

**IN THE MATTER OF THE FIRE PROTECTION & PREVENTION ACT, 1977**

**AND IN THE MATTER OF AN INTEREST ARBITRATION**

**BETWEEN:**

**The Corporation of the Town of Deep River**

**and**

**Deep River Professional Fire Fighters Assn.**

**Before:** William Kaplan, Chair  
Michael Riddell, Corporation Nominee  
Steven Barrett, Association Nominee

**Appearances**

**For the Corporation:** Mark Mason  
Hicks Morley  
Barristers & Solicitors

**For the Association:** Carmen Santoro  
OPFFA/IAFF Advocate

Jason Crites  
OPFFA/IAFF Advocate Apprentice

The matters in dispute proceeded to a hearing in Toronto on February 13, 2017. The Board met in Executive Session in Toronto on June 12, 2017.

## **Introduction**

This Board of Interest Arbitration was consensually convened to resolve the outstanding issues between the Corporation of the Town of Deep River (hereafter “the employer”) and the Deep River Professional Fire Fighters Association (hereafter “the Association”). The Association represents fire fighters in Deep River, a community of 4200 in North Eastern Ontario. The previous collective agreement expired on December 31, 2014.

Notice to bargain was given on December 8, 2014. The parties exchanged proposals on April 9, 2015. Bargaining occurred on May 5, 2015. The employer filed for conciliation on May 29, 2015 and conciliation took place on November 19, 2015. The outstanding issues in dispute were then referred to interest arbitration and a hearing took place in Toronto on February 13, 2017. Reply briefs were then exchanged. The Board met in Executive Session in Toronto on June 12, 2017.

In determining the outstanding issues, we have been guided by the applicable statutory and other criteria, most particularly replication. It should be noted that the employer sought substantial changes to the staffing complement: the reduction of the full-time force, by attrition, to two firefighters. The Association objected. In our last award, this Board reduced the full-time complement and also removed restrictions on using part-time or volunteer firefighters in order to address economic concerns the employer raised. It is noteworthy that the employer subsequently made no efforts to move to a composite force as our earlier award specifically entitled it to do. In these circumstances, it would not be appropriate to accede to the employer’s request.

Finally, the parties were able to agree on a number of issues and we direct that they be incorporated into the collective agreement settled by this award. In that regard, we note that Uniforms and the IAFF/IAFC Wellness-Fitness language have been agreed upon. Any issue not addressed in this award is deemed dismissed.

**Award**

**Term**

The employer sought a five-year term; the Association a four-year term. Both parties specifically conferred jurisdiction on the Board to determine the term.

Term: January 1, 2015 – December 31, 2019.

**Wages**

January 1, 2015	1.4%
July 1, 2015	1%
January 1, 2016	1.25%
July 1, 2016	1%
January 1, 2017	1.25%
July 1, 2017	1%
January 1, 2018	Me Too With Deep River Police Service
January 1, 2019	Me Too With Deep River Police Service

Retroactive compensation to all current and former employees within ninety days of issue of this award.

## **Grievance Procedure**

Following amendments effective date of award:

4.1

...

- a) The matter in dispute shall be reduced to writing and submitted to the Chief within seven (7) days after the cause arose.
- b) The Chief shall provide a written decision on the matter within seven (7) days of receipt of the written notice.
- c) Add: "and the Association requested to provide this information shall do so."
- d) Add: "If the Chief Administrative Officer / Clerk's decision is not satisfactory to the employee(s) / Association...."

## **Disciplinary Procedure**

Add, effective date of award: "All employees of the Deep River Fire Department shall be allowed an Officer of the Association Executive Committee in attendance for all disciplinary actions."

**Conclusion**

At the request of the parties, we remain seized with respect to the implementation of our award.

DATED at Toronto this 19<sup>th</sup> day of June 2017.

*“William Kaplan”*

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William Kaplan, Chair

I dissent. Dissent attached.

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Michael Riddell, Corporation Nominee

I partially dissent. Partial dissent attached.

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Steven Barrett, Association Nominee

Dissent of Corporation Nominee

I have reviewed the Award of the Chair in this matter, and I respectfully dissent.

The Town of Deep River is the smallest Municipality in Ontario with exclusively full-time firefighters. Deep River has a population of 4,200 and employs 8 full-time firefighters. This complement is in stark contrast to other relevant Ontario Municipalities with comparable small populations such as:

<u>Municipality</u>	<u>Population</u>	<u>Full-time Firefighters</u>
Amherstburg	21,936	3
Gananoque	5,159	3
Hawkesbury	10,263	9
Napanee	15,500	6
Scugog	21,617	4
Smith Falls	8,780	6

The cost to the Town to maintain the current complement of full-time firefighter is having a substantial impact on the finances of the Town and has required it to lay off other employees of the Town to minimize the increases in property taxes needed to support the Fire Department. The irony of the situation is that despite excessive costs of providing fire services, the Town’s Fire Department is too small

to be efficient. The only viable solution is to reduce the complement of Firefighters to a maximum of 4 and to deploy a volunteer force of Firefighters. This is the model utilized in many other small Municipalities.

In the Award, the Chair is critical of the Town for not implementing a composite force as permitted by the last Arbitration Award between these Parties. The problem with that criticism is that unless the full-time complement of Firefighters is reduced to four or fewer, the costs to recruit and train volunteers would only exacerbate the Town's financial difficulties.

I submit that our Board of Arbitration should have ordered that the Town could reduce its complement of full-time firefighters from 8 to 4 and such reduction should be accomplished by attrition to avoid the lay-off on any current Firefighters.

Dated at Toronto, Ontario this 18th day of June, 2017

*“Michael Riddell”*

Corporation Nominee

## Partial Dissent of Association Nominee, Steven Barrett

I have reviewed the Award of the Chair in this matter.

While I am in full agreement with the Chair that the Employer has failed entirely to justify reducing the current complement of firefighters, I part company with the Chair's failure to ensure normative monetary and other working conditions for the members of this bargaining unit.

As the Chair points out, in this round of bargaining, once again the employer sought further substantial changes to the staffing complement: the reduction of the full-time force, by attrition, to two firefighters.

In the previous round of bargaining, which involved the same board of arbitration, in the Chair's award dated December 3, 2014, in addition to ordering a reduction in the full-time complement from nine to eight firefighters, equally significantly the Chair also ordered the removal of longstanding restrictions in the contracting out clause on the right of the employer to use part-time or volunteer firefighters.

The Chair did this in the previous award explicitly in response to the Employer's request to establish a composite force, given the recognition by



both parties and other expert bodies reviewing the needs of Deep River, including the Fire Marshall's office, that a full-time force of eight firefighters was inadequate to meet the needs of the citizens of Deep River, and that part-time and volunteers were needed.

In his award for the current collective agreement, the Chair points out that, despite the previous board removing the longstanding restriction against the use of part-time or volunteer firefighters at the Employer's request in the previous award, the employer has made no efforts to move to the composite force – the very change which the removal of this restriction was intended to permit it to do, and which had been the basis for the Employer's request.

However, the Employer's failure is not only one of unexplained inaction. In fact, in not taking any steps to move towards a composite force as the last award had permitted, the Employer ignored altogether the recommendation of Douglas Tennant, its own Fire Chief, contained in his May 6, 2015 Report to Deep River Town Council (see Tab L of the Employer's main brief).

In that report, Chief Tennant recommended funding for the creation of a composite fire service, comprised of eight full time firefighters (down from the previous nine), and 24 part time/volunteer firefighters. Indeed, as Chief Tennant recognizes, this approach would have been (and remains)

consistent with the Fire Marshall's recommendations. As the Chief also emphasizes in his Report, this recommendation was only made possible as a result of the previous arbitration award.

Moreover, the Chief explains that the rationale for his recommendation to reduce the complement of full-time firefighters from nine to eight and to recruit, hire and train up to 24 part-time/volunteer firefighters "is that it in the best interest of public and firefighter safety to provide emergency fire protection services to our community using a composite fire service model" – an approach he went on to describe as "reasonably cost effective and operational efficient." In this respect, the Employer certainly did not provide any evidence to rebut the Chief's view concerning the cost effectiveness and operational effectiveness of his recommendation, nor any evidence to establish that the Employer does not have the ability to pay for recruiting and training volunteers while maintaining the current bargaining unit complement.

Indeed, it was not only the Fire Chief's recommendation that the Employer ignored.

The Employer commissioned Pomax Consulting to prepare a fire year Strategic Plan. In that Plan (also at Tab L of the Employer's main brief), Pomax stated that "as a result of the arbitrator's decision [our board's December 3, 2014 award], "the town now has the opportunity **and also**

**additional responsibility** to provide adequate staffing, through the provision of a volunteer component, during responses to structure fires” [emphasis in Pomax Report].

The Pomax Report also noted that “the December 2014 arbitration award permitting the restructuring of the department from a full time service to a composite service which includes the introduction of part time firefighters into the fire department **resolves** the ongoing labour relations issues that to date have limited this opportunity” [my emphasis].

Coupled with the failure of the Employer to even attempt to recruit and train a part-time/volunteer composite force following the Chair’s earlier award, in my view, the Chief’s recommendation and the Pomax Report findings set out above compel the Chair’s refusal to accede to the Employer’s request. To permit the Employer to effectively gut the full-time fire department when it has not even attempted to establish a composite force would have been unconscionable, and would have permitted the Employer to override the longstanding job security and fire safety protections contained in the collective agreement -- in the very circumstances and at the very time when they are most needed.

Turning to other issues in dispute, based on what has been bargained normatively, and the relevant comparators, I would have recognized the

justification on normative and comparator grounds of several of the Association's proposals, including the following:

- a) I can see no justification for not defining the day as 12 hours for the purpose of calculating entitlement for time off and related purposes (there seems to be no rationale whatsoever for the current 8.5 hour calculation, given that firefighters average 12 hours (9 hour days and 15 hour nights);
- b) I would have increased vacation entitlement in accordance with the comparators identified by the Association;
- c) I would have improved vision care to \$400 every 24 months, again given the evidence around comparators;
- d) I would have eliminated the unwarranted and non-normative exclusions for service pay; and
- e) I would have required acting captain pay whenever firefighters act in that capacity.

It is to be hoped that the Employer will finally recognize that the time has come to move forward with a composite force, premised on recognition of the need for a full-time fire department with a minimum complement of eight full-time firefighters, so that these other issues can receive due consideration in the next round of bargaining.

Dated at Toronto, Ontario this 18th day of June, 2017

“Steven Barrett”

Association Nominee