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Public Service
Staff Relations Act

Before the Public Service
Staff Relations Board

BETWEEN

LISE GUÉRETTE, BENOIT GÉRIN-LAJOIE and ALAIN MALO

Grievors

and

PARKS CANADA AGENCY

Employer



Before: Guy Giguère, Deputy Chairperson

For the Grievors: Rachelle Dugas, Counsel, Public Service Alliance of Canada

For the Employer: Karl Chemsî, Counsel

Heard at Ottawa, Ontario,
May 20 and 21, 2004.

[1] Ms Guérette and Messrs Gérin-Lajoie and Malo lodged grievances in September 2002, contesting the employer's decision to pay them the equivalent of eight hours of work after they had taken authorized volunteer and personal leave, although their normal work schedules during that period were 10 and 11 hours per day.

[2] In its response to these grievances, the employer stated that, under clause 31.01 of the collective agreement between the Parks Canada Agency and the Public Service Alliance of Canada, all types of leave must be converted into and authorized in hours.

[3] The employer stated that, in the Hours of Work Code referred to in clause 31.01, the value of a day is given as seven and one-half or eight hours. This value applies to all types of leave under the collective agreement except bereavement leave.

[4] On January 31, 2003, these grievances were referred to adjudication but, at the request of the Public Service Alliance of Canada (the Alliance), they were put on hold pending the Federal Court decision in the judicial review of *John King and Karen E. Holzer v. Canada Customs and Revenue Agency*, 2001 PSSRB 117.

Summary of relevant facts

[5] At the beginning of the hearing, the parties submitted the following joint statement of facts:

[Translation]

Joint Statement of Facts

1. *The complainants are employed by Parks Canada, at the Chambly Canal, St-Jean;*
2. *The complainants all occupy positions as lockmasters. Lise Guérette and Benoit Gérin-Lajoie occupy positions classified GL-MOC-05 and Alain Malo occupies a position classified GL-MOC-06;*
3. *The complainants' hiring letter provides that the minimum duration of their work season shall be 1,352 hours for Benoit Gérin-Lajoie and Alain Malo and 728 hours for Lise Guérette;*

Exhibit A-1: Hiring letters adduced together

Exhibit A-2: Organization chart

4. In 2002, the number of hours worked by each of them was as follows:

Benoit Gérin-Lajoie:	1,393 hours
Alain Malo:	1,384 hours
Lise Guérette:	1,271.75 hours

Exhibit A-2A: Chart - Number of hours worked

5. The applicable collective agreement is the "Collective Agreement Between the Parks Canada Agency and the Public Service Alliance of Canada", signed on July 24, 2002, which expires on August 4, 2003;

Exhibit A-3: July 24, 2002 collective agreement

6. This collective agreement contains a new clause that reads as follows:

48.02 Volunteer and personal leave

- A. Subject to operational requirements as determined by the Agency and with an advance notice of at least five (5) working days, the employee shall be granted, in each fiscal year:

(i) one (1) day of leave with pay for reasons of a personal nature.

(ii) one (1) day of leave with pay to work as a volunteer for a charitable or community organization or activity, other than activities related to the Government of Canada Workplace Charitable Campaign.

- B. For employees who work less than five (5) months in a fiscal year, the total entitlement shall be one (1) day in accordance with sub-paragraph (a)(i).

- C. The leave will be scheduled at times convenient to both the employee and the Agency. Nevertheless, the Agency shall make every reasonable effort to grant the leave at such times as the employee may request.

7. The fiscal year ends on March 31 of each year;
8. During the 2002 season, the Chambly Canal was open from May 14 to October 16;
9. The complainants' normal hours of work were determined depending on the different periods in 2002 as follows:

- A. From May 14, 2002, to June 20, 2002:
Sunday to Saturday - 8:15 a.m. to 4:15 p.m. (eight hours)
- B. From June 21, 2002, to August 11, 2002:
Sunday to Saturday - 8:15 a.m. to 7:15 p.m. (11 hours)
- C. From August 12, 2002, to September 2, 2002:
Monday to Friday - 8:15 a.m. to 4:15 p.m. (eight hours)
Saturday and Sunday - 8:15 a.m. to 6:15 p.m. (10 hours)
- D. From September 3, 2002, to October 14, 2002:
Sunday to Saturday - 8:15 a.m. to 4:15 p.m. (eight hours);

Exhibit A-4: 2002 calendar

- 10. The complainants' specific days of work in 2002 were as follows:
 - A. Benoit Gérin-Lajoie worked from Friday to Tuesday and was off Wednesday and Thursday;
 - B. Lise Guérette worked from Wednesday to Sunday and was off Monday and Tuesday;
 - C. Alain Malo worked from Tuesday to Saturday and was off Sunday and Monday.
- 11. The complainants were paid 80 hours in each two-week period they were at work. Hours worked in excess of the 80 hours during the two-week period were credited to each complainant's compensatory leave account.
 - A. During the two weeks from Sunday, July 28, 2002, to August 10, 2002, the complainants accumulated the following hours:
 - i) Benoit Gérin-Lajoie and Alain Malo worked 107 hours, of which 27 hours were credited to their compensatory leave accounts;
 - ii) Lise Guérette worked 112 hours, of which 32 hours were credited to her compensatory leave account.
 - B. During the two weeks from Sunday, August 25, 2002, to September 7, 2002, the complainants accumulated the following hours:
 - i) Benoit Gérin-Lajoie worked 112 hours, of which 32 hours were credited to his compensatory leave account;

- ii) *Lise Guérette worked 92 hours, of which 12 hours were credited to her compensatory leave account;*
 - iii) *Alain Malo worked 107 hours, of which 27 hours were credited to his compensatory leave account.*
12. *The complainants applied for volunteer and personal leave for various days in August 2002:*

A. Benoit Gérin-Lajoie applied for:

- *personal leave for Sunday, August 4, 2002, from 8:15 a.m. to 7:15 p.m., that is, a period of 11 hours according to the normal work schedule, which was authorized for a duration of eight hours;*

Exhibit A-5: History of leave transactions in 2002 for Benoit Gérin-Lajoie

Exhibit A-6: Work report for Benoit Gérin-Lajoie

B. Lise Guérette applied for:

- *volunteer leave for Monday, August 8, 2002, from 8:15 a.m. to 7:15 p.m., that is, a period of 11 hours according to the normal work schedule, which was authorized for a duration of eight hours;*

Exhibit A-7: History of leave transactions in 2002 for Lise Guérette

C. Alain Malo applied for:

- *volunteer leave for Saturday, August 10, 2002, from 8:15 a.m. to 7:15 p.m., that is, a period of 11 hours according to the normal work schedule, which was authorized for a duration of eight hours;*
- *personal leave for Saturday, August 31, 2002, from 8:15 a.m. to 6:15 p.m., that is, a period of 10 hours according to the normal work schedule, which was authorized for a duration of eight hours.*

Exhibit A-8: History of leave transactions in 2002 for Alain Malo

13. *The employer authorized eight hours of leave, but refused the complainants' two or three additional hours;*

Exhibits A-5, A-7 and A-8: History of leave transactions in 2002 for the three complainants

14. *On September 3, 6 and 7, 2002, the complainants lodged grievances contesting the fact that the employer paid only eight hours of the authorized personal and/or volunteer leave, while the work schedule determined by the employer provided for 10 or 11 hours of work.*
15. *The complainants request that the personal and volunteer leave be paid at the full basic scheduled number of hours, that is, 10 or 11 hours of work.*
16. *On December 20, 2002, the employer dismissed the grievances.*

[6] The Parks Canada Agency (the Agency) is responsible for the operation and management of canals located in Ontario and Quebec: Trent-Severn, Rideau, Carillon, St-Ours, Lachine and Chambly. Usually the canals open during the week before Victoria Day. The season ends two days after Thanksgiving. The high season begins on June 20 and ends during the second or third week of August.

[7] Guy Lozier, Acting Labour Relations Manager at the Agency, testified about Appendix E of the collective agreement, which applies to canal operating employees. He stated that Appendix E sets out working conditions that are unique in the public service.

[8] Lockmasters are responsible for opening and closing locks and, in some cases, bridges. In most cases, these positions are seasonal. Usually, lockmasters are asked to return to work at a canal one or two weeks before it is opened to prepare the land and the locks. Their hours of work are eight hours per day, five days per week. During the period in which there is more navigation on the canals, lockmasters work more hours per day than the normal hours of employees in the GL group. These additional hours are spread over the latter part of the year, which allows these employees to extend their season.

[9] During the high season, lockmasters have a daily work schedule of 11 hours per day. Afterward, in August, the daily work schedule is reduced to eight hours and 10 hours on weekends, until the Labour Day weekend. After Labour Day, the daily work schedule is reduced from 10 to eight hours, weekends included.

[10] Lockmasters' normal working level is classified GL-MOC-05. They usually work eight hours per day, five days per week. At all times, they receive compensation for 40

hours per week, paid every two weeks. If lockmasters work more than 80 hours during a two-week period, the additional hours are credited to their compensatory leave account.

[11] This practice was included in the collective agreement in the 1980s but existed previously. According to Mr. Lozier, this spreading out of hours over the latter part of the year has nothing to do with the variable hours of work as provided for in article 22 of the collective agreement.

[12] Mr. Lozier also testified about the way the employer treats applications by lockmasters for various types of leave. He explained that, when an employee works 11 hours per day and applies for annual leave, the employer authorizes eight hours of leave and three hours are debited from the employee's vacation account. According to Mr. Lozier, the reason the employer proceeds in this manner and does not credit three hours to the employee's compensatory leave account is that another employee must work those hours to replace the employee on vacation. The three hours will be credited to the compensatory leave account of the person who works.

[13] The situation is different in case of sick leave. Article 8 of Appendix E, which sets out the terms and conditions applicable in case of sick leave, reads as follows:

8. During canal navigation season, Employees unable to work because of illness, will be granted sick leave for compensatory leave purposes from their accumulated sick leave credits on an hour-for-hour basis of extra time scheduled to be worked; such sick leave will be transferred from accumulated sick leave credits to accumulated compensatory leave credits and is not subject to expansion or cash payment.

[14] Mr. Lozier explained that employees scheduled to work 11 hours who are sick have 11 hours debited from their sick leave account. They are paid eight hours in that week's pay period, and three hours are credited to their compensatory leave account.

[15] In case of bereavement, employees are entitled to five consecutive calendar days' leave, as set out in clause 44.02 of the collective agreement. For each work day, employees are paid eight hours in that week's pay period, and three hours are credited to their compensatory leave account.

[16] Mr. Lozier stated that the employer's interpretation of leave for family-related responsibilities differs from bereavement, volunteer or personal leave because leave for family-related responsibilities may be taken for a few hours or for a portion of a day. On the basis of clause 31.01 of the collective agreement, the employer converts days into hours. Since the collective agreement grants employees five days' leave for family-related responsibilities, these days are converted and credited to 40 hours of leave for family-related responsibilities for the year. The employer considers that the circumstances leading employees to apply for leave for family-related responsibilities are beyond the employees' control; 11 hours are debited from the leave for family-related responsibilities account of employees who work 11 hours per day and apply for this type of leave. Lockmasters are paid eight hours in the current pay period, and three hours are credited to their compensatory leave account.

[17] Mr. Gérin-Lajoie, one of the grievors, testified that he took four days' leave for family-related responsibilities in 2002. He explained, using Exhibit A-5, a statement of his leave, that he was scheduled to work an 11-hour day on July 7 and 9, 2002, when he was obliged to be absent from work because of illness in the family. He was paid eight hours in the current pay period, and three hours were credited to his compensatory leave account.

[18] At the conclusion of this testimony, counsel Dugas and Chemsî emphasized that the employer and the bargaining agent did not agree on the interpretation of the provisions governing leave for family-related responsibilities.

Arguments

For the grievors

[19] Ms. Dugas argued that these grievances have to do with the interpretation to be given to the words "day", "leave" and "regular or normal hours of work".

[20] The provisions governing volunteer and personal leave are found in clause 48.02 of the collective agreement, which reads as follows:

48.02 Volunteer and personal leave

- A. *Subject to operational requirements as determined by the Agency and with an advance notice of at*

least five (5) working days, the employee shall be granted, in each fiscal year:

- (i) one (1) day of leave with pay for reasons of a personal nature.
 - (ii) one (1) day of leave with pay to work as a volunteer for a charitable or community organization or activity, other than activities related to the Government of Canada Workplace Charitable Campaign.
- B. For employees who work less than five (5) months in a fiscal year, the total entitlement shall be one (1) day in accordance with sub-paragraph (a)(i).
- C. The leave will be scheduled at times convenient to both the employee and the Agency. Nevertheless, the Agency shall make every reasonable effort to grant the leave at such times as the employee may request.

[21] In *King and Holzer (supra)*, Chairperson Yvon Tarte found that the expression "day" in the context of an application for leave for family-related responsibilities should be interpreted as a period of 24 hours, which corresponded to the definition of "day" provided in the collective agreement in that case.

[22] Ms. Dugas stated that the collective agreement that applies to these grievances includes, in clause 2.01, a similar definition, which reads as follows:

"day" means a twenty-four (24) hour period beginning at 00:01 hour (jour);

[23] In *Stockdale et al. v. Treasury Board (Fisheries and Oceans Canada)*, 2004 PSSRB 4, adjudicator Ian MacKenzie retained this same interpretation of "day" in the context of grievances having to do with applications for volunteer and personal leave.

[24] Ms. Dugas stated that it was also important to define the word "leave". Article 2 of the collective agreement defines "leave" as "authorized absence from duty by an employee during his or her regular or normal hours of work (congé)". This is where the interpretation to be given to "regular or normal hours of work" is important. According to Ms. Dugas, reference may not be made to the general provisions of the collective agreement that set out employees' normal weekly hours of work.

[25] Clause 1.2 of Appendix E provides that the provisions of the collective agreement governing hours of work and overtime do not apply to lockmasters. Thus, reference may not be made to the provisions governing hours of work, including subclause 22.01(c), which provides that the normal hours of work per week to be performed by employees shall be as indicated by classification group in Appendix B. Therefore, Appendix B, which sets out normal hours of work, cannot be applied to lockmasters.

[26] Ms. Dugas stated that the only article dealing with this matter is found in Appendix E, article 5. This article, which has to do with maximum or minimum hours of work, provides that nothing in that Appendix shall be construed to mean that employees are guaranteed any maximum or minimum hours of work. Thus, it must be concluded that lockmasters' normal hours of work are their daily scheduled hours, depending on the period during which the leave is requested.

[27] The fact that the hours worked are banked has nothing to do with the duration of work, since it is a method of equalizing earnings with the purpose of paying a salary to employees over a longer period of time during the year.

[28] As well, according to Ms. Dugas, volunteer and personal leave may not be converted into hours as the employer argued, because subclause 31.01(a) does not apply to volunteer or personal leave, which are forms of unearned leave. It is clearly established in Board case law that sick leave and annual leave are forms of earned leave, as opposed to forms of unearned leave such as leave for family-related responsibilities (*King and Holzer (supra)*) and volunteer and personal leave (*Stockdale et al. (supra)*).

[29] As adjudicator MacKenzie emphasized in *Stockdale et al. (supra)*, in the interests of consistency and certainty in labour relations, similar provisions should be interpreted similarly, unless there is an excellent reason to change that interpretation. Here, the wording of the collective agreement is practically identical to the wording found in *Stockdale et al. (supra)*.

For the employer

[30] Mr. Chemsy argued that *King and Holzer (supra)* and *Stockdale et al. (supra)* do not apply to this case, since lockmasters do not work variable hours and the provisions governing them are unique in the public service.

[31] Lockmasters are paid eight hours per day and additional hours worked are banked. This procedure is advantageous to both parties; the additional hours are then pensionable and insurable. The spreading out of hours allows employees to receive a salary nearly all year and allows some of them to be paid year round. This procedure is also to the employer's advantage, since the employer need not employ as many people and the costs are less than for overtime.

[32] Although the provisions governing the duration of work in the collective agreement do not apply to lockmasters, Appendix B, the Hours of Work Code, does apply to them. There are a number of references to the Hours of Work Code in the collective agreement that apply to lockmasters. For example, clause 31.01, which has to do with earned leave that is converted into hours, specifies that these forms of leave shall be reconverted into days, with one day being equal to seven and one-half or eight hours, in accordance with the Hours of Work Code.

[33] According to the Hours of Work Code, the normal weekly hours of work are 40 hours for the GL group and all subgroups, including MOC. Clause 2.1 of Appendix E provides that lockmasters are entitled to receive compensation for normal hours; clause 2.2 provides that these employees shall be paid 80 hours in each two-week period. Lockmasters work five days per week. Thus it is unequivocal that lockmasters' normal hours of work are eight hours and not 11 hours per day.

[34] Mr. Chemsy stated that in these grievances there was no element of unfairness such as those described by the adjudicators in *King and Holzer (supra)* or *Stockdale et al. (supra)*. In those cases, the employees who took leave had no choice when taking leave for family-related responsibilities or volunteer or personal leave. Any hours in excess of seven and one-half or eight hours were taken from the employees' annual leave bank.

[35] That is not the situation here, when lockmasters take their leave on a day when they are to work 11 hours; three hours are not debited from their annual leave bank.

[36] According to Mr. Chemsî, a Board adjudicator is not bound by *King and Holzer (supra)* or *Stockdale et al. (supra)*. In *King and Holzer (supra)*, Chairperson Tarte even stated that both parties had an arguable case. The Federal Court, in judicial review, stated that it was not clearly irrational for the adjudicator to have opted for one position instead of another, since the role of the Federal Court was not to substitute for the adjudicator but to consider whether the adjudicator's decision was patently unreasonable.

[37] Nor is there stability in the case law on this point since *Stockdale et al. (supra)* is under judicial review.

Reasons for decision

[38] The issue raised by these grievances is the following: when lockmasters are scheduled to work more than eight hours and apply for volunteer or personal leave, are the hours in excess of eight hours for that day credited to their compensatory leave account?

Applicability of case law

[39] It was rightly not argued in this case that the issue was "*res judicata*". *Stockdale et al. (supra)* had to do with employees working variable hours. However, the provisions governing variable hours of work, according to clause 1.2 of Appendix E, do not apply to lockmasters.

[40] Ms. Dugas argued, instead, that the adjudicators' reasoning in *King and Holzer (supra)* and *Stockdale et al. (supra)* should be followed, in the interests of consistency and certainty in labour relations.

[41] According to counsel for the employer, those decisions do not apply to lockmasters, since there is no element of unfairness such as that referred to in those decisions. In addition, lockmasters have unique working conditions that mean that those decisions do not apply to this case.

[42] In *King and Holzer (supra)*, Chairperson Tarte stated that the employer's view would perpetrate an unfairness on those employees who work long shifts. He writes, at paragraph 24, that the events giving rise to family-related leave do not fit within the confines of a seven and one-half-hour shift.

[43] In *Stockdale et al. (supra)*, adjudicator MacKenzie writes, at paragraph 41, that it would be unfair for employees working variable hours to have to take from their annual leave bank the hours in excess of seven and one-half hours that they are required to work in order to take advantage of volunteer or personal leave.

[44] For the lockmasters in this case, there is not the element of unfairness that was found in *King and Holzer (supra)* and *Stockdale et al. (supra)*. When lockmasters take volunteer or personal leave, they receive compensation for eight hours for that day, which is paid in the current pay period. Nothing is debited from their annual leave bank, as was the case in *Stockdale et al. (supra)*, because they take volunteer or personal leave. Their situation is also different from that described in *King and Holzer (supra)*. The events giving rise to leave for family-related responsibilities when a family member is ill are quite different from those surrounding an application for volunteer or personal leave.

[45] If lockmasters prefer to accumulate more than three additional hours in their compensatory leave account, they may apply for volunteer or personal leave at a time when they are scheduled to work eight hours. The choice they must make about when they take these forms of leave is theirs, and has no element of unfairness.

[46] Lockmasters' working conditions are unique in the public service. As clause 1.2 of Appendix E provides, the provisions of the collective agreement concerning overtime (article 24) do not apply to canal operating employees. It is appropriate here to distinguish between the lockmasters' situation and the case law concerning employees who work variable hours. Thus, it is necessary to consider the provisions of the collective agreement in greater depth.

Day of leave / normal hours of work

[47] Ms. Dugas argued that the definition of leave in the collective agreement, "authorized absence from duty by an employee during his or her regular or normal hours of work", is also important. According to Ms. Dugas, the Hours of Work Code, which defines normal hours of work, does not apply to lockmasters. In the absence of provisions in the collective agreement, lockmasters' scheduled hours would be their normal hours for the period during which leave is requested. Mr. Chemsy, on the other hand, argued that the Hours of Work Code does indeed apply to lockmasters and that

there are a number of references in the collective agreement in addition to the provisions governing the duration of work.

[48] First, it appears to me, at least in lockmasters' situations, that the definition of "leave" is more helpful than the definition of "day" in interpreting the expression "day of leave" in a provision of the collective agreement. In fact, in the wording of the collective agreement, when the word "leave" follows the word "day", it would seem more appropriate to me to use the definition of "leave" in order to apply that provision correctly. The definition of the word "day" would be used when the word "day" in the collective agreement is not followed by the word "leave".

[49] In light of this clarification, then, the question is to determine what the grievors' "regular or normal" hours of work are and whether the Hours of Work Code may be relied upon to provide an answer.

[50] Article 7 of Appendix E, which applies to lockmasters, provides that they are granted compensation for all hours worked on statutory holidays during the navigation season on the same scale as that paid to other employees according to clause 27.05. Elsewhere, clause 27.05 refers to the Hours of Work Code. Employees are to be paid time and one-half for all hours worked, up to the daily hours specified in the Hours of Work Code. For the GL group, the Hours of Work Code specifies: "40 (normal weekly hours of work)". Therefore, according to the agreement, employees in the GL group are to be paid time and one-half for the first eight hours. They are to be paid double time for all additional hours worked. For lockmasters, as is provided in article 7 of Appendix E, the hours (calculated at time and one-half and double time) shall be added to the compensatory leave account.

[51] There are other provisions of the collective agreement referring to the Hours of Work Code that apply to lockmasters because they do not govern the duration of work or overtime. I have identified the following: subclause 31.01(a) concerning leave; clauses 56.02 to 56.04 and 56.07 concerning part-time employees; and clause 58.07 concerning acting pay.

[52] Thus, there are a number of provisions of the collective agreement in which it is clear that the Hours of Work Code applies to lockmasters. Clause 1.2 of Appendix E is also very specific: all the provisions of the collective agreement shall apply to lockmasters except for the four exceptions indicated. Thus, it is certain that the Hours

of Work Code, which forms part of the collective agreement, applies to lockmasters. These normal hours for lockmasters, as indicated in the collective agreement, are therefore 40 hours per week. According to the evidence, lockmasters' regular hours are eight hours per day, five days per week. Lockmasters' regular or normal daily hours of work are therefore eight hours. Consequently, Ms. Dugas' argument cannot be retained.

Conversion of daily credits into hours

[53] Mr. Chemsy argued that volunteer and personal leave, under subclause 31.01(a) of the collective agreement, must be converted into hours. One day of leave is equal to eight hours, since those are lockmasters' normal hours of work.

[54] That interpretation cannot be retained since, according to the actual wording of subclause 31.01(a), only earned daily leave credits shall be converted into hours.

[55] It is established in the case law, as Ms. Dugas argued, that the expression "earned leave" refers to annual leave or sick leave that is earned, as provided in the collective agreement (articles 32 and 33), for each calendar month in which the employee has earned at least 10 days' pay. Volunteer and personal leave are unearned forms of leave. If employees do not take them during the year, they are not accumulated for the following year and are lost.

[56] Subclause 31.01(a) applies only to earned leave. Subclause 31.01(b) provides, however, that leave shall be granted on an hourly basis, and does not distinguish between earned leave and other forms of leave. In order to grant leave in hours as subclause 31.01(b) provides, a provision indicating how to convert a day into hours would be necessary. A sentence appears to be missing from the subclause providing for the conversion of days into hours for other forms of leave, as was previously found in article M-40 of the Master Agreement before the Agency was created.

[57] In the absence of such a provision, we nevertheless know that, according to the Hours of Work Code and the evidence, lockmasters' regular or normal hours of work are eight hours per day. As well, according to the agreement, a day of leave is authorized absence during regular or normal hours of work. Consequently, the expression "day of leave" would mean leave for eight hours. However, there is what I believe to be a simpler answer, which applies to lockmasters.

Provisions specific to lockmasters

[58] In my opinion, the answer to the specific question concerning lockmasters is found in clause 2.2 of Appendix E, which applies to them. Article 2 reads as follows:

2. *Compensation and equalization of earnings*

2.1 *An employee is entitled to receive straight-time compensation at the rate specified for the employee's classification level for all hours worked or for which the employee is granted authorized leave with pay, up to a maximum total of two thousand and eighty (2080) hours in any fiscal year.*

[...]

2.2

(a) *In order to equalize earnings over the year, an employee shall be paid eighty (80) hours for each two (2)-week period when the employee is at work, or on approved leave with pay, subject to such adjustments as may be necessary during the last three (3) months of the fiscal year. All hours worked which are in excess of eighty (80) in a two (2)-week period, shall be credited to the employee's compensatory leave account.*

(b) *For the purposes of (a) above, during the non-navigation season, all hours worked in excess of eight hours per day or on an employee's first day of rest shall be credited to the compensatory leave account at time and one-half; all hours worked in excess of sixteen hours per day or on the employee's second day of rest shall be credited at the double time rate.*

(Emphasis added)

[59] A careful reading of subclause 2.2(a) shows that, in order to equalize earnings over the year, employees shall be paid 80 hours of work in each two-week period they are at work, or on approved leave with pay. However, the last sentence of this subclause provides only that hours worked in excess of 80 hours in a two-week period shall be credited to the employee's compensatory leave account.

[60] Thus, under this subclause, only the hours worked "shall be credited to the employee's compensatory leave account", not the hours for which the employee would be on authorized leave with pay.