

**IN THE MATTER OF AN INTEREST ARBITRATION**

BETWEEN:

CARLETON UNIVERSITY

(the “University”)

-and-

CARLETON UNIVERSITY ACADEMIC STAFF ASSOCIATION

(“CUASA”)

(Article 39.8(a) Carleton University Retirement Plan)

**Before:** William Kaplan  
Sole Arbitrator

**Appearances:**

**For the University:** Michael Kennedy  
Hicks Morley  
Barristers and Solicitors

**For the Association:** Peter Engelmann  
Colleen Bauman  
Goldblatt Partners LLP  
Barristers and Solicitors

The matters in dispute proceeded to a hearing on December 3, 2020.

## **BACKGROUND**

1. Pursuant to a Letter of Understanding signed on May 27, 2018, the parties agreed to proceed to interest arbitration with respect to the University's proposal to amend Article 39.8(a) (Carleton University Retirement Plan). Both parties filed detailed briefs and a mediation/arbitration was held in Ottawa on December 3, 2020.

2. The Carleton University Retirement Plan (the "Pension Plan") is an integrated hybrid plan with both a money purchase and defined minimum guarantee features that operate together. Since the inception of the Pension Plan in 1948, there has been a designated committee for the purposes of carrying out the administration of the Pension Plan (the "Pension Committee").

3. The Pension Committee, which acts independently, is comprised of a total of eight (8) members. Of these, five (5) represent the University's different employee groups: CUASA (two representatives); CUPE 2424 (one representative); CUPE 910, OPSEU 404 and CUPE 3778 (one representative); and all other non-unionized non-academic staff (i.e. non-unionized and management staff) (one representative). The union representatives are appointed by their respective unions, and the non-unionized staff representative is elected by the members of that employee group. The three remaining seats are filled by non-employee representatives. To date, the Pension Committee has always operated on a consensus basis.

4. The Pension Plan itself has been amended at least twenty (20) times since its inception in 1948. In each case, the amendments were approved by the Board of Governors based on the unanimous recommendations of the Pension Committee. Since the introduction of the present pension language in the Association's Collective Agreement in 1996 (at that time article 40.8), the Board of Governors has never acted unilaterally to amend the Pension Plan (i.e. absent a recommendation of the Pension Committee) and has never refused to implement a change that was recommended by the Pension Committee.

5. Up until 2009, the date referenced in now article 39.8(a) of the collective agreement had been updated regularly in the collective agreement by the parties. There is no dispute that the date currently referenced at article 39.8(a) of the collective agreement is out of date as it references a version of the Pension Plan that is no longer in force.

## **DISCUSSION**

6. The University seeks to delete the reference to the Pension Plan date in Article 39.8(a) in order to update the collective agreement.

7. In deciding this issue, normative interest arbitration criteria were carefully considered.

8. Given that the current text of Article 39.8(a) refers to a version of the Pension Plan that is out of date, there is a need to update this article. Accordingly, I have determined that the reference to the April 30, 2009 date in article 39.8(a) should be deleted.

9. In doing so, I note that this change is being made for housekeeping reasons and does not alter the meaning of Article 39.8(a) in any way. In particular, I note that the parties' longstanding past practice whereby the Board of Governors has never acted unilaterally to amend the Pension Plan and has only ever acted upon the recommendations of the Pension Committee, should continue unchanged in the face of this amendment.

#### **AWARD**

10. I award as follows for Article 39.8(a):

The parties agree that the Carleton University Retirement Plan ~~in effect as of April 30th, 2009,~~ shall continue for the term of this Agreement, except that if the Plan is amended to modify the Employer's obligation to fund the minimum guarantee fund beyond actuarial requirements, that amendment will take effect as provided by the amended plan.

11. I remain seized with any implementation issues that may arise.

DATED at Toronto this 7<sup>th</sup> day of December 2020.

*"William Kaplan"*

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William Kaplan, Sole Arbitrator