

Keeping Your Holidays Your Own

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Season's Greetings!

The holiday season is upon us and many employees have long ago selected the days or weeks of vacation they will be enjoying during this festive time. There is much to do; shopping for gifts, organizing parties, spending time with family and friends during this special time.

Health care providers too are often very busy during this time. With the holiday season comes the flu season. The flu season combined with the ordinary requirements to provide health care services at this time of year puts a strain on health care services to meet the demand of Manitobans. The higher-than-normal need for staff doesn't always reconcile with the employees' desire to take more scheduled time away from the workplace.

What happens when an employer just can't manage to provide quality level of health services because of the depletion of staff due to vacation and health issues? Can the employer force employees to come back to work and to reschedule their holidays in these circumstances?

The arbitral law says that in most cases, management is within its right to direct the periods that can be taken for vacation if it does so for sound operational reasons; that is, if it exercises its management rights in a fair and reasonable manner. Arbitrators have stated that this right can be restricted by the terms of the Collective Agreement. So, even though management has the final say in determining the period of vacation, once vacation periods have been selected and approved, the Collective Agreement can contain provisions holding the employers to the times scheduled.

Certain paragraphs under the Collective Agreement deal with the rights of MAHCP employees regarding the ability of the employer to reschedule holidays.

They are as follows:

1502 The whole of the calendar year shall be available for vacations to be taken; however, vacation earned in any vacation year is to be taken the following vacation year, unless otherwise mutually agreed between the employee and the employer.

1508 The employer will post an approved vacation schedule not later than April 30th, having considered operational requirements, and the seniority, circumstances, and preferences of each employee. Approved vacations will not be re-scheduled except on application by the employee and insofar as such change does not affect departmental operations or disrupt any other employee's scheduled vacation.



The provision is strongly worded in the imperative. Once approved, vacations "**will not** be re-scheduled" except by application of the employee. An employee may be able to reschedule where the employer doesn't object but the employer is not able to unilaterally re-schedule approved vacation.

One example of what happened when the employer unilaterally rescheduled an employee's vacation went through the grievance process and was determined before an arbitrator. The employee requested vacation for the dates from December 20 until the end of the year.

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The request was made according to the process outlined in the collective agreement. The employer agreed to those days and posted them on the vacation schedule, also in accordance with the Collective Agreement. The employee made plans to attend a resort out of his home city during his vacation and committed to those plans by reserving a suite there.

The employer then, because of legitimate operational reasons, unilaterally cancelled part of the vacation. The employee grieved the cancellation. In asking for relief, the union asked for a declaration that the employer had violated the collective agreement and for a damage award because of the loss the employee had suffered as a result of his failed plans.

The arbitrator found that the employer's unilateral change to the schedule was a violation of the agreement. The arbitrator also determined that the employer should pay the employee a monetary award in the circumstances to reimburse him for the financial cost of her frustrated vacation plans.

For those who have scheduled vacation time for the festive season, relax. Enjoy your time away from work without having to worry about the employer calling you back to work without your consent. For those that are stuck working through the holidays, don't work too hard.



MAHCP Staff Long Service Awards



Congratulations to Cathy Langit, Administrative Assistant to the union, who received a 5 years long service award. Also congratulations to Gary Nelson, Labour Relations Officer, who also received a 5 years long service award (Gary was present at The Pas AGM Satellite location).

Congratulations to the winner of The Telephone Town Hall gift card, Alvaro Bras from Health Sciences Centre.



Members who participated in the Town Hall were asked to stay on a minimum of 20 minutes in order to be eligible for the prize. The prize winner was chosen from over 200 participants. Alvaro received his Coffee Card from President Bob Moroz just in time for Christmas!