

YEARS IN THE MAKING: RECENT ONTARIO COURT DECISION FURTHER STRENGTHENS PAY EQUITY RIGHTS

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The *Pay Equity Act* is a law intended to correct the systemic discrimination in compensation.

Recently, the Ontario Court of Appeal issued an important decision in an ongoing pay equity case focused on the rights of workers in predominantly female public-sector workplaces.

If this decision stands and is not appealed by the employer group and the provincial government, it will have positive and far-reaching implications for the wages of staff in long-term care and other female-dominated workplaces.

Previously the provincial government has taken the side of for-profit, long-term care employers to deny pay equity to thousands of mostly female long-term care workers.

WHAT DOES THE RECENT COURT DECISION MEAN?

The decision found that to be able to properly establish, and maintain, pay equity in a workplace there needs to be an ongoing comparison between male and female job classifications.

The decision also found that where those comparisons are not possible within a workplace that a proxy method is required. While the details are quite technical – overall this decision is very good news.

The proxy method was introduced to ensure that women in public-sector workplaces with few or no male jobs could use pay equity target rates from workplaces that achieved pay equity using classifications from designated employers deemed as comparators to achieve a pay line for reference in developing their own pay equity plans.

WILL THE GOVERNMENT AND EMPLOYERS DO WHAT'S RIGHT AND NOT APPEAL THE COURT DECISION?

There are still a lot of details to be worked out.

While we are optimistic that the provincial government will do what's right and not appeal the court decision- they, along with the employer group have 60 days to decide whether or not to appeal this decision to the Supreme Court of Canada.

Not only would this result in delays in thousands of workers in long-term care workplaces getting wages owed them, it, would also show that this provincial government is disingenuous when hailing long-term care staff as 'pandemic heroes'.

There are many ways this PC government can show that it values the work that so many of you have done throughout this COVID-19 crisis, not appealing this Ontario Court of Appeal decision is one of them.

Unfortunately, the province has been shirking their responsibility to fund proxy pay equity for more than 15 years.

What we are watching for in next steps

If the decision is not appealed the matter still needs to be sent back to the Pay Equity Hearings Tribunal for them to determine what a proxy process would look like.

It's hard to say what next steps will look like until those questions can be answered, but CUPE will be following these developments closely and your National Representative will be working with CUPE Job Evaluation/Pay Equity Specialists and CUPE lawyers to work through those next steps and strategies.

We will continue to update you as more information becomes available.

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