

ONA WINS



SUMMARY OF ANOTHER SUCCESS AS YOUR UNION STRIVES TO IMPROVE YOUR WORKING CONDITIONS

No bar to inclusion of perioperative surgical supervisor in ONA Bargaining Unit

Hospital

(OLRB Vice-Chair McGilvery, December 19, 2016)

ONA has successfully argued that a perioperative surgical supervisor (PSS) is an employee under the *Labour Relations Act*.

The employer eliminated a Bargaining Unit position and created the PSS role outside the Bargaining Unit, arguing that the position was managerial in nature. When ONA filed a grievance alleging that the position should be in the Bargaining Unit, the employer filed an application at the Ontario Labour Relations Board (OLRB), arguing that as the position was managerial, it was not an employee and could not be in the Bargaining Unit.

The Board determined that the PSS did not have any real decision-making authority over the economic lives of ONA members such that it would create a conflict of interest to be an employee in the Bargaining Unit. The PSS was not involved with grievances, performance appraisals or discipline other than some minor involvement in coaching employees.

As a result of this decision, there is no bar to the inclusion of the PSS in the ONA Bargaining Unit. The arbitration into whether the PSS works in a nursing capacity is now underway.

Importance to ONA: The Labour Board maintained its distinction between the professional role of a nurse and a manager from a labour relations perspective. A position will not be considered managerial if the incumbent does not exercise significant managerial authority, including the power to independently hire and discipline employees.

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