

## **Grievance re. Mandatory Vaccination / Vaccination Disclosure Announcements**

### **Article(s) in dispute:**

Articles 1.1, 1.3, 1.4, 2.2, 6.1, 7.3, 7.4, 8.8, 11.1, 11.2, and 11.13 of the Collective Agreement; Sections 5, 8, 9, 10, 11, 17 and any other related or applicable sections of the *Human Rights Code*, RSO 1990, c H 19; Sections 2(a), 2(b), 7, 8, and 15 of the *Charter of Rights and Freedom*; Section 63(2) and any other applicable sections of the *Occupational Health and Safety Act*, R.S.O. 1990, c. O.1; *the Freedom of Information and Protection of Privacy Act* R.S.O. 1990, Chapter F.31; the *Personal Health Information Protection Act*, 2004, S.O. 2004, c. 3; the *Health Care Consent Act*, 1996, and any other articles, acts or codes that may apply.

### **Grievance statement:**

The Union hereby grieves that the Employer has violated the above-noted articles and provisions by:

- i. requiring employees to disclose personal health information regarding their COVID-19 vaccination status by September 21, 2021, in the absence of a written policy or rule identifying the purpose for which the Employer will use this health information and how the confidentiality of such information will be maintained;
- ii. requiring bargaining unit members to submit to medical procedures (COVID-19 vaccination) as a term of employment by November 1, 2021, the effect of which is to unlawfully subject employees to forced medical treatment without consent.

The above-noted actions constitute unjust discipline, an express violation of the above-noted provisions of the Collective Agreement, an unreasonable exercise of management rights, an unreasonable workplace rule or policy, an unjustified violation of the *Charter* rights of the Union's members, and a violation of privacy law.

The Union further grieves that any safety gains that can be achieved by mandatory vaccination are disproportionate to and outbalanced by its intrusion into the privacy and other rights of the Union's members. The announcement is also unreasonable because it was introduced without attempting to implement alternative yet less intrusive measures which would effectively reduce the transmission of COVID-19 in the workplace, such as providing workers with better PPE and introducing other health and safety measures that apply to both workers and customers. The Union further grieves that Metrolinx has failed to disclose and implement its full Policy in a manner that is fair, clear and unequivocal. Metrolinx has further failed to provide sufficient notice of the mandatory vaccination requirement and its consequences to its employees.

Finally the Union grieves that Metrolinx has taken insufficient steps to ensure personal health information will be treated confidentially and consistent with the 'least-intrusive,

non-punitive approach' required by privacy law. The Union further grieves that the exemption/accommodation process Metrolinx has described is vague and inconsistent with the *Human Rights Code*.

### **Remedies Sought**

1. A declaration that Metrolinx has contravened the Collective Agreement, the *Charter*, the *Human Rights Code*, the *OHSA*, the *Freedom of Information and Protection of Privacy Act*, and the *Personal Health Information Protection Act*, and the *Health Care Consent Act*.
2. An Order that Metrolinx cease and desist these violations and immediately rescind any mandatory requirements that members disclose their vaccination status to Metrolinx or become fully vaccinated against COVID-19;
3. An Order that Metrolinx comply with all provisions of the Collective Agreement and other applicable statutes;
4. An Order that any affected employee(s) be made whole;
5. An Order that Metrolinx pay damages for its breach of the Collective Agreement, privacy rights, the *Human Rights Code*, and any other applicable statutes;
6. Such further and other relief as the Union should advise and an arbitrator may grant.

Please schedule a meeting within the time limits of the Collective Agreement to resolve this grievance.