

SCHEDULE “A”

Introduction:

1. The Responding Party, the Association of Justice Counsel (the “AJC” or the “Responding Party”) is the bargaining agent for lawyers employed by the Government Canada in the Department of Justice, Public Prosecution Service, and certain other departments, agencies, and tribunals.
2. The AJC employs ten (10) persons, and its operations are centered in the City of Ottawa.
3. The Applicant, the Canadian Office and Professional Employees Union, Local 225 (“COPE” or the “Applicant”) is a trade union that applied to certify a bargaining unit consisting of the majority of AJC’s employees. COPE brings this Unfair Labour Practice Complaint Application (the “Application”).
4. The AJC agrees with the statements contained in paragraphs 1 through 4, , 7, and 8 through 11 of Schedule “A” of the Application (the “Schedule”).
5. The AJC disagrees with, or has no knowledge of, the statements contained in the remaining paragraphs of the Schedule.
6. The AJC denies that it has violated any provisions of the Ontario *Labour Relations Act*, 1995 (the “LRA”) as alleged by the Applicant.
7. The AJC denies that the Applicant is entitled to the declaration or order sought in paragraph 29 of the Schedule.

Background:

8. A certification vote was held on February 19, 2020. As a result of this vote, COPE became the bargaining agent for most of the AJC’s employees. However, there were disagreements

with respect to the scope of the proposed bargaining unit. Specifically, COPE sought to have a lawyer and the office manager included in the bargaining unit.

9. These questions proceeded to hearing in June and July of 2020, with the Board ultimately determining that the lawyer was not to be included in the bargaining unit, but that the office manager could be. One of the AJC's concerns surrounding the inclusion of the office manager in the bargaining unit centered around the fact that the role entailed certain managerial functions including employee-file oversight, benefits procurement, benefits management and administration, management of employee flexible work arrangements, management of employee overtime, organization contract management, and the like.
10. COPE was certified as the bargaining agent for the AJC's employees, save the aforementioned lawyer, the AJC's general counsel, and those ranked above the AJC's general counsel on September 21, 2020. As such, the office manager was deemed to be included in the bargaining unit.

Union Induced Impasse:

11. In light of this, and during bargaining and conciliation, the issue arose about what ought to be done with managerial functions of the office manager's role. As a solution, the AJC proposed keeping the office manager role out of the bargaining unit, whereafter the AJC would change the name of the role to Director of Administration Services ("DAS"). In doing so, the position would be revised whereby what bargaining unit responsibilities existed in the position would be transferred into a new bargaining unit position of Membership Liaison Officer/Administrative Coordinator, who would then be managed by the DAS.
12. To suggest, as COPE has at paragraph 12 of the Schedule, that AJC's intention was to simply exclude the position of office manager from the bargaining unit is disingenuous. It is true, in a sense, that the intention was to exclude some of the duties of that position from the bargaining unit. However, the position that would exist following first contract would not be the same position that the Board determined ought to be included in the bargaining unit. Instead, the revised role, with a different name, would maintain the office manager's

more managerial functions, while a new bargaining unit role would be created to do the bargaining unit work.

13. Similarly, and in good faith, the AJC had also proposed splitting-out the labour relations officer/legal counsel role which the Board had determined ought to be excluded from the bargaining unit. In doing so, and as it proposed with the office manager role, the intention was for the bargaining unit work in the position to be completed by a bargaining unit employee, where the lawyer's work would be completed by an employee outside of the bargaining unit. In fact, the AJC had already advised COPE that it did not intend to replace the combined labour relations officer/legal counsel role once the incumbent departed.
14. Having both the office manager and labour relations officer/legal counsel roles broken-out as described above would have the effect of removing ambiguity from roles and enhancing the efficiency of AJC's human resources management and labour relations. It also maintained a role in the bargaining unit in place of the office manager and it provided for an additional labour relations office role. Indeed, the AJC has recently posted job openings for two new bargaining unit positions, a Membership Liaison Officer and a Labour Relations Officer. As a result of the foregoing, the bargaining unit would have actually increased in size, not shrunk as the Applicant appears to want to imply in its Application and in the curious public statements it has chosen to make.
15. However, none of this has advanced past the negotiation stage where a number of issues remain outstanding between COPE and the AJC. The impasse in negotiations, to the extent one exists, did not result from the aforementioned issue surrounding the scope clause.
16. The parties' most recent bargaining date took place on May 10, 2021. This was the fourth day of conciliation. The AJC provided its most recent Pass 16A at 6:17PM that evening and had already agreed to bargain until 9:00PM. At 8:00PM, the Conciliation Officer contacted the AJC's representatives to ask whether or not bargaining could be continued until 10:30PM. The AJC's lead bargaining agent, Sandra Guttman, who was and is caring for her very ill husband, was unable to agree due to her family care obligations and advised

COPE of this fact. The AJC suggested that COPE provide its response in writing. The AJC never received their response.

17. Instead, and on May 11, 2021, COPE commenced a strike action without notice. On May 20, 2021, it filed this Application.
18. As COPE notes at paragraph 16 of the Schedule, and elsewhere, there were three outstanding issues at the end of bargaining on May 10, 2021. One of these three issues pertained to scope. Notably, COPE's first offer in bargaining included an attempt to have the labour relations officer/legal counsel position included in the bargaining unit; this is the same position that the Board had previously *excluded*. In fact, COPE continued to make proposals related to this throughout bargaining up to their most recent proposal from May 10. The AJC's Pass 16A includes the counterproposal to that COPE offer wherein the AJC is indicating that it will not hire combined labour relations officer/legal counsel employees any longer. This means more work for the bargaining unit, including the second new position, described above. The other two issues which remain to be negotiated include wages and post-retirement benefits.
19. As noted above, the AJC's Pass 16A was a move in the direction of COPE, if not a capitulation to the labour relations officer/legal counsel issue. Contrary to paragraph 24 of the Schedule, the AJC did not bargain to impasse on the issue of scope; further, the impasse, to the extent there is one, came about as a result of a refusal by COPE to continue bargaining.
20. COPE was provided with the AJC's Pass 16A at 6:17PM on May 10, 2021. At 8:00PM that evening, COPE, via the conciliation officer, was asking to continue bargaining until 10:30PM. In light of this, the AJC pleads that COPE did not view its Pass 16A as creating an impasse and, in fact, it still intended to bargain on the basis of that pass as evinced by its request to continue until 10:30PM that evening.
21. The larger issues which remained outstanding pertained to COPE's wage proposal, particularly with respect to the Assistant to the Corporate Secretary (the "ACS"), and post-retirement benefits. Contrary to paragraph 26 of the Schedule, these were and are "substantive issues".

22. The issue which COPE has described as pertaining to “joint job evaluation” is related to the salary demands of the incumbent ACS who is also a member of the Applicant’s bargaining team. With respect to the position of ACS, and by attempting to couch this demand in “job evaluation” language, COPE was seeking an immediate raise of \$26,878.00 for ACS and overall increase in her salary range of \$45,000.00. Currently, the salary for the incumbent in this position is \$68,122.00. Again, the incumbent ACS is one of two people on the Applicant’s bargaining team; she was looking for an immediate 40% raise with more to come. The AJC was not willing to accede to the Applicant’s demands in this regard.
23. In fact, and despite earlier offers from the AJC to participate in these, the issue of job evaluations was not raised by COPE until at or near the end of conciliation, when only the previously noted three issues remained outstanding. At the time job evaluations were raised as an issue by COPE, all other salary ranges, and classifications had been agreed between the parties. Furthermore, the Applicant never so much as proposed a salary range or classification for the office manager position. The ACS was the only position which remained outstanding.
24. The ACS is an administrative position. The Applicant’s proposition with respect to salary range for this position would place it above every other job classification in the bargaining unit, despite most other roles being more difficult and requiring higher qualifications.
25. The AJC pleads that the parties were not at an impasse in negotiations and, to the extent that one exists now, it is as a result of the Applicant’s unilateral decision to abandon conciliation and take strike action without notice. This is a bald attempt to extract leverage from the AJC in the ongoing negotiations.

Orders Requested

26. Based on the foregoing, the AJC denies that it has violated any provisions of the *LRA*. The Applicant is not entitled to any of the relief, orders, or declarations as set out in its Application.