

IN THE MATTER OF AN ARBITRATION

BETWEEN:

THUNDER BAY POLICE ASSOCIATION
(The “Association”)

- and -

MICHAEL NORDAL
(The “Complainant”)

ARBITRATOR: William A. Marcotte

APPEARANCES:

FOR THE ASSOCIATION: K. Rowen, counsel
C. Woods, Assn. president

FOR THE COMPLAINANT: J. Mauro, representative
M. Nordal, complainant

Hearing held via Zoom on March 15, April 12, June 13, June 17, July 3, October 17, November 29, 2024, October 9, October 16, 2025, and May 12, 2026.

AWARD

An Interim award dated January 17, 2025 states:

In his January 21, 2022 complaint, police officer Mike Nordal (the “Complainant”) contends that the Thunder Bay Police Association (the “Association”) failed in its duty of fair representation [“DFR”] “by not providing Adequate/Effective and at times any representation.” The complaint was revised on February 8 and April 22, 2022 but the substance remained as reflected in the original complaint.

In a letter dated February 14, 2022, Mr. Colin Woods, the president of the Association, wrote an email to the Complainant, which states, in part:

Enclosed please find a draft grievance regarding your complaints of workplace harassment and discrimination. The Association is prepared to file the enclosed grievance on your behalf, should you so request.

...

In the event that you request that the attached grievance be filed, the Association reserves all rights with respect to its exclusive carriage of the grievance and specifically reserves its rights to assess the merits of the claim in light of any workplace investigation conducted by or on behalf of the employer, or any other relevant information. The Association reserves all rights with respect to the handling of the grievance, including the right to determine if the grievance will be preferred to arbitration. Should you confirm that you would like the attached grievance to be filed, the Association will require your full and complete cooperation on the provision of all relevant evidence and information, and the preparation for all stages of the grievance and/or arbitration process.

...

Because of the potential impact on your existing HRTO [i.e., Human Rights Tribunal of Ontario] application, the Association will not file the attached grievance without your written authorization. Please confirm in writing at your earliest convenience, and not later than March 1, 2022, whether you would like the Association to file the attached grievance on your behalf.

The draft grievance states, relevant to our purposes:

The Association grieves the Service's ongoing failure from approximately December of 2022 and continuing to provide Constable Michael Nordal with a harassment and discrimination free work environment...

In an email to Mr. Woods on February 21, 2022 the Complainant states:

Thank you for your inquiry with regard to the Association moving forward with my grievance(s). At this time, I am not going to proceed with any grievances connected to these matters.

In the above Interim Award of January 17, 2025 which dealt with preliminary objections, it states, at page 8:

The Complainant contends, however, that he had good reason for the Association not to file the grievance on his behalf at that time. The Complainant further alleges that he asked the Association on multiple occasions to file a grievance on his behalf.

In those circumstances, I find the Complainant can lead evidence as to the reason or reasons why he declined the Association's offer to file a grievance on his behalf in February, 2022. I find that if the Complainant requested the Association to file a grievance on his behalf subsequent to February 21, 2022, evidence concerning the requests is admissible. However, if those requests occurred prior to February 21, 2022, evidence concerning those requests is not admissible.

The above documents while not in dispute were not admitted in evidence but are related to the Complainant's complaint and are necessary to be referred to for purposes of this award.

As of May 12, 2026, matters in dispute between the parties had been dealt with, and the Complainant was in the position to present his case on the merits of his complaint. The Complainant's representative stated, however, that the Complainant would not testify on his own behalf and would not be presenting any evidence in support of his claim. Absence any evidence to support his claim that the Association

failed in its duty to properly represent him, I had no alternative but to rule that his complaint be dismissed.

Dated at Toronto, this 20th day of May, 2026.

A handwritten signature in black ink that reads "William A. Marcotte". The signature is written in a cursive style with a horizontal line extending from the end of the name.

William A. Marcotte
Arbitrator