Published on *University of Toronto Faculty Association* (https://www.utfa.org)

Administration's Arguments Rejected in a Recent Salary Discrimination Hearing

November 5, 2019

On October 30, 2019, the Chair of the Grievance Review Panel, William Kaplan, flatly dismissed the U of T Administration's attempts to block UTFA's Association grievance on salary discrimination.

- On October 4, 2019, at a hearing before the chair of the Grievance Review Panel (GRP) and using a device called a preliminary objection, the University Administration attempted to argue that UTFA could not use the tool of the Association grievance to represent its members in the recently launched salary discrimination Association grievance.
- The Administration argued that all salary discrimination claims must be filed on an individual basis, or by a group of individuals, only.
- UTFA strenuously resisted the Administration's position, arguing that the Association clearly has an interest in rectifying pay inequities that affect such a large proportion of its members (approximately 43% of UTFA's faculty members identify as female or non-male, and 17% of UTFA members identify as members of other equity-seeking groups).
- UTFA also argued that salary discrimination violates the Memorandum of Agreement as well as the Human Rights Code and other legislation.

UTFA's Uncertified Status at Issue:

- During the October 4 hearing, the Administration constructed arguments that partly relied on the fact that UTFA is not a certified labour union. The Administration argued that UTFA does not have the "broad rights" of a union, and for that reason, UTFA's right to file a grievance under the Memorandum of Agreement should be interpreted more narrowly than a union's right to file a grievance would be under a collective agreement.
- By implication, the Administration positioned UTFA's uncertified status as a disadvantage to its members.
- If the Administration had won this preliminary objection, it would have considerably narrowed the

scope of Association grievances, and UTFA's ability to argue on behalf of its members would have been seriously undermined.
- Notwithstanding UTFA's unique role as an uncertified Association, the GRP rejected the Administration's attempt to narrow the scope of an Association grievance.
- Writing on behalf of the GRP, Arbitrator Kaplan found that the Association has "an incontrovertible interest in ensuring that University compensation, which it negotiates, is equitable and non-discriminatory."
- GRP Chair Kaplan further emphasized the following: given the systemic nature of the discrimination at issue, it would not only be unproductive to hear these grievances on an individual basis, but "quite possibly impossible."

Background on the Salary Discrimination Association Grievance in Question:

- It is UTFA's position that the University Administration's 1.3% salary increase, which was paid only to women in the tenure stream, did not sufficiently address the problem of salary discrimination. See our April 26, 2019 open letter. [https://www.utfa.org/content/u-t-admin-announces-inadequate-pay-increase-tenure-stream-women-only-flawed-process]
- On June 4, 2019, UTFA brought an Association grievance, seeking redress for salary discrimination for faculty and librarians who identify as female or non-male and/or as members of other equity seeking groups.
- UTFA's grievance asserts that the 1.3% salary increase is inadequate for women in the tenure stream, and fails to address the discrimination that is experienced by librarians, teaching stream faculty, part-time faculty, and CLTAs.
- The Administration denied the grievance, and UTFA therefore referred the grievance for arbitration before the University's Grievance Review Panel (GRP).
- Aspects of the grievance relating to librarians have been held in abeyance, pending ongoing discussion with the Administration about how to address those concerns.

The Way Forward for the Salary Discrimination Grievance:

The Association grievance on salary discrimination will now proceed to an internal U of T hearing, where the GRP will decide the grievance "on its merits" (i.e., at a hearing about whether faculty and librarian salary discrimination actually exists at UofT).

UTFA will be bringing forward both quantitative and qualitative evidence to identify the patterns of discrimination in compensation that occur over the life cycle of a faculty or librarian member's career, and that violate the Human Rights Code.

Conclusion:

The importance of the GRP decision of October 30, 2019, cannot be overstated. If the Administration's preliminary objection had succeeded, and the GRP had found that Association grievances do not "cover the same broad range of disputes that might properly form part of [individual] Grievances," UTFA's ability to bring Association grievances to protect and promote the interests of its members would have been greatly hampered. Moreover, UTFA would have faced significant barriers in seeking equitable and just compensation for all of its members.

UTFA will continue to work hard to challenge vigorously all salary discrimination at the University of

Toronto. Please stay tuned for further updates, including information on how you can become involved.

Please find the full text of the GRP decision at this link.

Terezia Zoric
Vice-President, Salary, Benefits, Pensions and Workload

Cynthia Messenger
President

Source URL (modified on Nov 11 2019):https://www.utfa.org/content/administration-s-arguments-rejected-recent-salary-discrimination-hearing