



## **Where work continues to be performed, permanent position must be posted**

Region 3 Hospital

ONA has won an arbitration decision challenging the hospital's failure to post a permanent vacancy during the elimination period.

The employer provided ONA with notice of elimination of a full-time position following the retirement of a RN on the unit.

Throughout the five-month notice period, the employer continued to require that the work of that RN be performed. The employer temporarily assigned the work to a regular part-time RN who worked full-time hours. That RN's hours were, in turn, filled by other part-time and casual RNs.

The arbitrator found that at the time of the retirement, a permanent vacancy was created, which should have been posted. In this case, the facts clearly demonstrated that the work of the position continued to be performed. As such, the arbitrator noted that the status quo needed to be maintained during the elimination period.

The arbitrator then considered whether the employer could fill the vacancy through a temporary, as opposed to permanent, position. She found that the language of the collective agreement required the vacancy to be posted on a permanent basis because it did not fit within the categories of a temporary vacancy set out in Article 10.07(d) of the collective agreement.

**Importance to ONA:** This case is important because it ensures that where work continues to be performed, a permanent position must be posted. Temporary vacancies may only be used in the very specific circumstances set out in the collective agreement.

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