

Interest Arbitration Facts

“Ontario’s arbitration system is broken and needs to be fixed.” This is the message that many of Ontario’s municipalities are sending to Ontario’s government by several organizations, including the Association of Municipalities of Ontario (AMO) and the Ontario Association of Chiefs of Police (OAPSB). They are very quick to blame the arbitration system for local tax increases saying that *“so many of our collective agreements are determined through interest arbitration.”* *But is this criticism based on facts?*

As a result of this criticism, others have also called upon the government to “fix” the arbitration system. It would seem that they agree that there must be an arbitration process available when free bargaining breaks down and comes to an impasse, however their comments imply that the current arbitration process is broken, unreasonable or out of control.

In Ohio, the state senate recently passed legislation that could give complete control of arbitration decisions directly to the government that employs them. Ohio’s solution is that the employees and employer continue to allow employees and employers to bargain for wages, however in the event of an impasse, the final decision is not made by independent arbitrators, but by the workers’ political employers. Hence, Ohio’s bargaining process could become ineffective, irrelevant and obviously biased.

At least in Ontario, arbitrators tend to be fair to both sides. We can state with confidence that the collective bargaining process, including interest arbitration, works well in the policing sector. Almost all collective agreements are resolved at the bargaining table and ratified by both employees and employers.

The Law

The *Police Services Act* (“PSA”) and the *Ontario Provincial Police Collective Bargaining Act* (“OPPCBA”) govern collective bargaining for all police within the Province. Both clearly establish the arbitration process and set out rules for arbitrators.¹

Sec. 122(5) PSA:

¹Ontario’s municipal police arbitration rules fall under the PSA and the provincial police arbitration rules fall under the OPPCBA which contains almost identical language to the PSA, however modified for provincial considerations.



“In making a decision or award, the arbitration board shall take into consideration all factors it considers relevant, including the following criteria:

- 1. The employer’s ability to pay in light of its fiscal situation.*
- 2. The extent to which services may have to be reduced, in light of the decision or award, if current funding and taxation levels are not increased.*
- 3. The economic situation in Ontario and in the municipality.*
- 4. A comparison, as between the employees and other comparable employees in the public and private sectors, of the terms and conditions of employment and the nature of the work performed.*
- 5. The employer’s ability to attract and retain qualified employees.*
- 6. The interest and welfare of the community served by the police force.*
- 7. Any local factors affecting the community.*

Note: Arbitrators must take into consideration ALL factors it considers relevant – there is no specific factor more important than another.

The Facts

Arbitrators for Ontario’s provincial and municipal police are jointly agreed upon by both management and the association. For municipal policing, if management and the association cannot agree on an arbitrator, an arbitrator is appointed by the Ontario Police Arbitration Commission. The Arbitration Commission is a neutral body that is appointed by the Lieutenant Governor in Council. It is balanced by members from both Associations and Police Services Boards. The Commission’s “main function involves the appointment of conciliators and arbitrators to assist police associations and police services boards in the resolution of disputes arising out of the negotiations and administration of their collective agreements.” The Commission also conducts an annual review of the Arbitrator’s list.

Over a 10-year span beginning in 2001, the PAO tracked the bargaining of each of its 60 affiliates. During that time 38 contracts – a yearly average of 6% - were settled via interest arbitration. This is a very small fraction of the total number of contracts which were negotiated and ratified. Conversely, 94% of Ontario’s police contracts were freely negotiated, locally at the bargaining table. Further, an analysis of the awards shows that arbitrators are balancing the interests and needs of both sides, because their awards are in line with what has been freely negotiated.

Having reviewed the bargaining trends in Ontario’s policing sector, it is very obvious that the collective bargaining process, including the interest arbitration system, is working efficiently and effectively.

For additional information please contact

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Everyone recognises that professional policing is expensive. It is recognized that municipalities are constantly looking at ways to lower the budgets of police services and that staffing accounts for approximately 80 to 90% of the cost in operating budgets of police services across the province. However, it must also be recognized that professional policing is compromised by budget restraints and cutbacks. Policing is dependent on professional, trained personnel who put their lives on the line each and every day. The problems are not with the arbitration system, but remain more fundamentally with the need to ensure both appropriate efficiencies and funding.

Conclusion

If bargaining comes to an impasse, the existing arbitration system recognizes that there must be a balance of interests and it has shown that it works equitably for all involved.

The fact is that Ontario's arbitration system is not broken ... in fact it is rarely used.

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