



## DOJ 'nickel-and-diming' articling students: AJC

Heather Gardiner, *Canadian Lawyer Magazine*, November 18, 2013



Lisa Blais, president of the Association of Justice Counsel, says the Department of Justice should pay all articling students' bar fees.

**In taking a stand for articling students, the Association of Justice Counsel has accused the Department of Justice of failing to pay all students' law society membership fees.**

In June, the AJC filed a policy grievance with the Treasury Board after discovering that the justice department had not reimbursed all articling students across the country, specifically students in Toronto, Montreal, and the Ottawa/Gatineau, Que., region.

“We felt it was a basic unfairness. We’re confident that the provisions in our collective agreement support our view that the employer is responsible for paying these professional fees, and we saw a patchwork of approaches across the country of some students having fees covered and some students not having fees covered,” says AJC president Lisa Blais.

“And worse yet, when we did a very cursory search of DOJ’s own posters for jobs, they advertised that they did in fact pay for fees. . . . When we questioned senior management, we received an answer that, ‘Well, sometimes we do and sometimes we don’t, and we don’t feel we have to,’ and we didn’t think that that was right,” she says.

The AJC says it wants the justice department to comply with its collective agreement, highlighting two provisions in particular:

- Section 28.01: “The employer shall reimburse a lawyer for his payment of membership or other

fees to a professional organization or organizations when the payment of such fees is necessary to maintain a professional qualification required by the employer for the performance of any duties and/or responsibilities assigned.”

- Section 2.03(a): “In this collective agreement, where the term ‘lawyer’ is used, it includes all employees covered by this collective agreement. For greater certainty, it includes notaries in the province of Quebec and all articling students.”

In denying the AJC’s grievance on Nov. 1, Marc-Arthur Hyppolite, assistant deputy minister of compensation and labour relations at the Treasury Board, wrote: “After careful review of the grievance and consideration to the written submissions provided on September 27, 2013, the Employer is of the view that the Department of Justice has interpreted and applied article 28 of the LA collective agreement correctly.

“Notwithstanding the fact that the definition of lawyers includes articling students, I note that the language used in article 28 provides for the reimbursement of fees that are necessary to maintain a professional qualification, which implies that such qualification pre-exists. Articling students are not required to maintain a professional qualification, they rather enroll with a provincial bar/law society admission program. At this stage, students are considered ‘candidates’ rather than ‘members’ of a law society, and it is only after successful completion of the entire program that they are eligible to become ‘members.’”

Regardless, Blais says it’s not fair for students to pay these fees.

“These articling students cannot work as articling students unless they are members of their respective provincial bars. So in order to fulfill their duties, they have to pay these fees. In order for the department to benefit from the work of these students, they should pay those fees,” she tells *4Students*.

Additionally, “we have students who have skyrocketing rates of student debt, we have students who are undertaking to work for the government at a lesser pay than they could likely get in the private sector because they have a calling for public service, and we have the employer nickel-and-diming them here. It’s just unconscionable to us,” says Blais.

The AJC is also asking that all former and current articling students who paid their own fees since the first collective agreement came into force in 2009 be reimbursed by the department.

The Treasury Board wouldn’t comment on the grievance.

The matter has now been referred to the Public Service Labour Relations Board where a hearing date has yet to be scheduled.

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