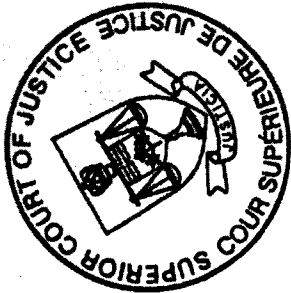


ONTARIO
SUPERIOR COURT OF JUSTICE

THE HONOURABLE
JUSTICE PERELL

) MONDAY, THE 14TH
)
) DAY OF NOVEMBER, 2016

BETWEEN:



DARLENE ALEXANDER

Plaintiff

- and -

HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO

Defendant

PROCEEDING UNDER THE *CLASS PROCEEDINGS ACT, 1992*

JUDGMENT

THIS MOTION, made by the Plaintiff for on order amending the class definition in this action and for judgment pursuant to section 29(2) of the *Class Proceedings Act, 1992* approving a settlement and for approval of Class Counsel Fees was heard this day at 130 Queen Street West, Toronto, Ontario.

ON READING the affidavit of Darlene Alexander sworn June 15, 2016, the affidavit of Devon Paul sworn June 14, 2016, the affidavit of Jordan Goldblatt sworn June 17, 2016, and the affidavit of Tanya Atherfold-Desilva sworn October 27, 2016 and on reading the factum filed by

the Plaintiff, and the Minutes of Settlement attached to this judgment as Appendix "A" (the "Minutes"),

AND ON HEARING the submissions of counsel for the Plaintiff and counsel for the Defendant;

AND ON BEING ADVISED that the Representative Plaintiff and the Defendant consent to the amendment of the Class definition to include those CUPE members who had been enrolled in the VON Canada Pension Plan, as more particularly described in paragraph 1, below, and also on consent to this Judgment, and that NPT RicePoint Class Action Services Inc. consents to being appointed as Administrator, and that Kumail Karimjee consents to being appointed as Referee,

Amendment to Class Definition and Opting Out

1. THIS COURT ORDERS AND ADJUDGES that the Class definition is amended as follows:

- (a) employees and former employees of municipalities or service providers associated with municipalities (hereinafter referred to as "municipal providers") whose employment was transferred from the municipal providers to newly-established Community Care Access Centres ("CCACs") and who were members of CUPE at the time of the transfer and who did not subsequently become members of the Ontario Nurses Association ("ONA") or the Ontario Public Service Employees Union ("OPSEU") and for greater certainty, those who became enrolled in the Healthcare of Ontario Pension Plan, formerly known as the Hospitals of Ontario Pension Plan, ("HOOP") and were previously enrolled in the Ontario Municipal Employees Retirement System or the VON Canada Pension Plan ("Former Plans"); and
- (b) employees of the municipal providers whose employment was transferred from the municipal providers to CCACs who subsequently became members of CUPE and who were not members of CUPE, ONA, or OPSEU at the time of the transfer.

(collectively referred to as the "Class Members" or the "Class")

2. THIS COURT ORDERS that those Class Members who were previously enrolled in the VON Canada Pension Plan and have been included in the Class Definition, by amendment referred to in paragraph 1 above (the “ex-VON Canada Pension Plan CUPE members” or “New Class Members”), who have not previously had an opportunity to opt-out of the class action, may do so by sending a written request to opt-out to tatherfold@goldblattpartners.com, or by way of regular mail to Goldblatt Partners LLP, 20 Dundas Street West, Suite 1100, Toronto, ON M5G 2G8, Attention: Tanya Atherfold-Desilva, postmarked on or before the date that is ninety (90) days from the date of the publication of the Notice of Settlement (the “Opt-Out Deadline”). No other Class Members who have not previously opted out, shall have any opportunity to now opt out.

3. THIS COURT ORDERS that New Class Members may not opt out after expiry of the 90th day after the date the first Notice is published under paragraph 2 above.

4. THIS COURT ORDERS that Class Counsel shall serve the Defendant and file with the Court, within 30 days after the close of the opt out period referred to in paragraph 3 above, an affidavit exhibiting the number of New Class Members who have opted out of the class proceedings, if any.

5. THIS COURT ORDERS that any New Class Member who has validly opted-out of this action shall no longer participate or have the opportunity in the future to participate in this action or the settlement of this action.

Definitions in the Judgment

6. THIS COURT ORDERS AND ADJUDGES that for the purposes of this judgment, the definitions set out in the Minutes apply to and are deemed incorporated by reference into this Judgment.

Settlement Approval

7. THIS COURT ORDERS AND ADJUDGES that the proposed settlement as particularized in this Judgment and the Minutes (together the "Settlement"):

- (a) is fair, reasonable, and in the best interests of the class members;
- (b) is hereby approved pursuant to s. 29(2) of the *Class Proceedings Act, 1992*; and
- (c) shall be implemented in accordance with all its terms, including and in accordance with the terms outlined in the present Judgment.

Class Bound and Bar Order

8. THIS COURT ORDERS, ADJUDGES AND DECLARES that the Settlement is binding upon each Class Member who has not opted out of this proceeding and each New Class Member who does not opt out pursuant to paragraph 2 above, and his or her heirs, administrators, executors, legal representatives, and assigns, including those persons who are under disability, and the requirements of Rules 7.04(1) and 7.08(4) of the *Rules of Civil Procedure* are dispensed with in respect of this Action.

9. THIS COURT ORDERS, ADJUDGES, AND DECLARES that each Class Member who has not opted out of these proceedings and each New Class Member who does not opt out pursuant to paragraph 2 above, and his or her heirs, administrators, executors, legal representatives, and assigns, have fully, finally, and forever released and discharged the

Defendant from all claims arising out of this Action, the certified common issues, and the Minutes (the "Claims") and are forever barred and enjoined from commencing, instituting, or prosecuting any action, litigation, investigation, claim, or other proceeding in any court of law or equity, arbitration, tribunal, proceeding, government or administrative forum, or any other forum, direction, representatively, or derivatively, asserting against the Defendant any claim, demand, cause of action, or proceeding that is related to the Settlement.

10. THIS COURT ORDERS, ADJUDGES, AND DECLARES that each Class Member who has not opted out of these proceedings and each New Class Member who does not opt out pursuant to paragraph 2 above, and his or her heirs, administrators, executors, legal representatives, and assigns, is forever barred and enjoined from making any claim, demand, cause of action or proceeding against any person which could give rise to a claim against the Defendant for contribution or indemnity in respect of this Claim.

11. THIS COURT ORDERS, ADJUDGES, AND DECLARES that except as otherwise provided in the present Judgment, nothing in this Judgment shall prejudice or in any way interfere with the rights of any Class Member who has not opted out of this proceeding to pursue any or all of their other rights and remedies against the Defendant on any matter not relating to this Claim.

12. THIS COURT ORDERS, ADJUDGES AND DECLARES that nothing in this Judgment shall prejudice or in any way interfere with any limitation period defences that may be available to the Defendant in respect of claims that are not related to or resolved by the Settlement.

Appointment of Administrator and Referee

13. THIS COURT ORDERS that NPT RicePoint Class Action Services Inc. be and is hereby appointed as the Administrator of the Settlement, until further order of this Court, on the terms and conditions and the powers, rights, duties and responsibilities as set out in the Minutes.

14. THIS COURT ORDERS that Kumail Karimjee be and is hereby appointed as Referee, until further order from this Court, with the duties and responsibilities as set out in the present Judgment.

Notice of Settlement

15. THIS COURT ORDERS that the Class Members, including the New Class Members shall be given notice of this Judgment substantially in the form of the notice attached as Schedule "C" of the Minutes (the "Notice), such form to be amended to include the New Class Members added, as follows:

- (a) by regular mail by the Administrator to all Class Members identified through CUPE's records at their last known address;
- (b) on the Goldblatt Partners LLP (Class Counsel) website and on the CUPE National website and on the websites of the CUPE Locals representing the Class Members (if any of those Locals have a website);
- (c) publication in CUPE newsletters or in the newsletters of the CUPE Locals representing Class Members, where available; and
- (d) by CUPE disseminating the Notice to CCACs throughout Ontario and requesting that it be posted in a conspicuous location.

16. THIS COURT ORDERS that a Claims Form attached as Schedule "D" to the Minutes, such form to be amended to include the New Class Members added, will be provided to Class Members by posting the Claims Form on a website set up by the Administrator.

Claims and Appeals Process and Referee's Fees

17. THIS COURT ORDERS that the timetable for Notice, Claims and Appeals shall be as set out in Schedule "E" to the Minutes.

18. THIS COURT ORDERS that each Class Member, including each New Class Member who does not opt out, shall submit a claim to the Administrator, in accordance with the Settlement and Schedule "D" to the Minutes and any Class Member who fails to do so shall not share in any distribution made in accordance with the Settlement unless the Court orders otherwise.

19. THIS COURT ORDERS that the Administrator shall administer the Settlement within the timetable set out in Schedule "E" to the Minutes.

20. THIS COURT ORDERS that any Class Member who disputes a decision by the Administrator may appeal the decision in writing to the Referee within 30 days of the date of the Administrator's decision.

21. THIS COURT ORDERS that the appeal process before the Referee shall be as follows:

- (a) the Class Member must set out the basis, in writing, for their appeal;
- (b) the Class Member shall pay the Administrator a fee of \$50.00 at the time of sending in a notice of appeal as described in paragraph 12 above;
- (c) the Administrator shall provide the Referee and the Class Member with one (1) copy of all documents considered by the Administrator in rendering its decision denying the Class Member's claim;
- (d) the appeal to the Referee shall be ~~in writing~~ ^{in writing} only;
- (e) with respect to an appeal of a claim that was denied based on the Class Member's failure to abide by the timelines set out in Schedule "E," of the Minutes, the Referee may only extend the timeline where there is proof of exceptional circumstances that prevented the Class Member from meeting the timelines. The

only exceptional circumstance that may be considered by the Referee is where either disability, as defined by the Ontario Human Rights Code, or where failure to receive a Notice of Settlement because the Administrator delivered it to an incorrect address, is the Class Member's reason for failing to meet the timelines;

- (f) the Referee shall consider any appeal in a manner that is fair but ensures the least expensive and most efficient adjudication of the appeal;
- (g) the Referee shall abide by the timelines set out in the timetable set out in Schedule "E" of the Minutes;
- (h) the Referee will issue a written decision which shall be final; and
- (i) if the Referee varies the Administrator's decision relating to the Claim, the Administrator shall return the \$50.00 fee paid by the Class Member.

22. THIS COURT ORDERS that the Referee shall not charge a total fee for his services that exceeds \$1,500.00 for fees, disbursements and HST per appeal unless this Court approves otherwise.

23. THIS COURT ORDERS that payment to the Referee shall be made from the monies designated for Administration Expenses should such any monies remain after all other expenses relating to the administration of the settlement have been paid.

24. THIS COURT ORDERS that should no funds remain from the monies designated for administration expenses, payment to the Referee shall be made from interest earned on the Settlement Monies, and in such case shall be paid before any distribution of the Settlement Monies and interest thereon to Class Members.

Immunity from Claims

25. THIS COURT ORDERS that no person may bring any action or take any proceedings against the Administrator, the Referee, or Class Counsel, their employees, agents, partners, associates, representatives, successors, or assigns, for any matter in any way relating to the

Settlement, the administration of the settlement, or the implementation of this Judgment except with leave of the Court.

Fees and Costs

26. THIS COURT ORDERS AND ADJUDGES that there shall be no fees and costs payable to Class Counsel, save for and except as follows:

- (a) Following the distribution of the Settlement Monies to each Class Member, the Administrator shall distribute any remaining monies as follows:
 - (i) first, to the Defendant in the maximum amount of \$75,000.00;
 - (ii) if any amount is remaining after the first \$75,000.00 has been paid, next to Class Counsel in the maximum amount of \$75,000.00;
 - (iii) if any amount is remaining after the first \$150,000.00 has been paid, next to the Defendant; and
 - (iv) in any event, any interest on the Settlement Monies shall be paid to the Defendant.

General

27. THIS COURT ORDERS that, without in any way affecting the finality of this Judgment or the Settlement, this Court reserves exclusive and ongoing jurisdiction of this Action, the Plaintiff and the Defendant, the Claims and the Class Members for the purposes of implementing, enforcing, and administering the Settlement and this Judgment.

28. THIS COURT ORDERS AND ADJUDGES that, save for the aforesaid, this action is hereby dismissed as against the Defendant with prejudice and without costs.

ENTERED AT / INSCRIT A TORONTO
ON / BOOK NO:
LE / DANS LE REGISTRE NO.:

NOV 15 2016

PER / PAR:

Perell, J.
Justice Perell