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Files: 566-02-3432 to 3437

Citation: 2015 PSLREB 90

Public Service Labour Relations Act

Before an adjudicator

BETWEEN

SYLVAIN DUBÉ, PIERRE DURETTE, AND KEVIN PITON

Grievors

and

TREASURY BOARD
(Department of National Defence)

Employer

Indexed as
Dubé et al. v. Treasury Board (Department of National Defence)

In the matter of individual grievances referred to adjudication

Before: Steven B. Katkin, adjudicator

For the Grievors: Raphaëlle Laframboise-Carignan, counsel

For the Employer: Simon Cossette, trainee

Decided on the basis of written submissions
filed November 12 and December 3 and 10, 2013, and September 11 and 21, 2015.
(PSLREB Translation)

[1] On November 1, 2014, the *Public Service Labour Relations and Employment Board Act* (S.C. 2013, c. 40, s. 365) was proclaimed into force (SI/2014-84), creating the Public Service Labour Relations and Employment Board ("the new Board") to replace the former Public Service Labour Relations Board ("the former Board") as well as the former Public Service Staffing Tribunal. On the same day, the consequential and transitional amendments contained in sections 366 to 466 of the *Economic Action Plan 2013 Act, No. 2* (S.C. 2013, c. 40) also came into force (SI/2014-84). Pursuant to section 396 of the *Economic Action Plan 2013 Act, No. 2*, an adjudicator seized of a grievance before November 1, 2014, continues to exercise the powers set out in the *Public Service Labour Relations Act* (S.C. 2003, c. 22, s. 2; *PSLRA*) as that Act read immediately before that day.

I. Individual grievances referred to adjudication

[2] The grievors, Sylvain Dubé, Pierre Durette, and Kevin Piton, are all Department of National Defence ("the employer") employees. They filed grievances about how the employer applied article 30 of the collective agreement between the Treasury Board and the bargaining agent, the Public Service Alliance of Canada, for the Operational Services Group, which expired on August 4, 2011 ("the collective agreement").

[3] Article 30 of the collective agreement reads as follows:

> ***ARTICLE 30 - CALL-BACK PAY***
>
> …
>
> ***30.01*** *If an employee is called back to work*
>
> *a. on a designated paid holiday which is not the employee's scheduled day of work,*
>
> *or*
>
> *b. on the employee's day of rest,*
>
> *or*
>
> *c. after the employee has completed his or her work for the day and has left his or her place of work,*
>
> *and returns to work, the employee shall be paid the greater of:*

> *i. Compensation equivalent to three (3) hours' pay at the applicable overtime rate of pay for each call-back to a maximum of eight (8) hours' compensation in an eight (8) hour period,*
>
> *or*
>
> *ii. compensation at the applicable rate of overtime compensation for time worked,*
>
> *provided that the period worked by the employee is not contiguous to the employee's normal hours of work.*
>
> ...

[4] The parties do not dispute the grievors' entitlement to call-back pay because in the situations described in the grievances, all the grievors were called back to work after completing their workdays. In addition, it seems that they do not dispute the calculation method used to establish the eight-hour period for the purposes of these grievances. The parties affirm that they agree with the application of article 30 of the collective agreement when only one call-back occurs in an eight-hour period.

[5] The parties disagree on how to interpret the following part of clause 30.01(c)(i) of the collective agreement: "… to a maximum of eight (8) hours' compensation in an eight (8) hour period …" when two or more call-backs occur in an eight-hour period. According to the employer, that clause sets a limit of eight hours' compensation at the straight-time rate if several call-backs occur during an eight-hour period. The grievors contest that interpretation, disagree with the method for calculating hours to establish the limit, and disagree with the employer's argument that the eight hours are paid at the straight-time rate.

[6] The parties agreed to proceed via written submissions.

II. Summary of the evidence

[7] The parties filed a joint statement of facts (JSF). Since I will refer to it during the evidence summary, it is not necessary to reproduce it in full.

[8] Mr. Dubé is classified at the GL-INM-10 group and level. He works a normal schedule. On May 15, 2009, after working a full workday, he was called back twice, from 16:20 to 16:30 and from 22:00 to 23:00, for a total of 1 hour and 10 minutes in a period of 8 consecutive hours. In its reply to the grievance, the employer explained

that it paid him eight hours at the straight-time rate for the two call-backs because they occurred in an eight-hour period. According to the employer, the first call-back was to be paid in accordance with clause 30.01(c)(i) of the collective agreement, which meant Mr. Dubé received compensation equal to 4.5 hours (3 hours of work at time-and-one-half). The employer then calculated the pay for the second call-back at 4.5 hours, in accordance with its interpretation of clause 30.01(c)(i). However, given that the total of nine hours' pay for the two call-backs exceeded the eight-hour maximum, the employer applied the maximum and paid Mr. Dubé for eight hours at the straight-time rate rather than at the applicable overtime rate.

[9] Mr. Durette is classified at the GL-COI-10 group and level. He works a variable schedule. He filed four grievances, each contesting the employer's application of article 30 of the collective agreement for several dates on which he was called back to work.

[10] In his first grievance (PSLRB File No. 566-02-3436), Mr. Durette contests his remuneration for work carried out on October 4, 2008, when he was called back after completing a full day's work. According to the JSF, he worked first from 15:00 to 16:00, second from 20:30 to 21:00, and third from 22:00 to 22:30, i.e., for a total of two hours. The employer first calculated the pay the same way as for Mr. Dubé, by applying the maximum and by paying Mr. Durette eight hours at the straight-time rate for the work carried out during the three call-backs. However, according to the JSF, after he filed his grievance, the employer notified Mr. Durette that it would "correct" things and pay him 13.25 hours at the straight-time rate for the work he carried out during the three call-backs. According to the employer's reply to the grievance, Mr. Durette was paid 8 hours at the straight-time rate for the first 2 call-backs and at time-and-three-quarters for the third call-back, for a total of 8.87 hours. Because Mr. Durette works a variable schedule, he should have been paid at time-and-three-quarters (clause 28.06(d) of the collective agreement). Employees on a normal work schedule are paid at time-and-one-half. In their written submissions, the grievors denied that Mr. Durette received additional pay.

[11] Mr. Durette's second grievance is about work he carried out on January 10, 2009 (PSLRB File No. 566-02-3435). He was called back to work 3 times and worked the following hours: 10:30 to 11:30; 17:45 to 18:00; and 19:00 to 22:00, i.e., for a total of 4 hours and 15 minutes. The employer first applied the maximum and paid him eight hours at the straight-time rate for the three call-backs. After the grievance was filed,

the employer recalculated and paid him 13.25 hours at the straight-time rate. It calculated that number by applying the maximum to the first two call-backs for a total of eight hours at the straight-time rate. For the third call-back, the employer paid 5.25 hours. Although the parties did not state it clearly in their written submissions, I understand that the third call-back was calculated that way because it occurred outside the eight-hour range for call-backs; it was half an hour after that range. The grievors did not point out that Mr. Durette was not paid according to the "corrected" hours.

[12] Mr. Durette's third grievance is about two call-backs on June 27, 2009, in a period of eight consecutive hours (PSLRB File No. 566-02-3434). First, he worked from 18:30 to 20:30, and second, from 20:30 to 22:30. The employer calculated Mr. Durette's pay as being 3 hours for each call-back at time-and-three-quarters, for a total of 10.50 hours (5.25 hours for each call-back). As that total exceeded the eight-hour limit, the employer paid Mr. Durette eight hours at the straight-time rate for the work done.

[13] Mr. Durette's fourth grievance is about three call-backs on July 19, 2009 (PSLRB File No. 566-02-3433), which were from 08:00 to 09:00, 11:45 to 12:45, and 13:45 to 15:45, for a total of four hours. According to the JSF, he was paid eight hours at the straight-time rate for the first two call-backs and two hours at time-and-three-quarters for the third call-back. According to the employer's reply to the grievance, for the first 2 call-backs, Mr. Durette was paid 8 hours, in accordance with clause 30.01(c)(i) of the collective agreement, i.e., 5.25 hours for each call-back (3 hours at time-and-three-quarters); the 8-hour maximum was applied. The reply to the grievance also indicates that the third call-back was paid in accordance with clause 30.01(c)(ii) of the collective agreement. That led Mr. Durette to file a grievance contesting his compensation for the first two call-backs.

[14] Mr. Piton is classified at the GL-EIM-09 group and level. He works a variable schedule. He filed just one grievance, contesting his compensation for work he carried out on two different days (PSLRB File No. 566-02-3437). On August 24, 2007, he was called back to work twice and worked from 20:00 to 21:00 and from 21:30 to 23:00, for a total of 2.5 hours. According to the employer's calculation, each call-back was to be paid 3 hours at time-and-three-quarters, i.e., 5.25 hours for each one, for a total of 10.50 hours. Because the eight-hour limit was exceeded, the employer paid Mr. Piton eight hours at the straight-time rate. On August 25, 2007, Mr. Piton was called back to work twice, from 12:30 to 13:30 and from 15:00 to 17:00, for a total of 3 hours. Again,

the employer applied the eight-hour limit, and consequently, Mr. Piton was paid eight hours at the straight-time rate.

III. Summary of the arguments

A. For the grievors

[15] The grievors argue that the calculation of the eight-hour limit in clause 30.01(c)(i) of the collective agreement should be based on what they call "credited" hours, which refers to the three hours granted for each call-back in that clause. According to the grievors, an employee called back to work twice in an eight-hour period would reach only six "credited" hours (three hours for each of the two call-backs) regardless of the work's duration and the total hours to be paid to that employee following the application of clause 30.01(c)(i).

[16] On the other hand, the employer's method for calculating the eight-hour maximum consists of adding up the number of hours to be paid once the hours worked during a call-back have been increased by the applicable overtime rate. The employer's calculation method is clearly supported in paragraph 5 of this decision.

[17] At paragraph 46 of their written submissions, the grievors provide an example of an employee called back twice in an eight-hour period who works two hours during each call-back. According to them, in accordance with clause 30.01(c)(i) of the collective agreement, in the case of an employee whose overtime rate is time-and-one-half, the employee should be entitled to 3 hours' pay at time-and-one-half, for a total of 4.5 hours. The same calculation should be applied to the second call-back. Consequently, the employee would be entitled to nine hours' pay at the straight-time rate. According to the grievors, the eight-hour limit would not apply as there were only six "credited" hours for the two call-backs, which therefore is below the eight-hour maximum. The grievors point out that by calculating the pay in accordance with clause 30.01(c)(i), the eight-hour limit should apply only when "credited" hours exceed the limit. They add that that limit should not be applied to the total when the overtime rate is calculated.

[18] Paragraph 7 of the grievors' written submissions contains a table illustrating their and the employer's interpretations of the applicable clauses, according to several scenarios. The first scenario indicates that the parties agree on the interpretation of

article 30 when only one call-back is made.

[19] The second scenario is described at paragraph 17 of this decision, i.e., an employee is called back twice in an eight-hour period. The third scenario involves the same employee, but this time, the employee is called back a third time. According to that scenario, the employee worked two hours during each of the first two call-backs and one hour during the third call-back. According to the grievors, for the first two call-backs, the employee should be entitled to compensation at the overtime rate for three hours, i.e., a total of six "credited" hours at the overtime rate; consequently, a balance of two hours would be available with respect to the eight-hour limit for the first two call-backs. The grievors acknowledge that therefore the employee would reach the eight-hour limit during the third call-back, but they point out that the eight hours should be paid at the overtime rate rather than at the straight-time rate.

[20] According to the last scenario, the same employee is called back to work a fourth time, for a period of one hour. According to the grievors, that call-back should be paid according to clause 30.01(c)(ii) of the collective agreement, which is that the hour worked should be paid at the overtime rate.

[21] According to the grievors, an adjudicator must apply the terms chosen by the parties to the collective agreement, must give the words their ordinary meanings, and must avoid searching for the parties' intention beyond that meaning. The parties' rights or obligations stem from the collective agreement's wording unless its ordinary meaning leads to an incongruity or to an absurd result. In support of that argument, the grievors cite *Public Service Alliance of Canada v. Communications Security Establishment*, 2009 PSLRB 121 at para. 162; and Brown and Beatty, *Canadian Labour Arbitration*, 4th edition, Canada Law Book, at para. 4:2110.

[22] According to the grievors, clause 30.01 of the collective agreement clearly sets out the parties' intention with respect to paying call-back pay. The purpose of integrating that clause was to ensure that employees are paid appropriately when they are called back to work (Brown and Beatty at para. 8:3410). The grievors point out that the parties agree that the purpose of call-back pay is to compensate employees for the inconvenience and disruptions caused by having to return to work after the normal workday. It is also a way of ensuring that the employee returns to work as expected. The parties have ensured that there is a minimum amount of compensation, i.e., three hours, for each call-back.

[23] The grievors submit that the parties' intention supports the grievors' interpretation of clause 30.01 of the collective agreement.

[24] According to the grievors, the wording of clause 30.01 of the collective agreement does not seek to limit an employee's compensation but rather to offer the highest amount. They point out that the employer's interpretation, according to which the eight-hour limit is applied to increased hours, does not take into account the wording of clause 30.01 and is contrary to the parties' intention since it penalizes employees. The grievors also argue that in the four scenarios, the employer pays the employees at the straight-time rate when the eight-hour maximum is applied, which contravenes the collective agreement.

[25] The grievors also point out that the employer's interpretation of clause 30.01 of the collective agreement leads to an absurdity. They provide an example of an employee who is called back twice in an eight-hour period and who works two hours for each call-back. According to the employer's interpretation, the employee would be paid only eight hours at the straight-time rate, just like an employee who worked a normal workday and who was not interrupted twice to return to work.

B. <u>For the employer</u>

[26] The employer denies contravening the collective agreement in this case. It points out that the grievors have the onus of demonstrating that, on a balance of probabilities, it contravened the collective agreement. In support of that argument, it cites *Canadian Association of Professional Employees v. Treasury Board (Department of Human Resources and Skills Development)*, 2013 PSLRB 100 at paras. 19 and 21; *Professional Association of Foreign Service Officers v. Treasury Board*, 2010 PSLRB 53 at para. 20; and *F. H. v. McDougall*, 2008 SCC 53 at paras. 46 and 49.

[27] When interpreting a collective agreement, an adjudicator must seek the ordinary meanings of the words the parties used and abstain from amending clear collective agreement provisions. The fact that a provision may appear unfair is not a valid reason to ignore an otherwise clear provision. On that point, the employer cites *Wamboldt v. Canada Revenue Agency*, 2013 PSLRB 55 at para. 25; and *Chafe v. Treasury Board (Department of Fisheries and Oceans)*, 2010 PSLRB 112 at paras. 50 and 51.

[28] The employer points out that each word should be interpreted in a way that

gives it an appropriate meaning, to avoid any redundancy (see *Stevens v. Treasury Board (Solicitor General Canada - Correctional Service)*, 2004 PSSRB 34 at para. 21; and *Tamborriello v. Treasury Board (Department of Transport)*, 2006 PSLRB 48 at para. 40). Terms that are not identical must be given different meanings (see *White v. Treasury Board* (*Solicitor General - Correctional Service*), 2003 PSSRB 40 at para. 35, upheld in 2004 FC 1017; and *Professional Institute of the Public Service of Canada v. Treasury Board*, 2011 PSLRB 19). Conversely, unless otherwise indicated, identical terms have identical meanings (see *Kreway v. Canada Customs and Revenue Agency*, 2004 PSSRB 172 at para. 67).

[29] The employer agrees with the grievors about the purpose of clause 30.01 of the collective agreement. According to the employer, that clause allows an employee who is called back to work to receive adequate compensation for any inconveniences incurred, to a maximum of eight hours' compensation over an eight-hour period.

[30] The employer points out that it is not trivial that the first part of clause 30.01(c)(i) of the collective agreement uses the wording, "Compensation equivalent to three (3) hours' pay at the applicable overtime rate of pay …" while the second part simply states, "eight (8) hours' compensation". Interpretations of those phrases must mean something, and any redundancy must be avoided (see *Stevens* at para. 21, and *Tamborriello* at para. 40). The employer points out that in the circumstances, those two phrases must have different meanings. If the parties wanted the eight-hour maximum to be determined according to credited hours, they would have used the same terminology to describe the maximum and minimum compensation (see *White* at para. 35 and *Professional Institute of the Public Service of Canada* at para. 19).

[31] When similar terms are used in the same collective agreement, they must be given the identical definition. The term "compensation", as used in clause 30.01(c)(i) of the collective agreement, must have the same meaning as it has always had in the collective agreement, i.e., the sum of the hours at the straight-time rate (see *Kreway* at para. 67).

[32] Interpreting the eight-hour maximum as being payable at the overtime rate is equivalent to granting a benefit entailing a financial cost for the employer, which points out that such a benefit has not been clearly and expressly stipulated in the collective agreement (see *Wamboldt* at para. 27).

[33] The grievors' interpretation would change the collective agreement's wording, contrary to section 229 of the *PSLRA*. According to the employer, their interpretation would replace the term "eight hours' compensation" with "eight hours' compensation at the overtime rate".

[34] The employer disagrees that its interpretation leads to an absurd result. It is not absurd to grant eight hours' compensation to an employee who has carried out less than eight hours of work. For example, an employee who is called back to work twice, for two hours per call-back, would be entitled to eight hours' compensation, even though the employee actually worked only four hours. The employer points out that the jurisprudence has defined what constitutes an absurdity. In support of that argument, it refers me to *Professional Institute of the Public Service of Canada v. Treasury Board*, 2011 PSLRB 46 at para. 15, which reads as follows:

> ***15*** *The threshold for finding that the plain language used by the parties leads to a result that must be rejected as absurd is a high one. The plain meaning of the words must result in an outcome that serves no possible labour relations purpose and is justified by no coherent labour relations rationale. The outcome must be otherwise unworkable: Mitchnik et al.,* Leading Cases on Labour Arbitration, *Vol. 3*, Ontario Finnish Resthome Assn. v. Service Employees International Union, Local 268, *[2004] O.L.A.A. No. 371 (QL), and* Canada Post Corporation v. Canadian Union of Postal Workers, *(1993) 34 L.A.C. (4th) 139.*

[35] In closing, the employer points out that its interpretation respects the parties' intention and guarantees adequate compensation to an employee in the event of a call-back.

C. <u>The grievors' reply</u>

[36] In their reply, the grievors deny that Mr. Durette and Mr. Piton received additional compensation after filing their grievances.

[37] The grievors point out that the expression "eight (8) hours' compensation" is neutral and that it simply means that an employee cannot be paid for more than eight hours of work at the overtime rate in an eight-hour period. For them, the phrase "eight (8) hours' compensation" actually means eight hours' work.

[38] The grievors point out that the employer's interpretation is inconsistent and

that it goes against the clause's purpose.

IV. Additional submissions

[39] On August 5, 2015, I asked the parties to clarify certain points about these grievances through supplementary written submissions. The first two points were about the employer's calculation of Mr. Durette's compensation for October 4, 2008, and July 19, 2009. The third point was about a clarification by the grievors of an issue raised in the table that appears in their initial submissions.

[40] As for July 19, 2009, the requested clarification was about the employer's calculation method for the third call-back. It explains that after the first two call-backs, Mr. Durette reached the maximum compensation to which he was entitled under clause 30.01(c)(i) of the collective agreement. Therefore, it paid him according to clause 30.01(c)(ii) of the collective agreement because had it calculated the amount in accordance with clause 30.01(c)(i), Mr. Durette would not have been entitled to any compensation for the third call-back. In their supplementary submission, the grievors state that the third call-back also should have been paid according to clause 30.01(c)(i).

[41] As for the October 4, 2008, calculation, the employer acknowledges that it erred during both the first calculation and the calculation done after the grievance was filed. It maintains that it correctly calculated Mr. Durette's third call-back in the first-level reply in the grievance procedure. The grievors reiterate their initial arguments on the calculation of the amount owed to Mr. Durette.

[42] As for the table that the grievors included in their initial written submissions to illustrate their interpretation of the applicable clauses, the requested clarification was about how to compensate a fourth call-back in an eight-hour period. They submit that the fourth call-back would be compensated according to clause 30.01(c)(ii) of the collective agreement. The employer notes that it agrees with the grievors' interpretation about the clause that would apply to the fourth call-back. However, it disagrees with the total amount that the grievors calculated for the third call-back.

V. Reasons

[43] The parties dispute the application of clause 30.01(c)(i) of the collective agreement when an employee is called back several times in an eight-hour period. As the employer noted, the grievors had the onus of demonstrating that, on a balance of

probabilities, it incorrectly applied the collective agreement's provisions. For the following reasons, I believe that the grievors did not succeed in discharging themselves of their burden.

[44] In their arguments, the grievors pointed out their interpretation of the clause at issue. They presented several scenarios, using a table, to point out the differences in the results between their interpretation of the clause in question and the employer's interpretation. Like the employer, the grievors pointed out that I should apply the terms that the parties used in the collective agreement according to their ordinary meaning unless that would lead to an incongruity or to an absurd result. According to the grievors, the parties' intention was to adequately compensate employees called back to work, and that intention is clearly stipulated in clause 30.01(c)(i) of the collective agreement. For the grievors, the employer's interpretation goes against the parties' intention and leads to an absurd result. They provided the following example. An employee is called back to work twice in an eight-hour period for two hours of work per call-back. The employee would be paid only eight hours at the straight-time rate, just like an employee who works a normal workday. I note that that example is based on the facts of Mr. Durette's grievance about June 27, 2009.

[45] I see no absurdity in the grievors' example. The employee whose overtime rate is time-and-one-half would be paid the equivalent of double time for the work performed; therefore, it is difficult to find that such a result constitutes an absurdity. Although the grievors might have the impression that the employee in question was not adequately compensated, I cannot find an absurd result in that scenario.

[46] I examined the other grievances and arguments before me to determine whether the situations contested in the grievances led to an absurdity. I found in the negative. I noted that with the exception of one of Mr. Durette's grievances, the grievors did not directly allege that any other situation that was a subject of the grievances had led to an absurdity.

[47] For example, Mr. Dubé was called back to work twice on May 15, 2009. He worked a total of 1 hour and 10 minutes and was paid 8 hours at the straight-time rate. I cannot conclude that that situation led to an absurd result.

[48] For Mr. Durette's other three grievances, I cannot find that the employer's application of clause 30.01(c)(i) of the collective agreement led to an absurdity. On

October 4, 2008, Mr. Dubé was called back to work three times; he worked a total of two hours and was at first paid an amount equivalent to eight hours' work. Even if I put aside the employer's claims that it corrected and increased the compensation paid to Mr. Dubé (which the grievors deny), I do not see any absurdity in it.

[49] As for Mr. Durette's second grievance, the evidence demonstrated that on January 10, 2009, he was called back to work three times, that he worked a total of 4 hours and 15 minutes, and that he was paid for 8 hours' work before filing his grievance. Again, the employer claimed that after the grievance was filed, it modified the compensation paid to Mr. Durette by increasing it to 13.25 hours at the straight-time rate. In both cases, I see no absurdity in such a result.

[50] Mr. Durette's last grievance is about the work he carried out on July 19, 2009, and indicates that for three call-backs, he worked a total of four hours. For the first two call-backs, which total two hours' work, he was paid eight hours at the straight-time rate. For the third call-back, totaling two hours' work, he was paid at the overtime rate. I cannot conceive any absurdity in the fact that Mr. Dubé was paid for more than 11 hours for working 4 hours.

[51] With respect to Mr. Piton's grievance about the work he performed on August 24 and 25, 2007, the evidence demonstrated that on August 24, he worked 2.5 hours and was paid 8 hours at the straight-time rate. On August 25, he was called back to work twice and worked a total of three hours, for which he was paid eight hours at the straight-time rate. Again, I see nothing absurd in those results.

[52] Although the grievors argued that their interpretation was the most compatible with the parties' intention while negotiating the collective agreement, they did not present any evidence about the negotiation history or past practices. Although I accept their proposal that the intention of the clause in question is to adequately compensate employees called back to work, such compensation must be found in the applicable clause of the collective agreement.

[53] By interpreting the clause in question according to its ordinary meaning, my opinion is that the phrase "… to a maximum of eight (8) hours' compensation in an eight (8) hour period …" modifies the preceding phrase, "Compensation equivalent to three (3) hours' pay at the applicable overtime rate of pay …".

[54] I believe that in terms of modification, the phrase "… to a maximum of eight (8) hours' compensation in an eight (8) hour period …" is clear and unambiguous and that it applies a maximum of eight hours' compensation to the calculation prescribed by the phrase before it. Although the preceding phrase applies the overtime rate to calculating the compensation amount, under the second part of the clause, the amount is limited to eight hours' compensation at the straight-time rate. I accept the employer's argument that there is a reason that the first part of the clause specifies that the overtime rate be used while the second part of the clause makes no mention of it. I find that the maximum of eight hours' compensation can refer only to the amount reached once the employer has made the necessary calculation under clause 30.01(c)(i) of the collective agreement, i.e., when it has multiplied the three hours by the overtime rate applicable to the employee to arrive at a compensation amount, which is limited to eight hours for the purposes of clause 30.01(c)(i).

[55] I also agree with the employer's argument that the grievors' proposed interpretation of the clause would have the effect of adding words to it that are not in it, thus contravening section 229 of the *PSLRA*. In effect, on several occasions, the grievors pointed out that the eight-hour maximum should be based on "credited" hours, a term that is not in question in the clause at issue. My opinion is that the employer's interpretation is more aligned with the ordinary meaning of the clause and that it does not lead to apparent absurdities. If the parties' intention was the one the grievors proposed, they should have written the text in a way that would have ensured the clear expression of such a result.

[56] As mentioned earlier in this decision, the parties debated as to whether the employer had indeed paid Mr. Dubé and Mr. Piton the amounts it had acknowledged owing them. I have addressed that issue in the order.

[57] For all of the above reasons, I make the following order:

(The Order appears on the next page)

VI. Order

[58] Grievances 566-02-3432, 566-02-3433, and 566-02-3435 are dismissed.

[59] Grievances 566-02-3434, 566-02-3436, and 566-02-3437 are allowed in part. I order the employer to recalculate the amounts paid for the call-backs in these grievances, according to the content of this decision.

[60] I will remain seized of these grievances for a period of 60 days from the date of this decision to resolve any issues arising from administering this decision.

November 25, 2015.

PSLREB Translation

Steven B. Katkin,
adjudicator