

Equal Pay for Equal Work:

An update on Compensation for FGS Supervisory Activities

The ARFL executive has been reporting to members on an initiative that we undertook on your behalf – that of equal pay for equal work in the Faculty of Graduate Studies - throughout the last decade. The specific issue is equal pay for graduate supervision activities. We have reached a new stage in our endeavor to have retirees compensated for the outstanding responsibilities of principal supervision of MRPs or their equivalent and for their participation on other formal committees associated with graduate supervision. Our challenge to have an equitable outcome on behalf of retirees continues.

Members who have been following this matter will recall that the terms and condition negotiated by the parties to the Collective Agreement determine whether or not compensation will be paid for work contracted by York University. Others may not be familiar with our concern and for this reason a brief summary follows.

The 2001-03 Collective Agreement entitled credit or additional pay for eligible pre-retiree FGS faculty – those with a normal teaching load of 3.0 FCES – for principal supervision, including MRPs, and other formal supervisory roles. The Agreement was silent on whether or not retired faculty contracted to undertake the same work would be compensated. Thus they were ineligible for pay for this work.

This issue was brought to the attention of YUFA, FGS and the Administration by an ARFL member beginning in 2003. The matter was not addressed in the next round of bargaining and retirees continued to be contracted for this work but without pay.

ARFL began a concerted lobby with the parties to the Agreement and in 2006 retired faculty appointed as Principal Supervisors of MA Theses and Dissertations became entitled to compensation for this work only. Retirees who are Principal Supervisors of MRPs and those appointed to other formal supervisory work continue without compensation or refuse and frustrate students and graduate programmes. Since then successive Agreements have been silent on this issue of equal pay for all graduate supervisory activities undertaken by retirees.

ARFL initiated a complaint with the York Human Rights Centre in 2006 raising the concern of whether or not the failure of the university to pay for the additional supervisory work was ageist – after all it is the office of the President of York University that appoints retired faculty to FGS and in some cases includes supervisory responsibilities - while the parties to the Agreement refuse to pay for this employment. Arguably the retirees who are employed are “volunteers” though no such university policy has surfaced nor have the parties negotiated the terms and conditions for volunteerism in the Collective Agreement.

ARFL believes that in human rights challenges it falls to the employer to demonstrate that discriminatory motives have not tainted decision-making, even partially. In 2008 the YUFA Executive passed a motion of support stating it “opposes age discrimination in employment.”

However when the York University Human Rights Centre presented a recommendation to the Office of the Vice-President Academic Affairs, consent to proceed to a formal investigation was not given.

ARFL approached YUFA in 2009 with a request that the Union undertake a grievance on this matter. As with the Administration's response to the Human Rights complaint, this too was denied. So too JCOAA denied ARFL's request to remedy this situation by "reading into the Agreement" compensation for Principal Supervision of MRPs or the equivalent and for other formal supervisory responsibilities.

With the appointment of a new Vice President Academic ARFL asked that the issue of formal investigation by the York Human Rights Centre into ageism and FGS compensation in the Collective Agreement be revisited and/or read into the Agreement that of compensation for the additional FGS responsibilities. The Vice-President would not open the Collective Agreement to read in these employment assignments and in the matter of the full investigation into the possibility of ageism in this matter found no principle on which to alter his predecessor's decision.

In May 2010 ARFL approached the York University Ombudsperson to request that he investigate the procedural fairness of the limit exercised by the Office of the Vice President on the ability of the York University Human Rights Centre to enter into a full investigation of our concern that ageism may be a factor in the failure of the University to reach an agreement to pay retired faculty for the outstanding FGS supervisory work as this office had a substantial role in the negotiation of the Agreement that did not include such compensation.

In March 2011 ARFL was informed that the matter fell outside the mandate of the York Ombudsperson. The reason provided was that the Office "does not extend to matter pertaining to collective bargaining" and the terms and condition for discrimination complaints have been established under Appendix Q of the Collective Agreement.

With this decision ARFL has exhausted all formal steps available within York University and must now consider an external remedy such as CAUT, the Ontario Human Rights Tribunal or Ontario employment law.

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