

IN THE MATTER OF THE POLICE SERVICES ACT
AND IN THE MATTER OF AN ARBITRATION

B E T W E E N:

DAVID SPICER

(The "Complainant")

- and -

OTTAWA POLICE ASSOCIATION

(The "Association")

AND IN THE MATTER OF A COMPLAINT THAT THE ASSOCIATION DID NOT
FAIRLY REPRESENT THE COMPLAINANT

AND IN THE MATTER OF A PRELIMINARY AWARD CONCERNING PRODUCTION
REQUESTS

David K.L. Starkman

Arbitrator

David Spicer

On His Own Behalf

APPEARANCES FOR THE ASSOCIATION

Bill Cole

Consultant

Mike Lamothe

Labour Officer

Pat Leflamme

Grievance Committee Chair

APPEARANCES FOR THE OTTAWA POLICE
SERVICE

Robert Houston

Counsel

Jonathan Ferris

A Hearing in this Matter was held on November 25, 2013 at Ottawa, Ontario

PRELIMINARY AWARD

Sergeant Spicer alleges that the Ottawa Police Association breached its duty of fair representation in the manner by which it dealt with his complaints of mistreatment by the Ottawa Police Service.

This Preliminary Award deals with the Sergeant David Spicer's request for Production from both the Ottawa Police Association and the Ottawa Police Service. No evidence was called at the hearing and, for the purpose of this Preliminary Award, I have set out, for the most part, uncontested facts in order to explain the reasons for this decision.

The Complainant has been employed by the Ottawa Police Service for twenty-six years and has worked in a variety of sections. In 1998 he was promoted to the rank of Sergeant. In February, 2009 he was assigned to the Integrated Criminal Intelligence Unit under the direct supervision of Staff Sergeant Bernard Ladouceur.

In November, 2011 Sergeant Spicer complained to management about the behaviour of Staff Sergeant Ladouceur. In December, 2011 there were several meetings between Sergeant Spicer and Staff Sergeant Ladouceur and others to discuss Sergeant Spicer's concerns.

According to Sergeant Spicer, on January 10, 2012 Inspector Bhatnagar advised him

that, in order to resolve the issue between himself and Staff Sergeant Ladouceur, Mr. Spicer was to be removed from the Unit until Staff Sergeant Ladouceur retired, which was to be in April or May, 2012.

The Complainant went on medical leave on January 16, 2012. In February, 2012 he brought his concerns regarding his removal from the Intelligence Unit to the attention of the Association. Mr. Spicer returned to work toward the end of May, and was returned to the Intelligence Unit at the end of June, 2012.

The Association discussed with the Police Service a settlement of the Complainant's issues in August, 2012 and continuing into December, 2012 and received a number of Offers of Settlement. The Association sought a legal opinion with respect to the last Settlement Offer and encouraged Mr. Spicer to accept it. Mr. Spicer declined to accept the Settlement Offer. He made a presentation to the Association's Grievance Committee who declined to pursue his grievance, and it is the handling of his complaint, and in particular the refusal to bring his grievance to arbitration that caused Mr. Spicer to allege that the Association breached its duty of fair representation.

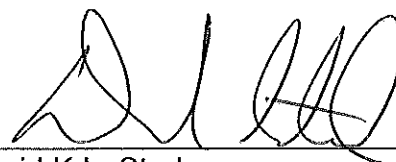
Mr. Spicer, the Association, and the Police Service attended the hearing on November 25, 2013 and there was agreement that the issue in dispute in this proceeding is whether, with respect to Mr. Spicer, the Association breached its duty of fair representation during the period from approximately February, 2012 until February 2013. This arbitration process is not intended to deal with the merits of Mr. Spicer's

grievance per se, and many of the documents requested by Mr. Spicer deal with the merits of what transpired between himself and Staff Sergeant Ladouceur and others during this one year period. These documents are not relevant to this inquiry. What is relevant are documents which shed light on what the Association knew and what the Association did with respect to the Mr. Spicer's complaints after they were brought to its attention in February, 2012.

Having considered the submissions I therefore Order both the Association and the Police Service to disclose to Mr. Spicer, on or before January 31, 2014, any information in their possession which is arguably relevant to the issue in dispute. If privilege of any kind is being claimed with respect to a particular document, it should be clearly identified as such.

I will remain seized to deal with any disputes that arise with respect to the implementation of this Preliminary Award.

Dated at Maberly, Ontario this 28th day of December, 2013

A handwritten signature in black ink, appearing to read 'D. Starkman', written over a horizontal line.

David K.L. Starkman