

ONTARIO MUNICIPAL EMPLOYEES RETIREMENT SYSTEM

In the matter of an Appeal from the Decision of the President

By “the Appellant” to the

Appeals Sub-Committee

Heard October 3, 2008

DECISION

The Appellant brings this appeal from the decision of the President of OMERS, dated March 3, 2008, made pursuant to Section 41 of the OMERS Primary Pension Plan (the “Plan”). By this appeal, the Appellant seeks a determination from the Appeals Sub-Committee (the “Committee”) that she be permitted to commence her pension under the Plan on September 1, 2007.

The background to this appeal is as follows:

- (1) The Appellant’s employment with [Employer] was terminated on September 9, 2006 and she was issued a Benefit Application Form which outlined her termination options.
- (2) The Appellant subsequently filed a claim for wrongful dismissal against her employer. At the time of her termination, the Appellant was not yet age 55 and therefore was not entitled to receive an immediate pension and as a result she chose to postpone her election and make a decision at a later date.
- (3) Under the Plan, a member who decides to make a decision at a later date can elect to start a pension as early as the first day of the month after the month in which the member turns age 55.
- (4) When a member elects to start a pension early, before age 65, the pension begins on the first day of the month following the month the member notifies the OMERS Administration Corporation (the “AC”), of the member’s intention to start the pension.
- (5) The Appellant turned age 55 on June 23, 2007 and has stated that, because of advice received from her legal counsel, she believed that she was not able to access her pension since she had filed a claim for wrongful dismissal. The Appellant has stated that her original intent was to start the pension on the earliest possible date, namely July 1, 2007. On December 18, 2007 the Appellant was advised that the AC, under the terms of the Plan, could not allow a backdating of the early pension start date to July 1, 2007.
- (6) The Appellant filed a Benefit Application Form in November 2007 requesting a pension commencement date of December 1, 2007 and the AC confirmed such commencement date.

- (7) The Appellant appealed the AC determination of the pension commencement date to the President by letter dated January 30, 2008.
- (8) By letter dated February 11, 2008, the Appellant requested a retroactive pension commencement date to September 1, 2007.
- (9) By letter dated March 3, 2008, the President determined that the AC confirmed its original decision that the Appellant's pension commencement date was December 1, 2007 in accordance with the terms and conditions of the Plan.

After considering the above information provided by the Appellant and confirmed by the AC, the Committee finds that the Appellant's pension commencement date is December 1, 2007 under the Plan and that there is no authority pursuant to the Plan that would allow backdating of such pension commencement date. For these reasons, the appeal of the Appellant is dismissed and the decision of the President is upheld.

Dated this _____

By Order of the Appeals Sub-Committee

David S. O'Brien
Chair

John Goodwin
Vice Chair

John Weatherup

Cameron Weldon

Michael Power