# Pension plans in unionized workplaces: Grievance arbitrators are not plan custodians!

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On June 21, 2024, grievance arbitrator Éric Lévesque rendered a decision in *Ville de Gatineau* et *Association des pompiers et pompières de Gatineau* regarding contributions to the pension plan of the City of Gatineau. This decision provides insight on the limits of a grievance arbitrator's jurisdiction over pension plans.

## Background

The Gatineau firefighters' union alleged that the City of Gatineau had failed to pay its contributions to the pension plan, and also failed to pay those of employees on disability leave, who are exempt from doing so. Accordingly, the union claimed approximately $4,000,000 in monetary compensation.

The City, meanwhile, countered that it had never failed to contribute the required amounts and argued that the grievance arbitrator's jurisdiction in this matter was limited to ensuring that the City had maintained the plan and that the relevant employees were exempt from contributing—as was indeed the case. The City therefore held that the grievance should be dismissed.

## The arbitrator accepted the employer's arguments and dismissed the grievance

After reviewing the case law, the arbitrator noted that even though the parties agreed on a pension plan—which is intimately connected with employees' working conditions and can be subject to collective bargaining and arbitration—an arbitrator's jurisdiction in a dispute relating to such a plan remains contingent on whether the plan's connection with a collective agreement is implicit or explicit.

In this instance, the pension plan's terms are set out in a City by-law. The plan and its fund are administered by a joint pension committee consisting of eight members. This committee has the power to determine and enact all appropriate and useful measures to administer the plan.

As such, the only obligations the collective agreement imposes on the employer with respect to the pension plan are to:

- maintain the plan;
- refrain from modifying the plan without the union's approval; and
- pay pension benefits to employees on disability leave and ensure they are exempt from paying their contributions to the pension plan.

The employer's compliance with these conditions was not disputed. Accordingly, the employer was not in breach of the collective agreement.

The grievance was thus dismissed.

# Key takeaways

This decision serves as a reminder of the limits of grievance arbitrators' jurisdiction over pension plans in instances where the collective agreement makes no mention thereof or merely sets out that the employer must pay the premiums and keep the plan in place.

Where such provisions exist, the pension committee is the entity responsible for ensuring that the pension plan is complied with.

In other words, plan custodianship falls on pension committees, not grievance arbitrators.

# Contact us

BLG's Labour and Employment Law Group can assist you with any issue related to your pension plan. Reach out to our key contacts below or to any of our labour and employment lawyers for assistance.

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