



ONTARIO LABOUR RELATIONS BOARD

Occupational Health and Safety Act

OLRB Case No: 0091-20-HS
Health and Safety - Appeal of Inspector's Order

Faithlyn Anderson, Larysa Yusupova, and Service Employees International Union, Local 1 Canada, Applicants v Eatonville Care Centre, Minister of Labour, Training and Skills Development, Ontario Ministry of Health, and Ministry of Long-Term Care, Responding Parties

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Amanda Weaver, and Service Employees International Union, Local 1 Canada, Applicants v Anson Place Care Centre, Minister of Labour, Training and Skills Development, Ontario Ministry of Health, and Ministry of Long-Term Care, Responding Parties

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Karen Ellington, Stephaney Williams, and Service Employees International Union, Local 1 Canada, Applicants v Altamont Community Care Centre, Minister of Labour, Training and Skills Development, Ontario Ministry of Health, and Ministry of Long-Term Care, Responding Parties

COVER LETTER

TO THE PARTIES LISTED ON APPENDIX A:

The Board is attaching the following document(s):

Decision - April 24, 2020

DATED: April 24, 2020



Catherine Gilbert
Registrar

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BEFORE: Matthew R. Wilson, Alternate Chair

APPEARANCES: Denis Ellickson, Robert Church, Aleisha Stevens, Illian Burbano, Sharelene Stewart, Raymond Seelen, Maria da Silva, Michael Spitale and Ricardo McKenzie appearing for Service Employees International Union, Local 1 Canada; Michael Allen, Melissa Keeshan, John Barrack and John Atchison appearing for Eatonville Care Centre and Anson Place Care Centre; Malcolm MacKillop, Hendrik Nieuwland, Brandin O'Connor, Christina Alaimo, Jeffrey Wood and Olga Vanniello appearing for Altamont Community Care Centre; Jan Borowry, Nicole Butt, Cyndra McGowlrick, Deborah Gutermana and Rob Metcalf

appearing for the Ontario Nurses' Association; Judy Chan and Steven Succi appearing for the Minister of Labour, Training and Skills Development; Kristin Smith appearing for the Ontario Ministry of Health, and Ministry of Long-Term Care

DECISION OF THE BOARD: April 24, 2020

1. These are applications under sections 46(1), 61(2) to (3.13) and 61(8) of the *Occupational Health and Safety Act*, R.S.O. 1990, c. O.1, as amended (the "Act") filed by the Service Employees International Union, Local 1 Canada ("SEIU"). The applications were filed on April 20, 2020 and the SEIU sought an urgent hearing before the Board. The responding parties are Altamont Community Care Centre, Eatonville Care Centre and Anson Place Care Centre (collectively referred to as "the Respondents").

2. The Board convened a Case Management Hearing on April 23, 2020 by way of video conference to deal with the issues raised by the SEIU. The respondents and intervening parties raised various objections to the application, including jurisdictional objections.

3. Following opening submissions, the Board engaged the parties in mediation which resulted in a resolution without deciding the jurisdictional issues raised in the responses. The Ontario Nurses' Association withdrew its intervention in the matter during the course of the mediation and the title of proceedings is to be amended accordingly.

4. Throughout the mediation, the parties acknowledged that the health and safety of the healthcare workers is paramount. The parties agreed that the Board should issue this consent order to address the SEIU's application.

5. Therefore, having regard to the foregoing, the Board's orders are as follows:

- i. A MLTSD inspector shall physically attend the Respondents' workplaces to meet with the workplace parties and conduct inspections under the *OHS Act* on a weekly basis for a two-month period.

The inspector shall provide a written report to the respondent and the SEIU Staff Representative by email within 24 hours of the visit. The meeting with the workplace parties will occur in a boardroom at the workplace. The MLTSD inspector will also attend every meeting of the workplaces' joint-health-and-safety committee. An inspector will contact the workplace parties on Friday, April 24, 2020 to arrange the first meeting, and the inspector can attend the workplace on Monday April 27, 2020.

- ii. Despite the Respondents' assertion that this is already being done, the Respondents Altamont Care Community, Eatonville and Anson shall inform employees and the Union of (i) resident cases of Covid-19, (ii) resident deaths from Covid-19, (iii) staff cases of Covid-19 and (iv) staff deaths from Covid-19 on a daily basis.
- iii. Despite the Respondents' assertion that this is already being done, the Respondents shall assess its available supply of personal protective equipment ("PPE") on an ongoing basis and make all efforts to immediately obtain appropriate PPE, including (but not limited to) medical gowns, gloves, N95 masks, surgical masks, and face shields.
- iv. Despite the Respondents' assertion that this is already being done, the Respondents shall act in accordance with Directive #5 issued by the CMOH as may be amended from time to time.
- v. Despite the Respondents' assertion that this is already being done, all visitors to the Respondents' premises shall be required to wear appropriate PPE in accordance with Directive #3 as may be amended from time to time.
- vi. Despite the Respondents' assertion that this is already being done, the Respondents shall act in accordance with Directives #3 and #5 issued by the CMOH as may be amended from time to time with respect to implementing administrative controls

such as isolating and cohorting of residents and staff during the COVID-19 crisis.

- vii. The Respondents shall immediately provide a copy of their written masking policies to the Joint Health and Safety Committee and the Union.
 - viii. Despite the Respondents' assertion that this is already being done, the Respondents will take all efforts to ensure that it is appropriately staffed. The Respondents will provide a staffing report of the number of staff present on each unit where practicable to the Union Staff Representative via email on a weekly basis.
 - ix. Despite the Respondents' assertion that this is already being done, the Respondents shall ensure all employees volunteers, agency workers, swat teams are trained on infection control, including point-of-care risk assessment (for RN/RPN only), and proper PPE use (including donning and doffing) to minimize the spread of Covid-19.
 - x. Despite the Respondents' assertion that this is already being done, the Respondents shall direct any temporary staff, agency workers, volunteers and anyone else who is/are working or volunteering to do so only at one site.
 - xi. The Respondent Eatonville shall immediately permit an individual designated by the Union to be certified under Section 7.6 of the *Occupational Health and Safety Act*.
6. These orders are effective immediately and will continue for a period of two months from the date of this decision.
7. As part of this process, the Applicants will not appeal existing Inspector Reports or Field Visits with respect to the Respondents under section 61 of the OHSA.

8. The Respondents are ordered to post a copy of this decision in a place where it will come to the attention of the employees. It shall remain in place for a period of two months.

“Matthew R. Wilson”
for the Board

APPENDIX A

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