days of the appointment of the first appointee, whichever is earlier, or in the case of unavailability in the forthcoming six (6) weeks of the person or persons selected from the list, the appointment shall be made by the Minister of Labour for Ontario upon the request of either party.

(ii) The chairperson shall call a meeting of the parties with the final offer selection board at which meeting he/she will identify the separate issues on which the parties are to submit final offers and arguments, as well as the date for their submission. On the date determined by the chairperson each party shall submit its final offer and supporting arguments on each of the unresolved issues. After receipt of both parties' offers, the chairperson shall release the submissions to the opposite party. These final offers need not bear any relationship to the party's position at the bargaining table. The board may call a hearing in which the parties are given an opportunity to submit oral arguments in support of their submissions and to respond to questions by the board. No new evidence nor any changes of position may be introduced at this hearing.

(iii) The board shall in its award choose the final offer of either one (1) of the parties on each of the separate issues; the board may not introduce any new positions on any issues.

(iv) The parties agree to request the arbitrator and their appointees to make every effort to hear evidence and conclude proceedings within one (1) calendar month of appointment, and to make every effort to present their decision, which shall be final and binding, within two (2) calendar months.

(v) The decision of a majority is the decision of the arbitration board, but if there is no majority, the decision of the chairperson governs.

(vi) The arbitration board shall be encouraged to give reasons for the award.

**(vii) Panel of Arbitration**

1. W. Kaplan

2. M. Teplitsky<sup>[2]</sup>

(b) The parties agree that the arbitration board, shall consider, *inter alia*, whether and to what extent the following issues are relevant to the determination of the award on monetary issues: the employer's ability to pay; the cost of living settlements affecting comparable groups of employees; and the University's need to retain qualified academic staff.

(c) Subsequent to the ratification of the Collective Agreement for the period commencing May 1st, 2001, either party may, by giving notice to the other party three (3) calendar months prior to the expiration of that Collective Agreement, terminate the agreement to submit unresolved monetary issues to a form of binding arbitration.

**(c) Subsequent to the ratification of the Collective Agreement for the period commencing May 1st, 2016, either party may, by giving notice to the other party three (3) calendar months prior to the expiration of that Collective Agreement, terminate the agreement to submit unresolved monetary issues to a form of binding arbitration.**