

COURT OF APPEAL FOR ONTARIO

CITATION: De Montigny v. Roy, 2018 ONCA 884

DATE: 20181105

DOCKET: C65089

Doherty, van Rensburg and Hourigan JJ.A.

BETWEEN

Carole De Montigny

Appellant/Respondent (on Cross-Appeal)

and

Julie Roy, Denise Godin, Denise Mallette,
Nancy Mercure, Jacinthe Doucet and Christine Burrough

Respondents/Appellants (on Cross-Appeal)

Neil Paris and Adam Stikuts, for the appellant

Jeffrey Andrew and Genevieve Cantin, for the respondents

Heard and released orally: October 31, 2018

On appeal from the order of Justice Jill Copeland of the Superior Court of Justice, dated February 5, 2018, with reasons reported at 2018 ONSC 858.

REASONS FOR DECISION

[1] The appellant appeals the order of the motion judge striking her claim under a Rule 21 motion without leave to amend. At issue on the motion was the application of *Weber v. Ontario Hydro*, [1995] 2 S.C.R. 929, and related jurisprudence.

[2] We are in substantial agreement with the reasons of the motion judge. She applied well established law and correctly concluded that the dispute is one entirely

regulated by the collective agreement to which the parties were subject as unionized workers. In this regard, we note that the arbitrator has wide remedial powers. In addition, the fact that the available remedies from the arbitrator are not identical to court-ordered remedies is not determinative. The issue is whether the arbitrator has the power to remedy the wrong, see *Giorno v. Pappas* (1999), 42 O.R. (3d) 626 (C.A.). In this case, we are satisfied that the arbitrator has such power.

[3] Accordingly, we see no basis to interfere with the motion judge's order. The appeal is dismissed.

[4] The respondents seek leave to appeal the costs award of the motion judge. We decline to grant leave. The respondents have not met the test for leave, as we are not satisfied that the cost order was plainly wrong or based on an incorrect principle of law. The motion for leave to appeal the costs award is dismissed.

[5] In view of the divided success, the appellant shall pay the respondent its costs of the appeal in the amount of \$8,500, inclusive of disbursements and HST.

"Doherty J.A."

"K. van Rensburg J.A."

"C.W. Hourigan J.A."