

ONTARIO REGIONAL OFFICE

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January 4, 2018

To whom it may Concern:

RE: Bill 115 Remedy Settlement Payment

In January 2018, Educational Workers in Ontario who were covered by a CUPE Collective Agreement between September 1, 2012 and August 31, 2014 will receive their share of a general damages award. These monies are the result of a settlement reached on behalf of CUPE members for the governments violation of section 2(d) Charter Rights.

The underlying settlement arises from the facts surrounding the imposition of the *Putting Students First Act*, 2012 (also known as "Bill 115") during collective bargaining in the education sector in 2012. The facts surrounding the enactment of bill 115 are reviewed at length in the Courts' April 20, 2016 decision.

The Ontario Superior Court found that the enactment of Bill 115 and the facts surrounding collective bargaining in 2012 amount to a violation of CUPE's Section 2(d) rights und the Carter. In part, the Minutes of Settlement reached state:

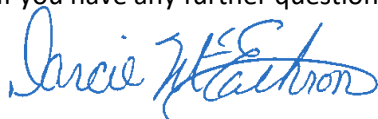
2) the Crown shall provide \$56 700 000, to be paid to CUPE members (other than members of Local 27). **As a one-time general damage award for the breach of the CUPE Applicants' rights under s. 2 (d) Canadian Charter of Rights and Freedoms, as described in Ontario Public Service Employees Union et al v. Ontario, CV -12-465269.**

In many respects, human rights damages are similar to damages for breach of Charter rights in so far as both concern violations of fundamental rights and non-pecuniary interests. The CRA cited interpretation bulletin IT-365R2 and expressly confirmed that a portion of damages in settlement for a Charter rights violation of s. 2(d) would be non-taxable on the basis that it would constitute general damages.

In conclusion, any monies received due to Bill 115, by individuals as identified above are general damages for s. 2 (d) Charter right violations and not earnings.

Individuals entitled to the full portion (September 1, 2012-August 31, 2014) will receive \$899.27 and those entitled to the one-year portion will receive \$449.65.

If you have any further questions, please do not hesitate to contact me at (905) 739-3999 ext. 388.



Darcie McEathron
Ontario School Board Coordinator

Cc: Joe Matasic, Jo-Ann Breton, Jim Flynn, Kathy Johnson, Garth Smith, Terri Preston and Fred Hahn

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