IN THE MATTER OF THE VOLUNTARY BINDING COLLECTIVE AGREEMENT INTEREST ARBITRATION PROCEEDINGS

Between

Chartwell Master Care LP
Westcott Retirement Residence
("Employer")

And

Alberta Union of Provincial Employees
Local 047/062
("Union")

Arbitrator:	Mia Norrie
Appearing for the Employer:	Bob Bass & Amy Rezek- Counsel Jessica Thompson, General Manager Scott Ridgeway, Lead Negotiator Labour Relations Dave Pielas, Sr. Director Labour Relations
Appearing for the Union:	Bill Rigutto – Counsel Dave Malka, Kate Robinson AUPE observers Lee Watson

The hearing was held virtually on October 13, 2023, with additional submissions by the Union received on November 12, 2023, and the Employer on November 21, 2023.

Background

1. Chartwell Master Care LP ("Chartwell"), Westcott Retirement Residence ("Westcott" or the "Employer") and the Alberta Union of Provincial Employees ("AUPE" or the "Union") have been attempting to negotiate a first agreement between the parties and have agreed to proceed by voluntary interest arbitration to resolve outstanding matters.

2. Westcott is a privately owned retirement home located in the City of Edmonton. It is owned by Chartwell Master Care LP INC. The property was purchased in 2015 and the newly built residence was opened in early 2019.

3. Chartwell is a national senior living provider that owns and operates a range of seniors housing communities across Canada. Chartwell has six unionized retirement homes in Alberta. The service workers at the homes are represented by AUPE and the United Steel Workers. Four of the residences have collective agreements that have been negotiated or arbitrated and all sites are listed below.

Retirement Home	Union	Expiry Date
Eau Claire	AUPE	February 2023
Heritage Valley	AUPE	November 2022
Griesbach Valley	AUPE	November 2022
St Albert	USW	December 2022
Westcott	AUPE	1st agreement TBD
Emerald Hills	AUPE	1st agreement TBD

4. AUPE is Alberta's largest union, representing approximately 90,000 Albertans who work in government, health care, education, boards and agencies, municipalities, and private companies. Approximately 44,000 of its members work for public, private, not for profit and for-profit health care providers. Over 15,000 of them work in senior's care outside of the Alberta Health Services ("AHS") system. These members include both auxiliary nursing care and general support services roles.

The Bargaining Unit

5. The bargaining unit at Westcott is comprised of approximately 64 employees in the following classifications: Activity Aide, Dishwasher, Health Care Aide/Personal Support Worker ("HCA"), Licensed Practical Nurse ("LPN"), Housekeeping Aide, Server, Cook, Cook Assistant, Maintenance Aide, Driver, and Receptionist. HCA's being the most populous classification working approximately 23% of the employee group followed closely by LPNs who comprise 20% of the employee group.

The distribution of employees across the classification is as follows as of July 2023:

Position	No. of Full-time Employees	No. of Part-Time (casual) Employees
Activity Aide	1	1 (1)
Dishwasher	1	0 (3)
Server	1	0 (9)
Cook	2	0 (3)
Cook Assistant	0	0 (2)
Housekeeping Aide	2	1 (0)
Health Care Aide/Personal Support Worker	10	2 (3)
Licensed Practical Nurse	5	1 (7)
Receptionist	1	3 (1)
Driver	0	1 (1)
Maintenance Aide	1	1 (0)

Bargaining Background

6. Prior to unionization the employees of the bargaining unit were part of a local Association Agreement with the Employer that was in place from January 1 to December 31, 2021. It was signed and finalized on April 12, 2021.

7. AUPE organized the unit and were certified under Certificate number C2007-2022 on April 8, 2022. Notice to commence bargaining was sent by AUPE to the Employer on May 5, 2022, and the parties met in negotiations starting in September 2022 with the initial exchange of proposals occurring on September 28, 2022.

8. They met a total of nine times on the following days in 2022, October 4, October 26, November 16, November 28, November 29, December 7, and in 2023 on February 17, March 9 and April 13, but were unable to achieve a collective agreement. In the final exchange the Union proposed that in the interests of labour peace and achieving a first agreement that the parties adopt the terms of the Griesbach/Heritage Valley collective agreement. This was rejected by the Employer.

9. The Union filed for first contract assistance on April 18, 2023. Shortly thereafter the Employer suggested voluntary interest arbitration to resolve the impasse to settle the terms of this first agreement The Union agreed. I note that because of this agreement the parties did not engage in Enhanced Mediation so there are no recommendations for consideration at hearing.

10. The parties met after the hearing dates were set for this matter and were able to achieve agreement on several outstanding issues.

11. The parties agreed to proceed by way of a combination of written submissions and evidence presented at hearing. Based on the evidence and submissions of the parties, I am issuing the decision on the terms of the first collective bargaining agreement between the parties.

Items in Agreement

12. Where the parties were able to agree on items during the bargaining process, these items should be included in the renewal agreement. Any items agreed to prior to the referral to interest arbitration are incorporated in this Award.

Items in Dispute

13. The following list of articles were identified as the remaining issues in dispute between the parties at the time of the referral to arbitration:

Article 1	Definitions
Article 2	Term, Copies and Application of Collective Agreement
Article 8	Employer – Union Relations
Article 15	Seniority
Article 16	Job Postings
Article 18	Employee Orientation
Article 19	In-Service and Professional Development
Article 20	Hours of Work
Article 22	Overtime
Article 23	Named Holidays
Article 24	Annual Vacation
Article 25	Sick Leave
Article 29	Shift Differentials, Weekend Premium and Pyramiding
Article 30	Other Compensation
Article 31	Registered Retirement Savings Plan (RRSP)
Article 32	Health Care Benefits
Article 33	Layoff and Recall
Article 34	Casual Employees
Schedule A	Wages Includes Retroactivity

Union Opening

14. The Union opened with its submissions regarding the Canadian economy at the time of the hearing. It noted that in September 2023 tens of thousands of jobs had been added to the economy and the economist from the Royal Bank of Canada had described the job strength as high. Union counsel provided the information on the state of the economy to emphasize his argument of how the principle of replication should apply. The Union argued that an arbitrator sitting in deliberation on an interest arbitration must consider both the micro and macro economic data, which includes unemployment rates in the industry.

15. The Union argued that because of the demand and supply of labour the arbitrator must assess what the result of a freely negotiated collective agreement would be if the parties were able to exercise their right to strike. It submitted this is not a purely academic exercise and is grounded on the economic realties. Union counsel was extremely critical of the use of comparators in the context of replication. He argued that the problem with comparators is that they are manufactured in an artificial ecosystem as the employees in the industry have not had an effective right to strike for the last five or six years. This results in the workers not being able to exercise their charter right to strike to achieve increases.

16. It particularly highlighted that Chartwell has been very profitable and as a result its executives have received substantial wage increases and bonuses even throughout the pandemic. The Union asserted that this is due to the "emasculated rights to strike and the enabling of arbitrators ignoring replication principles in favor of granting over blown importance to 'comparators' created in an eco-system in which workers have been deprived of the right to inflict strike action on their employers." The Union argued that it is inappropriate to rely on comparators alone particularly given what it described as a sizeable discrepancy between the demand for labour and the paucity of supply.

17. The Union highlighted this is an essential services industry and while this table does not have an Essential Services Agreement and do not have a right to strike, the workers still have choices which the witnesses spoke to. It referenced bargaining surveys completed by staff which indicate that an overwhelming majority of those surveyed indicated that they had applied for another job in the prior 12 months and all of whom answered that if their conditions regarding wages, shift premium and sick time were not increased they would look for other employment.

18. It highlighted what had been occurring throughout 2022 and 2023 when workers exercised their right to strike and cited the examples of the auto workers at General Motors achieving 16% increases and the Federal Public Service Alliance of Canada realizing 17% increases because of strike action. The Union asserted that in the current market substantial concessions can be achieved from employers and this should result in substantial increases for the employees at Chartwell, especially when the executive of Chartwell was granted increases in their compensation.

19. Union counsel argued that if this is not the result then the system of arbitration will have failed these workers which will have a dire impact on the trust workers have in this process. He described this as leading to serious consequences which is a serious public policy issue.

20. The Union identified that its purpose in calling witnesses to highlight the realities in the field and provide a human context to the considerations in this case. It asserted that my decision should not be simply based on sanitized and dry evidence or data, such as comparators. Instead, I should consider the nature of the work, which is especially critical in the case of health care workers. The Union noted the evidence would establish the challenge of three years of working during the pandemic, which is even now still impacting the work of those in the long term and continuing care sector. The work itself was difficult and became more complex as a result, which the Union argued must be considered in evaluating the respective submissions of the parties.

Union Evidence

21. The Union called six witnesses: Dr. Rebecca Graff-McRae, a Researcher Manager at Parkland Institute; Richard Hyndman, the Union's economic expert; Jingle Sicat, a HCA and the Union Chapter Chair; Aura Peascual, a LPN and member of the bargaining committee; and Kate Robinson, lead AUPE negotiator. Cherie Lamb, an employee at a Revera property, Aspen Ridge, had her evidence incorporated into this matter by agreement.

22. Dr. Rebecca Graff-McRae, Researcher Manager at Parkland Institute at University of Alberta, has been conducting political policy research for the last eight to ten years predominantly focused on the Alberta context. She noted that she has overseen several projects in the long term and continuing care sector. She authored a report titled 'Time to Care' which examined the working conditions in the long-term care sector in Alberta. Dr. Graff McRae noted that there is often little data on the pressures on staffing and workload in seniors' care and the impact on care. She noted that within seniors' care research the conditions of work are considered the conditions of care which needs to be understood when making decisions.

23. Dr. Graff-McRae spoke to the methodology used in her report. She worked with an expert developing the questions and the University of Alberta research ethics group signed off on the survey. She then collaborated with CUPE Alberta to develop a survey to distribute to its members working in the long-term care sector. The members could reply by hardcopy through the mail or through an on-line portal between October 2019 and March 2020. It was supposed to stay open until April of 2020 but was forced to close on the cusp of COVID. Starting in February 2020 members indicated they were unable to participate fully due to the impact of the virus which was impacting their ability to do their job even before there was an official declaration of a pandemic in March.

24. During this period there was higher than normal illness amongst staff and residents, however there was no way to differentiate the differences in staffing before and after COVID. The study determined that there were staff shortages and that only worsened with the onset of the pandemic. There was a total of 370 responses which she described as a statistically significant response average for social science research, so the decision was made to close the study early.

25. The members shared their experience of violence, injury, indicators of burn out, emotional trauma and work-related stress impacts. This was correlated to the demographic questions such as their role and background which assisted in determining existing gaps and inequities in the generally complex long term care setting.

26. The study's conclusion was that there was a short staffing crisis in the industry even prior to the pandemic which normalized understaffing. 41% of respondents noted that there were never or seldom adequate staff to meet resident needs and only one in ten indicated their facility was never short staffed which means 90% indicated that their facility was short staffed once a week or occasionally.

27. Respondents were asked about the impacts on workload and whether there was enough time on shift to complete tasks. 70% indicated that they stayed beyond their shift to complete essential care tasks related to their role. 43% stated that they did not have time to complete tasks every day. When one considers that a huge percentage of the time spent by HCAs, LPNs, Dietary Aides and Physical Therapists is providing direct care to residents. In the narrative portion of the survey almost every respondent who replied spoke to wanting to provide a level of care to the residents that afforded them dignity and wellbeing. They noted a degree of personal emotional distress when not able to do so.

28. When asked what they would do with more time, Dr. Graff-McRae testified that the responses were astonishing as many could not answer the question as they had never had enough time, but the overwhelming response was to provide emotional and social care for residents, such as additional bathing, dental car, shaving etc. and talking with them more if they did not have to rush through activities. The conclusion was that most staff were unable to do the job the way it needs to be done to provide human dignity, safety and well being. This increases stress related conditions such as anxiety and burn out and has resulted in increasing numbers of those taking stress leave.

29. Dr. Graff-McRae testified that she has not personally done any additional research after COVID however Professor Naomi Lightman with the Parkland Institute interviewed a cohort of HCAs in Calgary in 2020 and 2021. This work focused on racialized and immigrant women who were disproportionally impacted by COVID and confirmed that all the baselines established in the Time to Care report deteriorated further in 2021. This included a lack of sick days and a precarity of employment for this population of workers caused by the lack of full-time employment benefits and the burden of the single site rule. It also reinforced that the resulting financial burdens, the level of understaffing and the additional workload required by COVID created an even greater risk to front line health care workers.

30. Dr. Graff-McRae cited the Canadian Institute for Health Information and data from her report, Time to Care, which found that the turnover of personal support workers, including HCAs, dramatically increased especially for non-permanent positions.

31. Richard Hyndman is employed at AUPE as an economic specialist and researcher and prepared the economic analysis submitted by the Union in support of its proposals. For this report he looked at the post pandemic economy from 2022 to 2024. His assessment was that the economy is still being impacted by COVID and that specifically the supply chain and labour supply are continuing to suffer. However, as the supply side is low but with a heightened demand side, Alberta is seeing an incredibly hot economy right now and based on forecasting will lead the country in the next three years.

32. Mr. Hyndman focused on two specific economic indicators, the labour market in health care and the impact on wages particularly in the months preceding the hearing. He noted that the lower labour supply but high demand for staff combined to create unemployment rates between 5.8% and 6%, which is below the long-term average. Alberta leads the country in vacant positions and to fill those positions the standard economic fallout is to raise wages to attract workers. Beyond the wage increases negotiated by unions, he used the fixed weighted index which is showing a 3% aggregate economy, while the figures

in health care and social assistance show increases in wages of 7.5% in 2022 and 16.2% in 2023. His premise is that the health sector is more difficult to staff than the economy more broadly and as a result the labour market is tight overall but worse in health care.

33. Mr. Hyndman noted that the increase in wages takes longer in the unionized sector as collective agreements are negotiated at a point in time generally prior to the changes in the economy. The 2023 collective agreement wage increases (table 10) included agreements that were settled at a prior point during COVID and are not reflective of the recent settlements which reflect an 2.02% national average wage increase.

34. Jingle Sicat is an HCA who has been employed at Westcott for approximately four years. She joined as a casual shortly after the facility opened approximately five years ago and a few months later became full-time on the 15:00 to 23:00 shift. She is currently Chair of the Union bargaining committee, Chapter Chair and a Local Council representative. She described that in these roles she has regular contact with the members and speaks or meets with many of them on an ongoing basis.

35. Ms. Sicat stated that there are approximately 67 active members in the bargaining unit, 30 or so that are full-time, 25 that are part-time and four or five that are on maternity leave. She noted that there are 30 or so casual employees that will occasionally pick up shifts when someone calls in sick or is on vacation, however only about 10% of the casual pool will pick up shifts at Westcott as they prefer to pick up shifts at their other jobs.

36. Ms. Sicat described that she worked through COVID and how it had a big impact on everyone's lives. She testified that she is the breadwinner in the family and is by herself in Canada so every day she would say a prayer not to get sick as it may mean she was not able to support her mother and brother back home. Ms. Sicat indicated that she did test positive for COVID and had to isolate so was unable to work. During this time her colleagues supported her and brought her food.

37. She was working full-time so put in for sick leave, however, was told that she did not have enough sick leave so the Employer used her vacation leave instead which upset her. When she confronted her manager to ask why she could not use her accumulated sick time, she was told that she was only allowed to use five sick leave days a year and she had been ill in January 2021. Ms. Sicat stated that she was saving her vacation to go home for a visit and as a result was forced to take three unpaid sick days. She later found out that two other employees had to also use vacation to take time off after testing positive for COVID. Ms. Sicat said that at that time Workers' Compensation ("WCB") was not mentioned.

38. Ms. Sicat described the importance of sick time for the employees at Westcott. The staff care for the residents and if they come to work sick, they may pass on any viruses or illnesses. Ms. Sicat stated that she works in the dementia unit and if those residents get sick it is very difficult to isolate them and as a result the illnesses spread quickly. The staff are looking for increased sick time of up to 10 days a year

and the ability to bank or carryover for the following year. She described it as important to the staff's mental as well as physical health.

39. Ms. Sicat noted that COVID is not gone and just last month there was an outbreak at Westcott and two staff members tested positive. Neither had enough sick time, so had to file WCB claims in order to be paid.

40. Ms. Sicat testified that she also works at Real Canadian Superstore and turned down the opportunity to be an Assistant Manager in her department as she wants to continue to look after the residents. She described that she loves her work and the residents, however if they do not get what they are asking for she may have to leave. She stated her belief is the staff are not asking for a lot but what they fairly deserve.

41. Ms. Sicat spoke to the fact that Westcott is short staffed, and a lot of shifts go unfilled. This means occasionally the concierge must help with dietary functions or the server must do prep cook work in order to get work done. She stated that work is often left undone due to the fact positions are unfilled. On the evening shift, Ms. Sicat noted that they are regularly short staffed in the kitchen and so others must help washing dishes and serving food. Often this means that when the LPN is helping in the dining room there is no one to administer medications. Ms. Sicat also described that they must do the housekeeping as well, including vacuuming, steam mopping, laundry and high touch sanitizing. The laundry is challenging as most residents are incontinent which necessitates laundry almost every day.

42. Ms. Sicat testified that of the 25 to 30 casuals at Westcott, most of them work at other sites and even if they are casual at their other job, they generally prefer to pick up hours there as there is better pay and shift premiums as well as the $2.00 top up from the government. Ms. Sicat noted that the staff at Westcott had never received the $2.00 top up. The fact that most of the casuals will refuse shifts exacerbates the short staffing issues and so vacation gets denied or hours get extended without overtime.

43. Prior to joining the Union, the staff operated under the rules of an Employee Handbook. The Handbook stated that after eight hours of work people would be paid overtime, however as so many people were getting sick it was extended to 12 hours before overtime would be paid. Also, if the employees worked two shifts on the same day but in different positions, for example a Recreational Aide and a HCA, there was no overtime. The Union was asking for overtime after 7.5 hours and the ability for staff to elect to have the time off or banked and this is a critical issue for the staff.

44. Ms. Sicat also provided detail on the importance of vacation leave to the members at Westcott. While the vacation time off is accrued, the staff are unable to go on vacation if no one is willing to pick up their shifts as they are told to look for their own coverage or it is not approved. The pressure from the short staffing and the refusal of casual employees to pick up shifts results in a great deal of difficulty for employees to get time off. She described situations where the employees may choose to give up their full-time position and go casual just so they can go on vacation. Approximately 95% of the staff are

immigrants and vacations are extremely important as they want to go home to visit family. She stated that if the Union's proposal on vacation was accepted, the staff would feel more respected and perform their jobs better.

45. Ms. Sicat also spoke to the current shift differential, which is $0.15 an hour for evenings and nights, with no premium for the weekend. The Union is asking for $2.50 for evening, $2.75 for night shift and $3.25 for weekends which she understands is comparable to other facilities and this is very important to the staff as it is more money to assist in covering the increasing cost of living. She noted the Employer was only offering a $0.05 per hour increase to shift premium and no weekend premium.

46. Ms. Sicat also spoke to the wage proposal of the Union which is 2% in 2021, 2% in 2022 and 2.25% in 2023. She testified that 2% is consistent with what the employees received annually when the Employee Handbook was in place, however the Employer is only offering a 1.25% wage increase. The last time staff received an increase was in 2020 when they received 2%. Ms. Sicat described the wage demands as so important that if they receive less than that staff will be so disappointed, they will quit.

47. Aura Peascual is a LPN at Westcott and has been employed since October 2020. Prior to that she was working at a private speciality clinic and has been an LPN since 2017. She is involved with the Union as a member of the bargaining committee, as a convention representative and as a Shop Steward at Westcott. She described that she speaks to her co-workers regularly and they share with her the difficulties they have encountered, especially through COVID and because of short staffing.

48. Ms. Peascual shared that as a LPN who helps out with scheduling, especially on the health care side, every day she is afraid they will be short staffed as part-time and casual employees will choose to work elsewhere which is particularly problematic now that the single site rule has been lifted. She believes this is mostly due to the lack of shift differential at Westcott.

49. Ms. Peascual recalled working more than eight days straight without receiving overtime because of insufficient staffing. She described times where her schedule was juggled without permission or notice so she had to work on days other than those regularly scheduled. She spoke to the fact that the Employee Handbook provided for overtime after eight hours of work, however now it is after 12 hours and is limited to only one position as opposed to when working two different positions. Ms. Peascual described this as a very important proposal to the employees. Some have threatened to leave if the terms and conditions are not improved, however she noted that the staff is great and there is a considerable amount of loyalty between co-workers.

50. Ms. Peascual also described how important shift differential is and stated it was one of the key points with staff saying if they do not get it, they will leave. She noted that the staff have confidence in the Union and the bargaining committee so are prepared to wait until this process is over before deciding. She believes that there will be a massive turnover in all departments if they don't get their "bottom line" as people are very frustrated.

51. Ms. Peascual also spoke to a current vacancy in the LPN group which has resulted in her having to work more than she should including getting extended to 16 hours when a co-worker had an emergency and there were no casuals or part-time employees to pick up the shift.

52. Ms. Peascual identified the importance of improving sick leave when working in health care as it is not realistic for staff to only get sick five times a year and if they get sick and are not paid it can be extremely difficult especially with the impact of inflation and increasing prices.

53. With respect to vacation, Ms. Peascual echoed Ms. Sicat in describing the difficulty in booking vacation. She noted an example where she had to cancel her vacation more than twice as she could not find anyone to cover her shift. Another staff member was told that even though she had accrued sufficient vacation to take three weeks off unless she found someone to cover her shift, she would lose her position. As most are immigrants who want to return to visit family, they quit and either get a job back at Westcott as there are so many job postings or they apply elsewhere.

54. Ms. Peascual also spoke to the fact that the staff received 2% a year before joining Union and she thinks that 2% is too little for the Union to demand, however they want to be realistic. For the Employer to offer less than 2% she considers insulting. If staff leave because they are unhappy with the outcome of the arbitration, she expressed concern that the quality of care may go down. Ms. Peascual identified that she has looked for other jobs and if sick time, shift premium and fair wages, including vacation and overtime are not addressed she will leave.

55. Cherie Lamb is a cook at the Revera Aspen Ridge facility in Red Deer and has been employed there since June 2007. At that time Revera was not the owner, and there have been a few owners in the intervening period. Her evidence was that AUPE became certified as the bargaining agent approximately 10 years ago when Symphony Senior Living owned the facility. The bargaining of the first agreement with Symphony started in 2012 and Ms. Lamb testified she was a member of the bargaining committee at the time. Her evidence was, there were fundamental issues separating the parties as Symphony was paying below standard wages, shift differential and sick time.

56. Ms. Lamb testified that during bargaining the Union made no headway and as a result, the Union took a strike vote in December which was unanimously supported by the members. Strike Notice was served in January and the Employer locked them out. Ms. Lamb stated that they were out on the picket lines in extremely cold conditions for five days. On the 5th day the parties met and achieved an agreement that reflected an improvement in sick time to 1.25 days a month to accumulate up to 120 days, and shift differential of $2.00 an hour and provided for stacking of premiums. Revera then acquired the site in October 2014 and the subsequent rounds of negotiation were with Revera.

57. Kate Robinson is the Lead Negotiator for AUPE and spoke to the individual proposals in the Union's submissions. Her evidence was that she formulated the Union's demands for this first agreement by looking for a base document, preferably a collective agreement between AUPE and this Employer. She

noted that are a few AUPE comparator agreements within this sector. She cited Eau Claire in Calgary and Griesbach in Edmonton, which at the time was in draft form.

58. Once they had base documents, she worked with the bargaining committee by going through every line and comparing it to several other agreements, including Alberta Health Services ("AHS") and the Steelworkers' agreement. Ms. Robinson noted that the Steelworkers' agreement is inferior to the AUPE agreements so did not draw on it much. The important elements in a first agreement from Ms. Robinson's perspective are the items that drove the employees to unionize in the first place, such as shift differential, vacation, RRSPs.

59. In terms of wage increases Ms. Robinson testified that they were guided by comparators and what is paid in the industry. She identified that they look to AHS, which is a public sector employer, whereas Chartwell is a private for profit which helps inform the Union's approach on wages, which is that the employees should be compensated fairly for driving profit. Ms. Robinson also noted that they look to the economic data and during bargaining inflation was creeping up which needed to be addressed in the wage ask.

60. Ms. Robinson then covered the specific asks in the Union's submissions that the employees identified as most important.

61. With respect to sick leave, she identified that there are two components, how quickly the sick leave accrues and how much they could have in the bank at any time. In Clause 25.01 the Union proposed that employees accrue 7.5 hours for every 150 hours worked to a maximum of 345 hours in the bank. The rationale for this is that in a seniors' home they were hit hardest by COVID and are regularly exposed to illnesses and disease. Employees in this environment are going to get sick and deserve time off to recuperate without worrying that they will not be paid. The Employer had offered 3.75 hour accrued to a maximum of 180 hours including carryover.

62. Ms. Robinson spoke to the importance of the vacation proposal, which is to improve the amount of vacation employees earn as they work as they are currently only getting employment standards which is the bare minimum. The vacation time is especially important to those employees who must travel to the Philippines or Africa to see family which is a journey of a couple of days just getting there. The only other option currently is to sacrifice their jobs. The employees are seeking improvements in vacation that allow then to take time off, improve the time off and allow carryover of unused vacation. Ms. Robinson noted that the issue of carry-over is more a language issue as the Union wants a carryover of five days with a request in writing by December 1 and a whole year to use it, while the Employer wants it used by April of the following year.

63. Ms. Robinson noted that the shift differential was one of the key reasons why the staff was interested in unionizing, as there is no weekend premium and only $0.15 for evenings and night shifts which is very uncommon in health care. She addressed that the reason why the Employer can not fill

shifts on weekends, evenings and nights is because other employers offer better premiums so employees would prefer to work there.

64. With respect to the wage demand, Ms. Robinson noted that inflation has been hovering around 2% per year and despite the Employer having paid 2% per year prior to the Union being certified, it is offering less. She posited that the 2%, 2% and 2.25% is a reasonable ask given the economics and the comparative for profit players in this sector.

65. Ms. Robinson then covered the remaining matters in dispute. She noted that the term is still outstanding as it is tied to wages. The Union's position on each of the outstanding items will be covered in the discussion on each issue.

FACTORS FOR CONSIDERATION

ECONOMY – THE UNION

66. The Union highlighted that Chartwell is the largest provider of Canadian seniors housing with over 200 locations across Canada as of March 31, 2020. It is a publicly traded corporation with market capitalization of $2.81 billion and assets of $3.4 billion. The Union highlighted that its CEO, Mr. Vlad Volodarski earned $1.91 million in 2020 and a bonus of $323,967.00. In 2021 this amount rose to $2.1 million in salary and $462,000.00 in bonuses. It also noted that the other top executives in the corporation earned significant bonuses as well, which they earned because of the labours of their employees.

67. The Union took exception with the Employer's economic analysis and asserted that it mischaracterizes the state of Alberta's economy by relying on less relevant criteria than the Union. The Union also asserted that the relevant period for the economic analysis is in dispute. The Employer submitted that the current economic conditions are not relevant as it asserted that the replication principle "means that the award should reflect the economic conditions and settlement trends at the time of the renewal of the collective agreement."

68. The Union asserted that in fact, with respect to the economic evidence there is a difference between term and timing, term being the period the economic evidence covers so the proposed period of the collective agreement and timing being the date that economic evidence was created. The Union interprets this distinction to be that if there is a forecast for real GDP created in 2022 to cover 2022 to 2025 and another created in 2024, the later by definition will be more accurate as it is less of a forecast.

69. This difference is described by the Union as the Employer relying upon the economic conditions at the start of bargaining or what was available when the Union became the certified bargaining agent, April 8, 2022. Whereas the Union asserted that it is from the commencement of bargaining to the date of the arbitration that is relevant. The Union cites Arbitrator Kaplan in *Ontario Power Generation and the Society of United Professionals*, 2023 CanLii 37956, in support for its argument that there is no arbitrary cut off for consideration of the economic data, instead the arbitrator is to look to the period of time up until

arbitration and other settlements and awards to replicate what would have been the information available to the parties at the bargaining table.

70. The Union also took exception to the Employer's reliance on economic data from March and April 2020 which was not only prior to the start of bargaining but also before the proposed term of the agreement. Further it noted that the Employer's economic data was a research bulletin from the Fraser Institute from February 2021 which predates the period of collective bargaining and several sources from 2023 which is the time period that the Employer argued should not be relied upon.

71. The Union took the position that even if the award should reflect the economy at the time of renewal, then the period for analysis should have been on or around April 8, 2022. The Union noted that during that period Alberta's Real GDP Private Sector Forecast show that the Alberta economy was in a strong position over the proposed term of both collective agreements.

72. The Union spent time in its submissions dealing with the ability to pay argument which was not advanced by Employer so is not relevant to my deliberations.

ECONOMY – THE EMPLOYER

73. The Employer in its submission noted the significant negative impact of the pandemic on the global economy, and particularly Canada. It cited the Fraser Institute in February 2021 noting the budget deficits and increasing debt facing the federal and provincial governments. The Employer relied upon data from 2020 in highlighting the precipitous drop in the Canadian economy, the plummeting oil prices and the increase in unemployment during that period. The Employer did provide some data from August 2021 to support its argument that while the economy is "allegedly improving in Alberta", the indicators declined due to a resurgence in COVID at the time. It categorized the economic environment for the term of this agreement as "terrible" and that "the risk of recession is looming for 2023." It submitted that the collective agreements negotiated during this period are the best overall measure of the relevance of the economic climate.

74. The Employer asserted that the replication principles means that the award should reflect the economic conditions and settlement trends at the time of the renewal of the collective agreement. It argued that this would be at the expiry of a previous agreement and to consider the current state of the economy would distort agreements that should otherwise have been settled at an earlier point in time.

75. Employer relied upon a 2009 decision of Arbitrator Gray in *Hanover and District Hospital and O.P.S.E.U.*, unreported, as support for the concept that changes in circumstances prior to arbitration, in that case a funding cut announcement, should not be considered as it was after the period in which the agreement expired and when he theorized it would otherwise have been settled prior to the date of arbitration as the issues "were not the stuff of long strikes." He instead used comparable agreements to establish the terms and conditions.

76. The Employer emphasized that as interest arbitration is a substitute for strike or lockout sanction it must replicate what the parties might achieve and not to reward the Union because it does not have the right to strike. Its interpretation of replication is that this is for the period of time when the parties themselves had to make those judgements (*Pinecrest Home for the Aged and C.U.P.E*. 1995, (Mitchnick)) It asserts that replication relies upon a similar time frame in which the parties may have accepted in a free collective bargaining situation.

77. The Employer argued its position is reasonable as there are no renewals within the period for comparison.

78. The Employer confirmed it is not advancing an inability to pay argument and noted that it is only relevant if the Employer were seeking to reduce an otherwise appropriate increase due to its financial circumstances and it is not.

WAGES IN PRIVATE AND PUBLIC HEALTH CARE EMPLOYMENT – THE UNION

79. The Union submitted that the unemployment rate in health care is substantially lower than the national and provincial averages and in the first two months of 2023 hovered between 1.6% and 1.9%. This demonstrates that the demand for labour far exceeds supply resulting in labour shortages. It cited the Government of Alberta's Ten-Year Occupational Outlook (2021-2030) which anticipates exponential growth in health care and in particular auxiliary nursing and notes the aging population as one of the causes. The Outlook also predicts approximately 100,000 openings with 1/3 coming from expansion and 2/3 coming from replacement.

80. The Union argued this aligned with the evidence at hearing which highlighted the short staffing issues at Westcott and the impacts of this on staff. It also relied upon the evidence of the survey results of staff, a majority of whom indicated they would leave if their demands were ignored. The Union asserted that this is evidence that must be used in the replication analysis as it establishes beyond a balance of probabilities that the employees would exercise their right to strike if that was possible.

WAGES IN PRIVATE AND PUBLIC HEALTH CARE - EMPLOYER

81. The Employer advanced the average wage increases for the 2021 to 2024 as tracked by the Government of Alberta and highlighted that the Health Care and Social Assistance weighted average percentage increase was 1.82% for 2022 and 1.95% for 2023 as of December 2022.

82. The Employer further submitted that while the Union has advanced an argument of staffing shortages, the retention of fulltime employees at Westcott demonstrates that the current compensation and employment conditions are sufficient to meet the competing forces of supply and demand. It noted that Westcott was opened in 2019 and 74% of the current full-time staff were hired in 2019. The turn-over in part-time employees within the retirement home sector is normal as part-time employees tend to be more mobile as they leave to find full-time positions or increased hours of work.

COMPARATOR AGREEMENTS – THE UNION

83. The Union identified that the most relevant comparators are those negotiated by similarly placed parties for a similar timeframe, in a similar industry and the same or similar location. For this matter the Union provided more than 40 comparator agreements and argued that significant weight should be placed on AUPE collective agreements in the long-term care, supportive living, independent living, and nursing care industry in Alberta in the same or similar locations. It acknowledged that the more recent comparators have been achieved in a post COVID environment and are more sensitive to the current economic realities.

COMPARATOR AGREEMENTS – THE EMPLOYER

84. The Employer submitted that the most appropriate comparators for this Arbitration are the Chartwell Retirement Homes, particularly those located in Edmonton. It provided a broader scan of retirement homes and designative living supportive site agreements in Edmonton and across the province on the financial issues. However, the Employer argued that the AUPE and Chartwell first agreements are the most relevant, specifically at Griesbach & Heritage Valley in Edmonton and Eau Claire in Calgary.

LEGAL PRINCIPLES - THE UNION

85. The parties were in general agreement as to the legal principles for interest arbitration, however there was significant disagreement as to how the principle of replication should be applied in this matter. The Union spent considerable time in its submissions on this issue as it has described this arbitrator as having previously exercised a slavish and one-dimensional analysis that placed far to great a weight on comparators and instead encourages that I consider what the employees would do or achieve in the event of a strike. As a result, I will outline the Union's submissions in some detail.

86. The Union took exception to the reliance on comparators for the purpose of establishing the terms of a collective agreement at arbitration. It relied upon Arbitrator Smith in *Southern Alberta Institute of Technology and AUPE. Local 39*, 111 C.L.A.S. 255, wherein she cited Arbitrator Sims in noting that the statutory framework for compulsory arbitration is to replicate as "closely as possible what the parties may themselves have achieved had they the right to use the weapon of strike and lockout." Arbitrator Smith echoes this in *Carewest and AUPE*, unreported, October 9, 2013.

87. In *Newport Harbour Care Centre Partnership and AUPE. Local 48, Re*, 113 C.L.A.S. 130, Arbitrator Sims stated that "…the task of an interest arbitrator is to simulate or attempt to replicate what might have been agreed to by the parties in a free collective bargaining environment where there may be the threat and the resort to a work stoppage in an effort to obtain demands…and arbitrator's notions of social justice or fairness are not to be substituted for market and economic realities."

88. The Union also quoted the case of *University of Toronto and University of Toronto Faculty Association,* (2006) L.A.C. (4th) 193 (Winkler), which describes replication as "using agreements entered into by others as a key indicator of what these parties might have ultimately accepted in a free collective bargaining situation. While replication is not the same as comparability, the latter is the best guide in assessing the former." The Union's argument appears to draw a distinction between freely negotiated settlements and interest arbitrations.

89. The Union highlighted the factors for consideration to be used by interest arbitrators as outlined in *Northern Alberta Institute of Technology and A.U.P.E.*, [2009] C.L.B. 1756, and *Halifax (Regional Municipality) and I.A.F.F. Local 268* (1998) 71 L.A.C. (4th) 129 although the list is described as non-exhaustive, in order to be fair and reasonable overall the arbitrator must consider the economic and social climate inclusive of the cost of living, productivity, comparisons internal, external and outside industry as well as the profile of the labour force to be considered. The Union asserted that the macro, meso and micro levels of assessing the economy should be taken into account in the setting of wage rates by the interest arbitration process.

90. The Union submitted a recent case of Arbitrator Kaplan out of Ontario, *Participating Hospitals and CUPE/OCHU & SEIU,* unreported, June 2023. Arbitrator Kaplan identifies that the historical pattern of comparators in the case before him were only achieved in an environment with no right to strike. In that case Arbitrator Kaplan awarded significant wage increases of 4.75% in 2022 and 3.5% in 2023 having consideration for the economic realities and the bargaining context of the corrosive impact of inflation on wages and what he called a "true RN recruitment and retention crisis in Ontario hospitals."

91. The Union cited several Chartwell awards out of Ontario in support of awarding normative wage increases that are economically more appropriate and justifiable. They are *Participating Homes & SEIU,* October 2, 2022 (Stout), *Chartwell & C.L.A.C.,* May 4. 2023 (Jesin), *Chartwell & O.P.S.E.U.,* September 19, 2023 (Wilson), *Chartwell & U.S.P.F.R.M.E.A.I.S.W.I.U.*, August 4, 2023 (Wilson), *Chartwell & CUPE*, August 3, 2023 (Wilson) and *O.P.S.E.U. & Chartwell*, November 16, 2022 (Jesin).

92. The Union asserted that the consideration should not be on comparators, but to properly implement the principle of replication, I should instead rely on the strong evidence of the employees who testified at the hearing and the survey that stated 90% of the employees are seriously considering changing employers and industries because of poor working conditions. It stated appreciation for the tremendous efforts of these essential workers should be an improvement in terms and conditions.

93. The Union submitted that the impact of the COVID pandemic on the working conditions of the employees must be considered in making my determinations. In addition to the risk of illness and the impact of COVID as a "persistent and dangerous health threat", there is the rising rates of violence experienced by health care workers in continuing care environments.

94. The Union cited two interest arbitration cases in support of considering dangerous working conditions as relevant to the determination of compensation. These cases involved firefighters, *St. John Firefighters Association (Local 1075) and the City of St. John,* January 6, 2014, and *Moose Jaw Fire Fighters Association (I.A.F.F. Local 553) and City of Moose Jaw*, April 10, 2015, to stand for the principle that work in this sector is now a "dangerous occupation" and it is appropriate for an arbitration board to consider this factor when making its determinations.

95. The Union argued that should be considered in accordance with the principles of s. 101(b)(iv) of the Labour Code, which outlines that the arbitration board is to consider "any other factor that it considers relevant to the matter in dispute." As per the decision in *Moose Jaw Fire Fighters, supra*, which the Board stated it considered the dangerous nature of fire fighting when making its deliberations. The Union relied upon the evidence of the staff at hearing and the reports of Dr. Graff-McRae to advance the argument that the new physical and psychological dangers presented by COVID means that work in long-term care needs to be recognized as dangerous work. It advanced the premise that as staff are more at risk for long COVID or post-COVID conditions and as a result the hazards of working in continuing care are greater than pre-pandemic.

LEGAL PRINCIPLES – THE EMPLOYER

96. The Employer highlighted the First Agreement principles that first agreements do not typically reflect the industry standards that may be reflected in mature collective agreements which are the result of years of negotiation and that changes arising out of a first agreement process are incremental as much of a first agreement codifies status quo. It cautioned against breakthrough provisions in a first agreement. Further it argued that a first agreement should not be either a "standard agreement" nor should it be status quo (*Yarrow Lodge Ltd.* and *Bevan Lodge Corporation* CITE).

97. Employer disagreed with the Union's interpretation of the principle of replication. It agrees that the award should reflect what the parties would have achieved had they exercised their right to strike or lockout. The Employer asserted that the adverse economic climate supports that strikes or lockouts are not as common as parties respond to difficult economic times. Arbitration must reflect labour market realities and not be decided based on an arbitrator's notion of fairness or social justice.

98. The Employer advanced the argument that replication requires a demonstrated need to change, and that arbitration is not a process of splitting the difference. It emphasized that arbitration is a conservative process (*Ten Participating Nursing Homes and SEIU* (1987) (Stanley) and *Participating Hospitals and London and District Service Workers' Union, Local 220* (1982) (Barton)).

99. The Employer noted that the concept of total compensation must be considered, which is the aggregate cost of all the proposed improvements. This includes all wages and forms of benefit that represent a cost to the Employer. It emphasized that while individual improvements may appear reasonable, the cumulative effect must be considered to determine what is appropriate in the circumstances.

100. The Employer asserted that the Union has brought forward a lengthy and costly set of proposals to arbitration. To replicate the results of free collective bargaining, the Employer argued that the Union should not be rewarded for its long list of asks as it did not have to make "tough choices in their negotiating position" (*SIEU and 45 Participating Hospitals,* (1981) (Weiler)).

101. The Employer noted that the Union is seeking improvements in nine areas of the collective agreement that impact compensation: wages, professional fees, named holidays, vacation, sick leave, shift and weekend premiums, in-charge pay, RRSP and Health Care Benefits. The Employer provided a Total Compensation comparison amongst 52 unionized Retirement Home agreements in Alberta.

102. The Employer argued that the best evidence for replication is to be found in collective agreements involving the same or similar parties in the same sector and environment.

ANALYSIS

103. The parties have both laid out their positions with respect to the applicable principles to be applied in this matter. While there is little substantive difference in their recitation of the case law, I will cover the general concepts and address in more detail the one area of difference which is with respect to the application of replication.

First Contract Arbitration

104. The panel in *Yarrow Lodge* affirm the criteria laid out in the case of *London Drugs Ltd.,* BCLRB No. 30/74 [1974] 1 CLRBR 140 and at page 33 lays out its own guidance as to what terms and conditions should be applied when determining terms and conditions of employment:

1) A first collective agreement should not contain breakthrough or innovative clauses; nor as a general rule shall such agreements be either status quo or an industry standard agreement.
2) Arbitrators should employ objective criteria, such as comparable terms and conditions paid to similar employees performing similar work.
3) There must be internal consistency and equity amongst employees.
4) The financial state of the employer, if sufficient evidence is placed before the arbitrator, is a critical factor.
5) The economic and market conditions of the sector or industry in which the employer competes must be considered.

105. The case law instructs that the contract should neither reflect a "status quo" nor a "standard agreement" and should be determined on a case-by-case basis. It is not intended that a first agreement between the parties mirror a mature agreement negotiated over years of collective bargaining. As noted by the Employer in its submissions, the first agreement is in and of itself a major change to the operations and not all gains are made by the Union in one round. I agree. However, it is also relevant to note that a first agreement is also not intended to be "business as usual" for the Employer with the Union to only able to achieve an agreement that simply codifies status quo with incremental movement

to be achieved in future bargaining.

106. To this end there should be caution exercised such that proposals not able to be achieved at the table are not granted without justification or the use of comparators. There should be pressure on both parties to engage in meaningful negotiations as opposed to being awarded a breakthrough at arbitration. Further to the extent that the mature agreements may have the same or similar provisions does not automatically establish an "industry standard". To achieve the right balance, one must rely on the dual framework principles of "replication" and what is "fair and reasonable in the circumstances." (*Yarrow, supra,* at p. 32)

Interest Arbitration Principles

107. The legal principles to be applied to the interest arbitration process are generally well understood. The decision of Arbitrator Sims in *Newport Harbour Care Centre Partnership and AUPE Local 048 Chapter 014*, [2012] A.G.A.A. No. 65 lays out the principles in more detail. I will not replicate the excerpt in its entirety here but instead will summarize the key elements as follows:

a) Interest arbitration seeks to replicate what the parties would have achieved through free collective bargaining.

b) An arbitrator's notions of social justice or fairness are not to be substituted for market and economic realities.

c) A party advancing a position carries the onus of presenting cogent evidence to support that position.

d) Regardless of whether an individual benefit may seem attractive or well supported is not sufficient, it is not viewed in isolation but is instead determined on a package basis having regard for total compensation.

e) Replication involves an exercise of evaluating comparable settlements negotiated by similarly placed parties for a similar timeframe in a similar industry as a key indicator of what the parties may have accepted in a free collective bargaining situation.

108. As Arbitrator Casey noted in *Signature Living (Rocky Ridge)* at para 42:

> "Interest arbitration is not a scientific process. There is no magic formula. A party advancing a particular position carries the onus of presenting cogent evidence to support that position. This does not equate to an issue-by-issue approach where benefits are awarded because they seem individually attractive and well supported. Collective bargaining involves choices between desirable benefits, and agreements are settled on a package basis."

109. It is clear the interest arbitration process should be conservative, not reward a failure of a party to establish a demonstrated need, to set priorities or to reasonably propose language that reflects these factors (see *Dufferin County Board of Education and OSSTF; Metropolitan Toronto Boards of Education and Teachers Dispute Act*). It is not the job of an interest arbitrator to guess as to what would work or be acceptable or to compromise between the positions to split the difference.

110. The following quote from Arbitrator Stanley in the *Ten Participating Nursing Homes and SEIU* 1987 decision captures this perfectly:

> "Arbitration is a conservative process. There must be a demonstrated need for change before we can address ourselves to the question of what change is acceptable. The Arbitration process should not be viewed as an opportunity to make changes in a collective agreement based on philosophical preferences. In this way it should closely resemble the collective bargaining process which, in our experience, tends very quickly to focus on settling real practical problems and setting aside those proposals that stem from both parties simply seeking what would be, from their point of view, a better agreement."

111. It is understood that the arbitrator's view of fairness or what may be preferable language or potentially what may be a more attractive or elegant solution is not relevant. The exercise is one of objective analysis and to replicate, to the extent possible, what agreement the parties would have made had they not hit impasse. I believe the best evidence of this is to look at the comparator agreements.

112. The Union argued the best evidence of replication is the testimony of the employees and the surveys admitted into evidence as opposed to comparator agreements as it arguably underscores the impact of what could be achieved in a strike.

113. I would like to address the Union's argument regarding replication in some detail as it has suggested that the appropriate application of replication in this case is to assume that the employees would not have accepted the Employer's terms of settlement and gone on strike. Then they ask that I assume the Union would have achieved all its demands by going on strike and used the example of Aspen Ridge in Red Deer as described by Ms. Lamb where the Union was successful in getting significant improvements after a five-day strike.

114. The Union has harshly criticized this arbitrator specifically in its submissions for "slavishly relying on comparators" when instead the argument appears to be that I should create out of whole cloth a scenario where, despite any objective data to support its position, I imagine what might have happened if a strike had occurred. It argued this is how the principle of replication should apply as numerous arbitrators have cited the concept of replicating what the "parties might have ultimately accepted in a free collective bargaining situation" and in this case that would mean if the employees had a right to

strike, they would have achieved all of their priority demands as "these workers would not have compromised and for which they would have utilized the inexorable power to withdraw their labour."

115. I can not disagree more with the Union's interpretation of this principle and in fact the same arbitrators that they quote in support of their premise go on to clearly state that one must use objective data and that "replication is best achieved by considering the settlements achieved by "similarly placed parties for a similar time frame and in a similar industry" (Sims, *Newport Harbour, supra*). While "replication cannot be definitive as it is, by design, speculative in nature requiring consideration of many factors. The act of attempting to create replication "is an art, not a science" and "the focus is on market and economic realities, and not abstract notions of social justice or fairness. An important guide is comparability—that is, settlements reached between similar parties, for a similar time frame, in a similar industry." (United *Nurses of Alberta v. Alberta Health Services*, (unreported), January 10, 2020, Arbitrator Jones at para 53).

116. Arbitrator Smith in *AUPE, Local 39 v Southern Alberta Institute of Technology,* [2012] A.G.A.A. No.31 provided additional guidance on the use of comparables.

> "[34] … With respect to how the replication goal is to be achieved, the primary source of guidance in assessing the proposals of the parties is what has been achieved by others through the collective bargaining process, which requires the use of comparables (Sims, *NAIT v. AUPE*, p. 5). But the use of comparables requires careful scrutiny by the CAB to ensure that it is not ignoring the tradeoffs that may have been given to achieve the provision that is now sought through a compulsory arbitration process. To do so may result in a collective agreement that fails to meet the reasonableness test because it does not reflect the fact that while each item that is put forward from various agreements that have been achieved may appear reasonable, it will result in a total compensation package that fails to reflect the tradeoffs that may have occurred in bargaining to achieve a particular result in one collective bargaining circumstance: *Colchester South Police Union and Colchester South Township Police Committee*, cited by Sims, *NAIT v. AUPE*, p. 6-7."

117. Arbitrator Picher noted *Crane Canada Inc. and Teamsters Local Union 419*, unreported decision, September 9, 1988 at p. 9

> "…interest arbitrators should apply the replication principle, using agreements entered into by others as a key indicator of what these parties might have ultimately accepted in a free collective bargaining situation. While replication is not the same as comparability, the latter is the best guide available in assessing the former. Arbitrator Picher summarized the comparability approach as follows:
>
> ... the exercise becomes primarily comparative. It is reasonable to assume that the parties would have made a collective agreement generally comparable to others in the same industry and geographic area. A first point of reference, therefore, is the collective agreement which have been freely negotiated between similarly situated Union and employers within the same industry and within the same or similar locations."

118. Most critically, replication does not mean the arbitrator must be guided by what particular parties say they would or would not agree to. Arbitrator Hope in *Board of Governors of Lakeland College v. Lakeland College Faculty Association* [2015] Canlii 13387 (AB GAA) No. 9 has said this of replication:

> "Returning to the concept process of replication, it is essential to realize that a board of arbitration is not expected to embark upon a subjective or speculative process for divining what might have happened if collective bargaining had run its full course. Arbitrators are expected to achieve replication through an analysis of objective data from which conclusions are drawn with respect to the terms and conditions of employment prevailing in the relevant labour market for work similar to the work in issue. …
>
> The subjective approach has been rejected for the very reason that it is subjective. That subjectivity, in the context of an interest arbitration, would require a board of arbitration to speculate on where the parties may have ended up in the dynamics of collective bargaining if they had been permitted to exert a full range of economic pressure …
>
> The replication approach, or, as Professor J.M. Weiler describes it, the attempt to simulate the agreement the parties would have reached in bargaining under sanction of a lock-out or strike, relies on a market test which consists of assessing collective agreements in relationships in which similar work is performed in similar market conditions. The terms and conditions of employment thus derived are, as stated, referred to as the prevailing standard or prevailing rate.
>
> *Re: Beacon Hills Lodges of Canada and Hospital Employees Union*, March 31, 1995 (1985) 19 L.A.C. (3d) 288, at 304-305

119. I appreciate that the Union is encouraging consideration of factors other than simply comparability, and I agree the analysis should not be limited to solely what the comparable agreements have settled for. However, the extent to which it influences the ultimate determination is a factor of balancing all factors for consideration including, the economic conditions, recruitment and retention, wages, cost of living, trends, and any other factor the arbitrator considers relevant.

120. I would like to recognize the testimony from the staff who came to describe the challenges they have faced over the last three years. There is no question that COVID created an exceeding difficult time for everyone, but most particularly those working in the health care sector. The employees have had to provide care to an extremely vulnerable population during a very stressful time during which their work put themselves and their families were at risk. I appreciate the human face the employees put on these issues, and it was very compelling testimony. I have considerable respect for all employees who persevered through these challenges and have the deepest empathy for the personal struggles they described.

121. While there is no question that the dangers presented by the pandemic changed the risks and hazards in the workplace in many occupations, I can not accept the Union's argument that this work is best compensated as a "dangerous occupation" akin to firefighting. The Union's submission is that I should consider a "premium" as a result however does not quantify or provide specific proposals as to what impact this would have on wages.

122. I do note that during this very challenging period, the Union has freely negotiated and ratified multiple collective agreements for other similar sites and bargaining units that do not include any monetary recognition as it seems to be suggesting here. Therefore, it would be a breakthrough and I do not believe is appropriate in these circumstances.

123. Further, the Union has described that in its view, there are serious concerns over staffing shortages and the ability for the Employer to attract and retain staff. It cites provincial data and the evidence of staff with respect to staff shortages. The Employer has denied that it has an issue with attraction and retention at Westcott and identified the current turnover is not problematic. Where the Employer has not identified issues with staffing at the site, I am unable to definitively address the issue of retention and recruitment at this site within the Award.

124. I do take note that it is clear that there are significant challenges facing health care and the forecast for the future is bleak. I do not doubt that there will have to be a reckoning in the future on the shortages of qualified staff. I also heard uncontroverted evidence from the Union employees as to the frequency of staff shortages and the impact on their own health and wellbeing. This is concerning and can not be ignored in making my determinations.

125. The Union submitted that the employee surveys which overwhelming stated that if the expectations of the staff were not met, they would leave. It has laid out the key priorities for the staff and that evidence was helpful, however the Union's position that all its priority demands must be met, or the staff will leave is extortive. I appreciate the expectations of the members are to see improvements in their working conditions and compensation, and well they might, however this can not trump the objective data that exists to support the appropriate terms for a first agreement between the parties.

126. In addition, I must address the Union's assertion that I am to assume it would have achieved all its priority demands had it only the opportunity to strike and I would note the Union has provided in its own submissions the following quotation from Arbitrator Smith in *Carewest and AUPE*, unreported, October 9, 2013,

> "Additionally, arbitrators have cautioned that it is necessary to examine the effect and implications of the totality of the proposals presented. Viewing each element in isolation without a consideration of the whole of the proposal fails to recognize the collective bargaining involves a series of compromises and trade-offs to achieve an overall settlement that both parties can accept. No party to such a process does or can expect to achieve all of which is sought."

Comparator Agreements

127. The Employer highlighted an excerpt from a recent interest arbitration decision of mine between Revera Scenic Acres and AUPE where I determine the appropriate comparators to be used for the purpose of replication in that case as follows:

> "I accept that the best comparative collective agreements are those in the similar industry and sector, which in this case is the retirement home sector and those between the same or similar parties. I reject the Union's argument that those agreements the Employer has negotiated with other Unions are not relevant. I find they are appropriate for me to include in my deliberations. Having said that I find the best comparators to be the Revera collective agreements negotiated by the Employer with AUPE. To a lesser extent the broader universe of retirement homes in the province are also relevant, particularly those in the Calgary and Edmonton markets."

128. This is not a question of my applying a social justice lens to this matter, it is important that I am able to determine in an objective way what constitutes replication based on the facts presented by the Union. To this end, I believe that the use of comparator agreements negotiated or concluded for the same period by the same parties in the same or similar locations provides the best guidance as to the appropriate terms and conditions. To consider these agreements settled over this period would naturally take into account the impact of COVID, the economy overall and the appropriate terms of settlement for this first agreement.

129. I acknowledge that replication and comparators are not the same. The use of comparators is an inexact science as it is not possible to evaluate exactly what the total compensation of each agreement was at the time it was negotiated. Nor is it appropriate to simply do a line-by-line review to establish an "industry standard". However, when you have comparators that are so similar in all respects, it is excellent guidance when attempting to establish replication as we have some idea what these parties have freely negotiated and what terms have been ratified. This is why the Chartwell agreements and in particular first agreements with this Union and sites in Edmonton are the best guidance as to what the parties would settle for in a freely negotiated context.

130. Therefore, the most compelling comparators for the purpose of this arbitration are those first agreements between this Employer and AUPE, in particular Griesbach and Heritage Valley in Edmonton and Eau Claire in Calgary. I note this was suggested by the Employer at arbitration as the appropriate comparators and were relied upon heavily by the Union in its submissions. This is subject of course to additional considerations such as the impact of the economy.

The Economic Data

131. The economic report submitted by the Union was helpful as it reinforced the general patterns of settlement in the industry. It did not provide any information that was controversial as to the economic headwinds still facing the Alberta economy, however not surprisingly it was generally more optimistic in its view than the Employer's submission. The information provided focused on the impact of the economy currently, however, there has been significant volatility over the period relevant for this decision.

132. I agree with the Union that the proper framework for consideration of the terms for settlement, particularly the monetary items, is to look to the relevant period during which the parties would have been negotiating, from certification to the date of the hearing. The Employer's argument focused on when bargaining broke down and submitted that the period up to the point of arbitration should not be relevant. This is not the state of the law. Any changes in the economy during the period of negotiations should properly be considered and certainly an arbitrary cut off at the time when bargaining was entered into is not appropriate.

133. As a result, the economic data between April 2022 and October 2023 is relevant for my consideration. This includes the actual data and the forecasts in place currently with respect to any future impacts. Having said that, whether forecasts exist that suggest there may be a recession or a precipitous drop in oil or wages for a period after the term of this agreement, I do not consider as relevant.

134. As a result, we do know that the economy in Alberta has recovered significantly and that is reflected in the price of oil and in the impact on real wages. In addition, during the period of these negotiations employees have been hit with incredibly high rates of inflation, which are down from their peak in 2022 but are still hovering in the high 3 to 4% range, along with crippling interest rates which will continue for the foreseeable future.

135. These economic factors have been considered recently in several decisions across the country. I agree with the Employer that the results of the arbitrations in Ontario in the Hospitals sector are not comparators for our purposes as there are dramatic differences in the term and conditions between the provinces. However, the reasoning of arbitrators in how to approach interest arbitrations, particularly when there are limited to no comparators is relevant. I do agree with the submission of the Union that the decision of Arbitrator Kaplan in *The Participating Hospitals and CUPE/OCHU & SEIU (Bill 124 Reopener)* unreported, Jun 13, 2023, is relevant to my considerations.

136. Arbitrator Kaplan took specific note of the following at page 28:

> "It would have been wilful blindness for the Gray Board to refuse to consider the dramatically changed economic context and settlements and awards from all sectors that reflected what was actually occurring, especially in freely bargained outcomes. It is factually and legally significant that in fashioning its award, the Gray Board looked at absolutely everything: it examined, as set out above, settlements in sectors beyond health care including Ontario and federal governments, teacher, municipal police, the OPP, fire fighters, LCBO, municipalities and energy. We agree with this approach given the equally dramatic and profound changes to the economic landscape before us."

137. Arbitrator Kaplan supported the use of settlements not usually considered when there are limited to no comparators that have been negotiated during the period of a vastly different economic climate. For my purposes this consideration of the state of the economy and the settlement trends more broadly must be considered. Even though there may be collective agreements with agreed terms of settlement that cover 2022 and 2023, where these rates were negotiated prior to 2021 they did not, nor could they have contemplated the economic realties currently being confronted by the parties. The use of this lens results in there being an extremely limited number of comparators in the retirement home sector in Alberta, as was confirmed by the Employer in its submissions, and therefore it compels consideration of settlements more broadly.

138. When the economy has been exceedingly volatile, I acknowledge one should not apply a 2023 lens retrospectively to previous years, however the economy at the time of negotiations is a critical consideration. While this aids my determination on general increases, it does not necessarily provide a complete answer on what is an acceptable monetary package. This must be done on a total compensation basis; I will rely upon the comparator agreements and look to recent settlements for guidance.

139. It is noteworthy that there are a significant number of monetary proposals in the Union's submissions and while the evidence presented certainly assists this arbitrator in evaluating the priority considerations the Award must also ensure that the total compensation is balanced and reasonable in the circumstances. The Union has asserted that as Chartwell can easily afford to pay for all its asks, I can "no longer reject any of the Union's demands." That is not how I will be evaluating the total compensation. The fact that Chartwell is successful and may be able to afford more does not mean that the Employer should be paying more than is appropriate or reasonable as compared to its peers.

140. I would like to address the Employer's argument that the Union should not be rewarded for failing to get a settlement and by advancing proposals at arbitration hoping to gain more than it would otherwise hope to have achieved at the bargaining table. I agree that this is a well articulated principle in the interest arbitration jurisprudence, however neither should the Employer be entitled to be unreasonable in its approach to bargaining in hopes of being awarded less than what it otherwise would have had to agree to in a freely bargained settlement.

141. I note that the Employer provided the Griesbach and Eau Claire first agreements with AUPE as appropriate comparators at arbitration, however when the Union suggested at the table that the parties adopt the Griesbach agreement, which represented a significant change in its position in the hopes of getting a deal, the Employer declined. This is problematic especially as the Employer arguably stonewalled agreement not only by refusing the Union's proposal but by continuing to assert unreasonable demands at the bargaining table, such as a nominal $0.05 increase to the exceedingly low shift differentials. I further note that the Employer increased its position on several key areas at arbitration at which time the employees and the Union were unable to respond as to whether they may have been a reasonable resolution to the issues identified as priorities.

142. What the parties should hope to achieve is that which is a fair and reasonable collective agreement that is consistent with comparable first agreements and having consideration for all other relevant factors. Neither party should benefit from delay or intransigence.

Other Relevant Considerations

143. One of the general considerations that while the parties are not agreed on term, I am mindful that a term that will result in an expiration of April 2024 means the parties will be back to the bargaining table in a few months. This will impact both the consideration of whether a specific term should be included in the final agreement and whether there is a runway to phase in monetary elements of the agreement in stages in order to manage the costs to the Employer.

ITEMS IN DISPUTE

144. Having consideration for the submissions of the parties, the following constitutes my Award on these items (all language is included at Appendix A to this Award):

Article 1 DEFINITIONS

145. The parties were able to achieve agreement on 1.01 to 1.20 of the Definitions Article and as such are incorporated in this Award, however the Union has proposed the inclusion of a definition of "Pay Period". The proposed language is "The words "Pay Period" shall mean the bi-weekly two calendar week period commencing on Sunday and ending on Saturday." The language is proposed as the phrase Pay Period is used in the collective agreement, specifically in Articles 20.05(a) Shift Exchange, 22.04 Overtime Banking, 28.05 Overpayments/Underpayments and 31.01(a) RRSP.

146. The Employer objects to the inclusion of the language as it has neither been negotiated or awarded in any of the other Chartwell locations. It asserted that defining what the pay period is a fundamental management right and as arbitration is to be a conservative process this proposal should be denied.

Decision

147. I decline to award the Union's proposed language.

Article 2 TERM, COPIES AND APPLICATION OF COLLECTIVE AGREEMENT

148. The parties were able to achieve agreement on Article 2.02 to 2.07 and as such they are incorporated into the collective agreement. The only area of disagreement is the term of the collective agreement. The Union is seeking a three year and 22 days term with an expiry of April 30, 2025, and the Employer is seeking a two-year term expiring April 8, 2024.

149. The Union has tied the additional year to its wage proposal and the Employer objects to the Union's proposal on two fronts. First on the basis that the additional 22 days are unnecessary as collective agreements typically cover annual periods not days or months. Further, the additional year on the term would result in the first agreement leading existing mature agreements into the next round of negotiations and there is no basis for this. Particularly when the economic environment is uncertain, and we can only rely on forecasts.

Decision

150. Where the parties disagree about the term, I would argue that the Union bears the onus of establishing why the longer term should be preferred. There was no compelling argument presented at hearing as to why the third year should be considered. It is especially necessary when there are very few agreements that have been settled for 2024, much less covering the period of 2025 and certainly none of the comparators establish that the Union's wage proposal is supported. Given the economic uncertainty and the fact that there is insufficient support for the third year I award a two-year term expiring April 8, 2024.

Article 8 EMPLOYER UNION RELATIONS

151. The parties submitted identical language for Article 8 with the exception of Article 8.04 which relates to the payment of employees who are part of the Employee Management Advisory Committee ("EMAC"). The Union is proposing three hours pay for the attendance of employees at EMAC to ensure that employees attending and travelling to the site when on days off which will ensure the on-going viability of EMAC.

152. The Employer objects to this proposal as it has agreed to this new committee and has agreed that the meetings should be held during regular hours of work the result of which is payment of regular wages will continue. Where a meeting is outside an employee's regular scheduled hours the Employer proposes that they should be paid for the actual time spent at the meeting.

Decision

153. Upon review of the submissions and the comparator agreements, the language of the Employer is awarded.

Article 15 SENIORITY

154. There are several areas of disagreement in the seniority article. The Union is seeking language in 15.01 that defines seniority as length of continuous service in bargaining unit which would include credit for hours worked with the Employer as a Temporary or Casual Employee. It is also seeking a clause at 15.02 that confirms that employees will continue to accrue seniority during a variety of paid or approved leaves.

155. In 15.03(d) the Union disagrees with the Employer's proposed language which limits the ability of an employee to exercise seniority in the selection of a master rotation to when there is a change on the unit as opposed to whenever a master rotation change occurs. It also disagrees with the Employer's proposed language at 15.03(e) which introduces a number of terms to the concept of "additional shifts" which it argued is unnecessary. The Union relied on the comparator Chartwell agreements.

156. The Employer is seeking a definition of seniority for all employees that starts after probation and is based on 1950 hours worked as that was the definition in the Association Agreement, "total hours worked with the Employer from last date of hire". Employees accumulate one year of service for each 1950 hours worked. It objected to the use of solely date of hire as it would recognize people who have been around longer over those who may have worked more hours and gained more experience. It is seeking status quo.

157. The second issue is the accumulation of seniority outside hours worked and the Employer argued that that its language offers the accumulation of seniority for time worked, vacation, paid leaves, pregnancy, or parental leave and WCB or illness which is an improvement from the language in the Association Agreement and should be preferred. The language regarding the termination of seniority in Article 15.04 is similar and each contain elements of the comparator agreements.

Decision

158. The issue of seniority and how it is calculated is a significant issue for unions and their members as it is a key factor in how employees exercise many of the rights and entitlements provided for in the collective agreement. It is unusual for any seniority clause to provide for seniority for casual and temporary employees and while seniority being determined by hours worked is seen frequently where a significant part-time workforce exists, it is not the case in the comparators between this Employer and this Union.

159. In this industry where there are limited full-time positions and most of the employees are part-time and must use seniority to select lines or compete for additional hours, it is most common to provide for a date of hire as the start to calculating an employee's seniority. This will avoid the challenges that may arise if an employee who works multiple part-time jobs but has been employed longer, is competing for a full-time position with a more recent hire who has been able to pick up more hours.

Decision

160. The language for 15.01, 15.02 and 15.03 shall be based on the comparator agreement Griesbach.

161. The concern with a new collective agreement and a change in how seniority is calculated may mean that all regular employees employed at the time of certification could have the same seniority date. To this end there should be recognition of the time worked prior to certification as a one-time calculation of seniority to avoid the potential challenges this could present in future job postings or vacation selection. As a result, I direct that the parties use the date hired by the Employer prior to certification to establish the seniority date upon implementation of this award.

Article 16 JOB POSTINGS

162. The parties have agreed on most of Article 16 with the exception of 16.04 and 16.10 and all other articles are incorporated into the collective agreement. The Employer in 16.04 is proposing that employees who work less than 30 hours per week be given first opportunity to fill temporary vacancies. This is language that has been agreed between these parties at Emerald Hills and exists in Heritage Valley and Griesback Retirement Residences. The Union objects to this inclusion as it is not consistent with the comparators cited by the Employer and is uncommon in the industry. Further it would limit employees from their ability to apply and exercise their seniority to make personal choices in the workplace.

163. The Union is proposing language at 16.10 that is adopted from the Eau Claire collective agreement which assists in providing clarity as to what happens when an employee returns from a leave of absence or from filling a temporary vacancy. The Employer argued that this was already dealt with in 16.09 and is unnecessary and while it acknowledged it does appear in Eau Claire, that agreement does not contain the language of 16.09 and is broader than what is proposed by the Union here.

Decision

164. This was not identified by the Union as a priority and has no impact on the compensation of the members. As the parties have both identified Griesbach/Heritage Valley and to a lesser extent Eau Claire as appropriate comparators I will adopt the language from Griesbach for 16.04 and decline to add 16.10 as it is redundant to 16.09.

Article 18 – EMPLOYEE ORIENTATION

165. The Union is proposing language under 18.01 that is consistent with the language at Griesbach and Heritage Valley which provides specifics on orientation and in addition is proposing new language at 18.02 which it argues allows for more time to for staff to ensure proper orientation. The Employer is opposed as it asserted that the Union's proposal creates significant rules around how orientation should occur and that is the Employer's responsibility to conduct orientation as it sees fit. It instead proposes language that commits to sufficient paid orientation without reference to a specific process and while recognizing that the language is in the comparator agreements it is not typical of first agreements.

Decision

166. The language proposed by the Union in 18.01 is similar to the language in all three of the first agreements between the parties and as a result I shall award it here. There is no language or argument presented by the Union that supports the inclusion of the language proposed for 18.02 and that proposal is denied.

Article 19 - IN-SERVICE AND PROFESSIONAL DEVELOPMENT

167. The submissions of the parties on Articles 19.01 and 19.02 are consistent and are incorporated in this Award, however the difference between them on this Article is on 19.03 and relates to professional fees. The Union is seeking a maximum of $250 towards professional registration fees for all employees which is intended to capture the HCAs as they move to a regulated profession. The Employer submitted that this should be negotiated directly between the parties and noted that the two Chartwell agreements that have the payment of fees it was achieved through interest arbitration and is for LPNs only.

Decision

168. While I appreciate that in the future there is likely to be a decision with respect to the regulation of HCAs. While this has been an issue for some time in the industry there is no specific direction yet. It is not appropriate for an arbitrator, particularly in a first agreement, to impose that which is arguably a breakthrough provision by extending the payment of professional fees to HCAs. It is also not in line with the comparators. The parties will be back at the table in a few months and if there is a decision in 2024 that can be addresses at that time.

169. I do however note that all the comparator agreements, and much more broadly in the industry, contain the payment of fees for LPNs. However, having consideration for the fact that this was not a defined priority, that no one would qualify during the term of this agreement, and there are already significant monetary improvements in this award, I decline to award reimbursement for professional fees.

Article 20 – HOURS OF WORK

170. A majority of the clauses under Article 20 are consistent in the submissions of the parties and as such are incorporated into the Award. There are differences in Article 20.02 and 20.04. In 20.02 the Union is seeking the same language as in the Chartwell comparators which provides for no more than five consecutive days work before getting two days off, while the Employer is proposing staff be scheduled up to seven days. The Union is also proposing language which would provides for 30 days notice to the Union in the event of a change in rotation. The Employer is opposed to the language proposed by the Union as it argues it represents a change in the hours of work, which is complex, not easy to understand, and the risk of unintended consequences is high. It submits that I should maintain status quo, which is the language of the Association Agreement which reflects the seven-day limitation on scheduling.

171. The Employer is seeking to add language to Article 20.02 that states “Employees shall be aware that in the course of their regular duties, they may be required to work on various shifts throughout the twenty-four (24) hour period of the day; the seven (7) days of the week; and in any location of the Residence.” The Union noted this language is not in any of the comparator Chartwell agreements and in their submission is of questionable value as it is something that can be communicated to employees at the time of hire.

172. The Union identified a difference in the submissions of the parties on Article 20.04 that it asserted was previously agreed. The Employer did not note the difference and in its submissions reflected agreement between the parties on the language it proposed. The difference is in 20.04(b) which identified that “Where there are available additional shifts, the Employer shall distribute the additional shifts to Regular Employees **first** consistent with the principles of seniority **(within the worksite)** and on a rotational basis.” The bolded words were removed from the Employer’s submissions. The Union identified that language with the bolded words appears in Griesbach and Heritage Valley.

Decision

173. With respect to the differences in Article 20.02 I have reviewed not only the comparator agreements, but also more broadly the scheduling language in first agreements. The five and two scheduling language is common but not the norm in the language of the Union comparators and it was not identified as a priority change in the Union’s submissions. I acknowledge the Union submitted that the scheduling of seven days may led to illness or injury however this was presented without evidence to support the premise and there are a number of AUPE agreements that contain language that allows for more than 5-day scheduling.

174. The Employer’s argument regarding changing existing scheduling and its potential consequences is understood, however the fact that the language does appear in the comparators relied upon by the Employer leads me to the conclusion it is not new language for them. I do find that the language regarding 30 days notification to the Union of a change to schedules is consistent with Greisbach and Heritage Valley, however, does not appear in Eau Claire. As such I award the Employer’s language for 20.02 except for excluding (g) and inserting the Union’s proposed language in 20.02(d) in (f). I also accept the Union’s proposed language in 20.04 (b) as it is consistent with the comparators.

Article 22 - OVERTIME

175. The submissions of the parties are consistent on all aspects of the overtime provision except for 22.04 which the Union has proposed to provide the ability for employees to bank time at straight time or be paid at time and a half by December 31, as well as confirming the ability for employees to carry forward the bank upon mutual agreement. The Union submits this language is consistent with Greisbach, Heritage Valley and Eau Claire, however the Employer objects to the inclusion of the language as it is not the current practice and will require administrative work. It also argued that the option for employees to defer and receive the funds at a superior rate. The Employer noted that the unintended financial consequences should be considered as it relates to total compensation.

Decision

176. I note that there are several concepts included in the Union's proposed language, the ability to bank, the rate at which it is paid out if not taken and the ability to carry over. The Employer's concern regarding financial impacts is noted and as there will be significant monetary changes in this Award I am reluctant to include anything that was not deemed a priority by the Union. As a result, I am awarding the Union's language which allows for the banking of time, however when paid out it will be at straight time.

Article 23 - NAMED HOLIDAYS

177. The submissions were consistent on all but two clauses of the Named Holidays Article, 23.01 and 23.07. In 23.01 the Union is seeking the addition of two named holidays, August Heritage Day and Boxing Day for a total of 11 which is consistent with the Chartwell comparator agreements. The Employer is opposed to the addition of the two days as it represents the equivalent of a 0.88% wage increase, however it conceded that most of the retirement home collective agreements in Alberta provide 11 days.

178. The Union is also seeking an increase in the payment in lieu for part-time and casual employees in 23.07 from the Employer's proposed 3.43% to 4.23% as it is consistent with the Chartwell comparators. While the Employer is opposed to the any further increase as 3.43% is already an improvement from status quo, it also identified that the in-lieu payment is related to the number of holidays.

Decision

179. On the basis of the direct comparators of Chartwell first agreements, I award the Union's language having consideration for the principles of total compensation in the final Award.

Article 24 – ANNUAL VACATION

180. There were several differences between the parties with respect to the submissions regarding annual vacation. I will deal with each one separately. The Union is proposing significant changes to the vacation language and increases to vacation beyond the Chartwell comparators, for both regular and casual employees. It submitted that the testimonial evidence from employees supported the Union's position which identified vacation as a priority item and its survey in which 90% of respondents reported concerns related to vacation. It asserted that because of the demands of the job, particularly post-COVID and the immigrant demographic of the workforce, extended vacations are especially important.

181. The Employer argued that there is no reason to increase the vacation leave beyond the Employer's proposal as it is competitive with other vacation homes and there are already 44% of full-time staff will enjoy an additional 2% increase under its proposal. It also noted that as this was a new home, there are no employees in the bargaining unit who will reach or exceed ten years of employment during the term of this agreement.

Decision

182. I acknowledge that the testimony from the employees made it very clear that there are significant problems with vacation, and this has created a great deal of stress and uncertainty. What was clear from the evidence is not that there is not enough vacation, instead I heard that the employees are unable to take their vacation as they are required to find their own replacement and due to staff shortages and an inability to find casual employees to work. As a result they have to quit their jobs to take time off. This is deeply concerning, however the remedy for this is not to add additional entitlement, but to be sure that the language allows for employees to be able to plan and take the time off to which they are entitled. I note that this is still a very new home, and my determination considers that the financial considerations of a benefit that no actual employees are able to enjoy would impact total compensation and so I am not prepared to add additional vacation beyond the comparators. I also do not accept that the St. Albert Chartwell agreement as submitted by the Employer is the best comparator to be used. Therefore, I award the language on entitlement as detailed in Greisbach, Heritage Valley and Eau Claire.

183. The Union is also proposing that the part-time employees move from an hours of work model to a years of service model for the progression of entitlement. The Employer argued this would result in part-time employees moving forward on the vacation grid faster than a full-time employee which would create inequities in the bargaining unit as well as being costly. The Union is also seeking an increase in vacation pay for casual employees to 4.8% while the Employer is proposing Employment Standards Code language. The Union proposes different language for vacation scheduling and disagrees with the Employer's proposal with respect to the application of seniority and definition of vacation. The parties both propose carry-over of vacation of five days although the Employer's proposal requires it to be used by April 30 of the following year. Finally, the Union has made a proposal which would in essence move from an accrual or "live vacation bank" system as the Employer refers to it to one where the employees earn in one year is taken the next, the result of which would be that upon implementation no employees would have paid vacation for one year.

Decision

184. There are significant complexities and operational issues connected to the proposals of the Union and some, such as the move to a deferred vacation entitlement and the impacts on scheduling that can not be resolved appropriately at arbitration. These are matters that must be negotiated between the parties as they have operational impacts on the Employer and direct impacts on the staff. This is not a case where it is simply for me to adopt a comparator as the current differences in the operation of the language between sites is properly the stuff of collective bargaining. I award the language of the Employer with the exception of the entitlements which reflect the Chartwell comparators.

Article 25 – SICK LEAVE

185. The parties are mostly aligned on their respective sick leave proposals, however there is a difference in the calculation of sick leave accrual, the Union is proposing an accrual of 7.5 hours for every 150 hours worked to a maximum of 345 hours. The Employer is proposing 3.75 hours for every 162.5 hours worked to a maximum of 180 which it argued is a significant change from the current situation where full-time have a maximum of five days and part-time have none. The Union is also seeking reimbursement to the employee when sick leave certificates are required in the amount of up to $25.00.

Decision

186. There is little doubt that the evidence of the Union and the experience of the industry during the pandemic highlights the importance of sick leave to the employees at Westcott. It was clearly identified as a fundamental priority. With the change to the Employer's position at arbitration it is now proposing that employees be able to bank up to 24 days of sick time, which will take a full-time employee approximately four years to accrue. Even though the Union's proposal would have these employees accrue at a faster rate it is still well beyond the term of this agreement before the maximum would be accrued. These are critical differences. I do note that the Employer's proposal is consistent with Eau Claire as opposed the sick leave language at Griesbach and Heritage Valley which accrue to a maximum of 345 hours. As this was identified as a critical element, I am prepared to award the language from the Griesbach and Heritage Valley agreements, however not the accrual rates proposed by the Union. I will also include the reimbursement for sick leave certificates. These improvements are considered as part of the total compensation.

Article 29 - SHIFT PREMIUMS AND DIFFERENTIALS

187. There are significant differences between the parties on shift differentials, including the amounts, the eligibility windows, and the employees eligible for premiums. The Union has proposed language, which is consistent with the Griesbach, Heritage Valley and Eau Claire agreements. This language applies to all employees and is for each hour worked.

188. The Employer submitted that there are several proposals contained in the Union's language, the increase to the premiums, amending the eligibility criteria, expanding the provisions to all employees, and allowing for pyramiding. The Employer has proposed to break out the LPNs and HCAs from other classifications and is proposing majority of hours language. It argued that its proposed increases are already significant, and the Union should not expect the rights or entitlements contained in mature agreements. It provided costing which suggested that the Employer's proposal amounts to a 3.29% increase while the changes proposed by the Union equal 8.9%.

189. The Union's language proposal also would impact when such premiums are payable as it applies to each hour worked within the window, while the Employer is proposing that the language read each hour when a majority of the hours fall within the shift which it confirmed as the current practice.

Decision

190. There is no question that the evidence established that the current shift differentials at $0.15 per hour are well below any Alberta retirement home or continuing care home agreement. The unrefuted evidence at hearing is that the lack of premiums is clearly having an impact on staffing and the ability to fill shifts which results in an inability for staff to take vacation, take sick time and causes significant stress. The staff identified that this was a priority issue. In order to bring these premiums more in line with appropriate first agreement provisions there will be a significant monetary impact. This obviously will weigh into the total compensation considerations; however, the Employer has enjoyed the benefit of substandard rates since opening and to bring the agreement into line with appropriate rates will be costly. Normally I would stage its implementation, however given the expiration of the agreement in April 2024 I am limited in my ability to utilize this tool.

191. While I accept that the language proposed by the Union is consistent with the Chartwell comparators, in this sector many agreements that provide premiums to classifications other than HCAs and LPNs do so at a different rate. The Employer has proposed this approach for this site and at rates significantly lower than the comparators despite the fact that its own agreements do not differentiate between classifications. I take particular note of the Memorandum of Agreement reached by the Employer with the United Steelworkers in October 2023 that provides significant increases in shift differential for all employees in a bargaining unit with a similar makeup to the one at Westcott. The settlement also included wage rates of 1.25% for 2023 and 2024 which must be considered when assessing the total compensation of this Award. I acknowledge that this agreement is a mature agreement that has seen these improvements through two rounds of bargaining and that is taken into consideration in making my determination.

192. As a result of the significance of this issue for the employees, the impact on staffing and the total compensation principle I have placed the emphasis on the health care roles and my award will reflect a difference in the classifications. I recognize this differs from the approach in the Chartwell comparators, however the addition of all other classifications and a Weekend Premium for all staff must be balanced with the other significant monetary changes in this Award.

193. The language proposed by the Employer with respect to entitlement to the premium where a majority of hours fall within the shift in order for the premium to be payable is preferred as it maintains the current administrative practice and is aligned with a many AUPE comparators more broadly. There was no argument by the Union as to why its language was preferred, just that it was the same language as Chartwell comparators. The Employer argued that there should be no pyramiding allowed which was consistent with the Union's submissions at arbitration, so I note no pyramiding or stacking is awarded.

Article 30 – OTHER COMPENSATION

194. The Union proposed an In-Charge Premium of $1.50 an hour for either a LPN or HCA when they are assigned In-Charge responsibilities or roles. It submitted this language is consistent with the comparator at Griesbach and Heritage Valley, but no such provision exists at Eau Claire. The Employer argued that there is no such assignment currently being made and the parties can address this in subsequent agreements.

Decision

195. This premium does exist in two of the Chartwell comparators, however having consideration for the principle of total compensation, the fact that this is not a current practice and that the parties will be back at the bargaining table shortly, I decline to include the Union's proposal in the Award.

Article 31 – REGISTERED RETIREMENT SAVINGS PLAN (RRSP)

196. The Union is seeking the establishment of an RRSP plan with an up to 5% contribution from the employees and Employer matching of up to 2.5% which matches Griesbach and Heritage Valley. Eau Claire also has an RRSP plan but it is up to 2% with a 2% Employer matching. There is currently no RRSP plan in place at Westcott. The Employer submitted that as this is a significant financial consideration in the context of total compensation and should be denied.

Decision

197. It is clear that an RRSP is a benefit that is not only provided for in the Chartwell comparators, but more broadly in the retirement home sector in Alberta. In fact, all but 7 of the 53 comparators provided by the Employer have an RRSP plan of some sort. The consideration of including it in the award must be based on the principle of total compensation and the more practical aspect of whether it can be set up and in place during the term of the agreement. It is arguably an expensive item and while the Union identified it as a "strike issue" I did not hear compelling evidence that it was more of a priority than wages, shift differential, sick leave, or vacation. Although the Union has characterized all of these items as "must haves" I do not accept that the expectation should be all of the Union's asks are to be awarded as proposed. As a result, I decline to award an RRSP plan in this Award, although I commend to the parties that it is wholly appropriate to be considered in the next round of collective bargaining.

Article 32 – HEALTH CARE BENEFITS

198. The Employer currently provides benefits for the full-time employees and pays 100% of the premium. It has proposed maintaining the current benefit and premium payment for regular employees who work an average of 30 hours per week and who have passed probation. The Employer argued that as the current benefit plan which is 100% Employer paid for full-time employees it is competitive and generally superior to benefit plans enjoyed by full-time employees in comparator agreements in the province, including its own. It also highlighted that where part-time employees are included in benefit plans it is generally on a cost shared basis for all employees, full-time and part-time.

199. The Union is seeking a number of improvements over the existing benefit provisions by including part-time employees with fifteen (15) scheduled hours or more per week with 100% premiums paid by the Employer, an increase in the direct payment for prescription drugs, an increase in Dental Plan coverage, a travel benefit and an increase in vision coverage to $300. There is a proposed increase in paramedical coverage to $300 which is aligned with the Employer's proposal.

200. At hearing the Union proposed that the Benefits remain status quo and instead a Flexible Spending Account of $500 be made available to all employees who work 15 hours a week or more. The Employer did not respond in detail, however rejected the Union's proposal.

Decision

201. It is clear from a review of the comparators that providing benefit coverage to part-time employees based on a minimum number of hours worked per week is in fact consistent with the comparators. What is also consistent is that this is based on a cost share percentage as opposed to 100% Employer paid. To simply include part-time onto the existing benefit plan at 100% Employer paid would be incredibly expensive for the Employer and far exceed any plan in the sector, much less between these parties.

198. This cost would only be increased by adding each of the Union's proposals. With respect to the specific enhancements proposed by the Union, I decline to consider any of the proposed specific improvements as I lack sufficient information to determine the financial impacts. This includes awarding a Flexible Health Spending Account which does not appear in any of the Chartwell comparators and almost none of the first agreement comparators province wide. As a result, this would amount to a breakthrough, and I am not prepared to consider it.

199. The more challenging issue is the inclusion of part-time and the change of the plan from a 100% Employer paid to a cost shared plan. As noted, I lack the appropriate information and plan details to be able to appropriately assess the potential impacts of this proposal. Benefit Plans are incredibly costly, and changes can be extremely complicated. The interest arbitration process does not lend itself to a thorough analysis of the proposals without the ability to assess the financial impacts. Further it is unclear whether changing to a cost shared plan would align with the priorities of the membership. In addition, any changes to benefit coverage would have to be negotiated and then implemented with the benefits provider. This is extremely unlikely to take effect during the term of the agreement. It is clear that when the Union laid its critical priorities during the hearing benefits was not identified as one of those items. It is noteworthy that at arbitration the Union offered the option of a Flexible Spending account as an alternative to consideration of a cost shared plan, arguably in recognition of these complexities.

200. Therefore, having consideration for the total compensation principles and that the current plan for full-time employees is generally superior to the comparator agreements, I will refrain from making any changes to the Health Benefits coverage. The parties are at the bargaining table in a few months, and this should be a priority for discussion as the comparators clearly support part-time benefit coverage, however the cost share and entitlements should properly be the subject of negotiation after information sharing. The Employer's language is awarded.

Article 33 – Layoff and Recall

201. The language proposed by the Union is similar to that proposed by the Employer at arbitration, however there are some differences regarding the process and there is no rationale provided for why the comparator language is not appropriate for these parties.

Decision

202. The layoff process was not identified as a priority for the Union and while it is recognized that job security provisions are important to employees, the Employer's proposed language which is consistent with the Chartwell comparators is appropriate here. I award the Employer's language.

Article 34 – Casual Employees

203. The parties are in agreement that all provisions of the Collective Agreement apply subject to specific language in each article or with identified exceptions and stipulations. The identified clauses are consistent in the submissions and shall be incorporated into the Award.

Retroactivity

204. The Union is seeking retroactive payment on wages to the date of certification and has proposed the inclusion of former employees. In the Union's post hearing submissions, it also suggested that the shift and weekend premiums "must be applied retroactively" and argued it "makes little sense" as it "serves to reward and incentivize employer for delay in the bargaining process" which is "really bad public policy."

205. The Employer is not opposed to the retroactive application of wage increases, however, is opposed to paying former employees. It also is opposed to retroactivity on shift and weekend premiums as untimely as it was not identified in bargaining or in the submissions at hearing.

Decision

206. The parties are in agreement that there should be retroactive payment on wages back to the date of certification and this shall be incorporated in the Award. In the context of a first agreement, I am not prepared to extend the agreement to pay retroactive pay beyond current employees. I appreciate that there are decisions that have awarded retroactive pay on wages to past employees, however I note that these decisions have had to address an extremely lengthy period between certification and the arbitration hearing. In the case before me there was a relatively short period of time between certification in April 2022 and the hearing in October 2023.

207. I also do not accept the Union's proposal for the payment of shift and weekend premiums retroactively. This was not advanced by the Union until its post hearing submissions and there was no support advanced for this proposal. This is a significant matter to raise after the conclusion of the hearing, and the onus is on the Union to justify why I would consider this argument. I do not agree with the Union that it is bad public policy to not apply these premiums retroactively and in fact, I find to do so would be an extremely unusual proposal to award amounting to what is arguably a breakthrough. This is denied.

Schedule A Wages

208. The Union is proposing a three-year term with 2% per year for the first 2 years, 2022 and 2023 and 2.5% for the third year 2024. The Employer is proposing a two-year term with 1.25% per year for 2022 and 2023.

209. The current wages at Chartwell Westcott are:

Classification	Levels	2021 Current
Receptionist	Level 1 - start	$ 17.69
	Level 2 -post probation	$ 18.00
	Level 3 1950 hours	$ 18.36
	Level 4 3900 hours	$ 18.73
HCA	Level 1 - start	$ 21.85
	Level 2 -post probation	$ 22.37
	Level 3 1950 hours	$ 22.89
	Level 4 3900 hours	$ 23.41
LPN	Level 1 - start	$ 27.05
	Level 2 -post probation	$ 28.61
	Level 3 1950 hours	$ 30.69
	Level 4 3900 hours	$ 32.77
Activity Aide	Level 1 - start	$ 20.81
	Level 2 -post probation	$ 21.17
	Level 3 1950 hours	$ 21.42
	Level 4 3900 hours	$ 21.85
Driver Housekeeping	Level 1 - start	$ 17.17
	Level 2 -post probation	$ 17.69
	Level 3 1950 hours	$ 18.21
	Level 4 3900 hours	$ 18,73
Cook	Level 1 - start	$ 20.29
	Level 2 -post probation	$ 20.81
	Level 3 1950 hours	$ 21.33
	Level 4 3900 hours	$ 21.85

Cook's Helper Server	Level 1 - start	$ 16.13
	Level 2 -post probation	$ 16.44
	Level 3 1950 hours	$ 16.80
	Level 4 3900 hours	$ 17.17
Dishwasher	Level 1 - start	$ 15.61
	Level 2 -post probation	$ 15.76
	Level 3 1950 hours	$ 15.87
	Level 4 3900 hours	$ 16.13
Maintenance aide	Level 1 - start	$ 21.85
	Level 2 -post probation	$ 22.37
	Level 3 1950 hours	$ 22.89
	Level 4 3900 hours	$ 23.41

210. The Employer defended its wage proposal as being consistent with the comparators and the application of the principle of replication supports its proposed general increases. It particularly noted agreements negotiated by this Union and this Employer, comprising both freely negotiated agreements and recent arbitration awards for a similar period of time in the same industry. These settlements and awards have already contemplated the impacts of COVID and the current economic volatility and should provide the guidance on general increases. It did acknowledge that there are no renewals during the same period as covered by the term of this agreement for comparison and as a result there are limited direct comparators.

211. The Employer highlighted that there is a dramatic difference in wage rates by classification across the Alberta Retirement Home sector and that there are no "benchmark" rates of pay. It submitted that the LPN rates place them 14th place amongst their peer group of 20 retirement home agreements reviewed by the Employer and the HCA rates are not the lowest and are competitive. It also submitted that there are several homes represented by AUPE that pay lower rates in both classifications. The Employer emphasized that its proposal would maintain the employees in the middle of the group of Alberta retirement homes and at higher rates that most of the Chartwell Retirement Homes.

Decision

212. I do note that when I compare the wage grids broadly across the Retirement Home sector, the wage rates at Westcott are not significantly lower than in the comparator group. As a result, there are no market forces to suggest the wage rates themselves are out of line. As discussed, there is no specific consideration of recruitment and retention matters at Westcott, although industry wide challenges in health care are noted. While the Union's arguments on the dangerous nature of the work and the challenges presented by COVID were compelling, these factors have already been considered in industry settlements negotiated and arbitrated since 2020 so are already baked into the comparable agreements.

213. What is different and is a factor for consideration is the state of the economy and its influence on the settlements achieved over this period. As discussed earlier, as there are a limited number of direct comparators who have settled for the 2022 and 2023 period that were negotiated during the current period of economic volatility therefore it is necessary that I look more broadly. While the best comparators are those between these parties, having consideration for settlements negotiated by similar parties for a similar timeframe in the same or similar industry is required to ensure that the current economic factors are properly considered.

214. Obviously the further away the settlements are in time, place, or industry the less relevant they are so I will apply my lens to the Alberta market and the health and social services sector. The Union's presentation of the Ontario comparators certainly demonstrates a trend toward higher general wage increases, however as the terms of the Ontario health care agreements are vastly different with respect to wages and premiums it is difficult to compare especially when dealing with mature renewal agreements.

215. My review of the general wage increases proposed by the Employer in the context of 2022 and 2023 settlements in the Health Care and Social Assistance sector and more specifically the retirement home settlements demonstrate that the general wage increases proposed by the Employer are low. I recognize that the increases are not out of line with recent awards however, there have been some marked changes in the settlement pattern for 2023 in particular. When examining the Alberta weighted average settlements in the private sector in October 2023 it has risen to 2.7% for 2022 and 4.2% in 2023. For the Health Care and Social Assistance sector the numbers are 1.76% for 2022 and 2.04% for 2023. This demonstrates a trending up as parties bargain agreements in the current economic environment.

216. Based on the above data, the Employer's proposed increases are less than the average in the sector. With respect to the available information, the 2% increase for 2022 proposed by the Union is consistent with Arbitrator Moreau's award in the Chartwell Griesbach first agreement arbitration between these parties. In addition, both parties provided me with the Revera (Riverbend) and AUPE settlement in which the Union agreed to a general wage increase of 1.75% for 2022 and 1.25% for 2023. I do note in that agreement there were other monetary adjustments to some classifications, increases to shift premium, sick leave carry-over and a lump sum payment. As has been repeated throughout the jurisprudence, it is difficult to recreate comparators as there are many factors that influence the settlement of collective agreements.

217. Beyond having consideration for the principle of total compensation for this first agreement between the parties, the principle of replication demands that I determine whether in free collective bargaining both parties would have accepted the number of improvements in compensation in this Award. This is a first agreement between these parties and while the improvements are based on the identified priorities of the Union, the question is not just what the Union would have achieved through free collective bargaining but also is it realistic that the Employer would have agreed to these increases. There is no question that to bring these employees to the level of an appropriate first agreement there are significant increase, however not all gains are to be achieved in the first agreement.

218. Having consideration for all of the above, I am prepared to Award the following economic increases of 2.0% for 2023 and 1.75% for 2024.

Conclusion

219. If any proposals from either party have not been dealt with directly in this Award they are hereby dismissed.

220. I direct the parties to conclude a collective agreement based on the enclosed terms and I retain jurisdiction to assist with any matters related to implementation of the Award. I am attaching an Appendix A with the specific changes referenced in the Award. If there is any discrepancy between the Appendix and this Award, the Award shall prevail.

I would like to thank both counsel for their able representation and submissions.

Issued and dated this 3rd day of January 2024.

Mia Norrie
Arbitrator

IN THE MATTER OF THE VOLUNTARY BINDING COLLECTIVE AGREEMENT INTEREST ARBITRATION PROCEEDINGS

Between

Chartwell Master Care LP
Westcott Retirement Residence
("Employer")

And

Alberta Union of Provincial Employees
Local 047/062
("Union")

APPENDIX A

Article 1 Definitions

1.01 "Code" means Labour Relations Code as amended from time to time.

1.02 "Union" shall mean the Alberta Union of Provincial Employees (AUPE). In the event this name is changed, the subsequent name shall be recognized.

1.03 "Basic Rate of Pay'' shall mean the incremental Step in the Wage Schedule that applies to the Employee, exclusive of premium(s) payments.

1.04 "Employee" means a person covered by this Agreement and employed by the Employer, in accordance with the following:

(a) A Regular Full-time Employee is one who is regularly scheduled to work Full- time hours as defined in Article 20 - Hours of Work.

(b) A Regular Part-time Employee is one who is regularly scheduled to work less than Full-time hours.

(c) A "Casual Employee" is one who is called in to work on an irregular basis.

(d) "Temporary Employee" is one who is hired on a temporary basis for a full-time or part-time position:

(i) for a specific job of six (6) months or less; or

(ii) to replace a Full-Time or Part-time Employee who is on an approved leave of absence for a period in excess of six (6) months.

1.05 The provisions of this Collective Agreement are intended to be gender neutral and gender inclusive. Words used in the singular may also apply in the plural.

1.06 “Worksite” means Chartwell Wescott Retirement Residence.

1.07 “Union Representative” means a representative from the Union authorized by the Union to act on behalf of the Employee. A “Union Representative” may be a Union Steward, Officer of AUPE or staff representative.

1.08 “Chapter” means Chapter 047/062 of AUPE.

1.09 "Bargaining Unit" means the unit of Employees as described on Labour Relations Board Certificate C2007-2022.

1.10 “Status” means Full-time, Part-time, Temporary or Casual as defined above.

1.11 “Classification” means the category of job as listed in the Wage Schedule and the pay scale established for it.

1.12 “FTE” means Full-time Equivalent and is the ratio of the scheduled hours of work to Full-time hours of work.

1.13 "Parties" mean the Union and the Employer.

1.14 Position" means:

(a) the Employee Status;

(b) the Classification; and

(c) Full-time equivalency

1.15 “Practice Permits/ Registration” shall take the meaning from the *Health Professions Act* R.S.A. 200, cH7 as amended. Registration is not membership in the Union.

1.16 “Regularly Scheduled Hours” means the hours set out in a Shift Rotation in fulfillment of the Hours of Work for the Position.

1.17 "Shift" means daily scheduled hours of work, exclusive of overtime hours.

1.18 "Week" means a period of seven (7) consecutive days, and for payroll purposes, a Week begins on a Sunday.

1.19 “Employer” means Chartwell Master Care acting through its management personnel.

1.20 "Common-law spouse" is defined as a partner of the same or opposite sex with whom the Employee has cohabitated for no less than twelve (12) months;

Article 2 Term, Copies and Application of Collective Agreement

2.01 This agreement, including appendices hereto unless altered by mutual consent of both Parties, shall be in force and effect from April 8, 2022 until **APRIL 8, 2024** and from year to year thereafter unless amended or terminated. Notification of desire to

amend or terminate may be given in writing by either Party to the other Party during the period between sixty (60) and one hundred and twenty (120) days prior to its expiration.

2.02 If, pursuant to such negotiations, an Agreement on the renewal or amendment of this Agreement is not reached prior to the current expiration date, this Agreement shall be automatically extended until conclusion of the new Agreement or completion of the proceedings prescribed under the Alberta Labour Relations Code.

2.03 The parties agree there will be no strikes or lockouts while this Collective Agreement is in effect.

2.04 Notice

Any notice required hereunder to be given, shall be deemed to have been sufficiently served if personally delivered or mailed in a prepaid registered envelope addressed:

(a) In the case of the Employer, to:

Director, Labour Relations

Chartwell Retirement Residences

7070 Derrycrest Drive

Mississauga, ON L5W 0G5

(b) In the case of the Union to: The President Alberta Union of Provincial Employees

10025 182 Street NW
Edmonton, Alberta T5S 0P7

2.05 Copies of the Collective Agreement

The Employer and the Union will each pay one-half (1/2) of the cost of printing enough copies of this Agreement to provide each Employee with one (1) copy. A copy of the Collective Agreement shall be provided to each Employee on commencement of employment by the Employer or at the Union Orientation. The printing of the Collective Agreements will be processed at AUPE Headquarters.

2.06 Application of the Collective Agreement

a) In the event any provision of this Collective Agreement is in conflict with and present or future statute of the Province of Alberta applicable to the Employer, the

section so affected shall be altered or amended forthwith in a manner agreeable to both Parties so as to incorporate required changes. Such action shall not affect any other provisions of this Collective Agreement.

b) Any changes deemed necessary in the Collective Agreement shall be made by mutual agreement at any time during the existence of this Collective Agreement. Such changes shall be in writing and duly signed by authorized agents of the parties.

2.07 All correspondence between the parties arising from this Agreement or incidental thereto, shall be copied to and from the General Manager or their designate and the Staff Representative of the Union.

Article 8 Employer-Union Relations

8.01 Employer Union Relationship

The Employer and the Union agree that in the exercise of each of their rights and in the administration of this Agreement, they shall do so in good faith and in a fair and reasonable manner.

8.02 Employee Management Advisory Committee (EMAC)

It is the function of EMAC to consider matters of mutual concern affecting the relationship of the Employer to its Employees and to advise and make recommendations to the Employer and the Union with a view to resolving difficulties and promoting harmonious relations between the Employer and its Employees. Accordingly, the Committee shall have no authority to change, delete or modify any terms of the Collective Agreement or to settle grievances.

8.03 An equal number of Union and Management representatives (but not more than 2 individuals from each party unless mutually agreed) shall meet at each worksite on a quarterly basis or as required if mutually agreed. Requests for a meeting will be made in writing at least one (1) week prior to the proposed date and accompanied by an agenda. Scheduling of meetings shall be subject to operational requirements.

8.04 Employee time in EMAC meetings shall be with pay at the Employer's expense at the Basic Rate of Pay. Every effort shall be made to schedule such meetings during Employees' regular hours of work. Where the foregoing is not possible, Employees attending EMAC shall be paid for **the length of the meeting** at their Basic Rate of Pay.

8.05 The Employer and Union may invite staff or corporate representatives to make submissions or to assist EMAC in the consideration of any specific problem, but such persons shall not have the right to vote. Each Party shall give the other reasonable advance notice of the anticipated presence of such experts or advisors.

Article 15 Seniority

15.01 "Seniority" is defined as the length of continuous service within the worksite, including all periods of service as a Casual, Temporary, contiguous to present permanent employment.

Seniority shall not apply during the probationary period, however, once the probationary period has been completed seniority shall be credited from the date established pursuant to this Article.

15.02 Employees will continue to accrue seniority during:

(a) Sick leave

(b) Parental and maternity leave

(c) Leaves of absence with pay

(d) Bereavement Leave

(e) Court appearance

(f) Paid vacations

(g) Union business leaves

(h) Workers Compensation leave

15.03 Seniority shall be a consideration for the following:

(a) Preference of vacation time in accordance with Article 24 – Annual Vacation;
(b) Layoffs and recalls in accordance with Article 33 – Layoff and Recall;
(c) Promotions, transfers, and in filling all vacancies within the bargaining unit in accordance with Article 16 - Job Postings;
(d) the selection of available rotations by Employees on a unit affected by a new master rotation that does not or does change an Employee's Full Time Equivalency (FTE);
(e) the distribution and allocation of available additional shifts (beyond scheduled shifts)/ "pick up shifts" / available hours of work for part time and casual employees on as specified in Article 20 – Hours of Work

15.04 Seniority shall be considered broken, all rights forfeited, and there shall be no obligation to rehire:

(a) When an Employee resigns;

(b) When an Employee is discharged and not reinstated, including through the grievance and arbitration procedure;

(c) Upon the expiry of twelve (12) months following the date of initial layoff, if during which time the Employee has not been recalled to work;

(d) If an Employee does not return to work when recalled, as provided in the Layoff and Recall Article;

(e) An Employee transfers or accepts a position outside the bargaining unit;

(f) An Employee is off the payroll due to a workplace accident or illness for more than twenty four (24) months, unless there is reasonable prospect for the Employee's return to work;

(g) An employee is absent from work in excess of three scheduled working days without reasonable cause or without notifying the Employer;

(h) An Employee fails to return to work upon the termination of an authorized leave of absence unless a reason acceptable to the Employer is given.

15.05 Seniority lists for each facility will be revised every six (6) months (January and July) and a copy of the lists will be posted in the facility and supplied to the Union upon request. In the event, that an Employee does not or is unable to challenge the position of their name on the seniority list within thirty (30) calendar days from the date of the posting of the list, they shall be required to wait until the posting of the next list to challenge their seniority date.

Article 16 Job Postings

16.01 (a) All permanent vacancies or newly created classifications determined by the Employer to be filled shall be posted for one (1) week at one location in the Residence during which time employees may apply for the said position in writing on a form supplied by the Employer. A copy of all job postings shall be forwarded to the Union representative at the Residence.

(b) Employees working at Residences within the bargaining unit other than that for which the job is posted will be given preference over other outside applicants, but only Employees within the facility in which the job is posted will be considered to have seniority for the purposes of this article.

(c) If no application is received from an employee of the Residence within one (1) week of the job posting, or if no employee qualifies for the vacancy within the trial period as set forth in 16.06, then the Employer may hire an employee from outside the bargaining unit.

16.02 Any notice posted pursuant to 16.01 above shall contain the following information: qualifications, classification, rate of pay, department, approximate start date (if known), and initial assignment (day/evening/night).

16.03 Transfers or promotions within the bargaining unit shall be based upon the following factors:
(a) Seniority;
(b) Skill, competency, ability, and experience.

Where the qualifications in factor (b) are relatively equal, then seniority shall govern.

16.04 Any temporary vacancy with an anticipated duration of six (6) weeks or more will be posted. The posting will include the anticipated duration. Employees working less than thirty (30) hours per week shall be given the first opportunity to

fill temporary vacancies subject to Article 16.03. Nothing herein shall prevent the Employer from filling a temporary vacancy of up to six (6) weeks as the Employer may deem appropriate, with first preference given to Employees within the bargaining unit.

16.05 The successful applicant shall receive a letter, confirming the appointment.

Upon request to the Department Head, the Employer will discuss with an unsuccessful internal applicant the manner in which the Employee may improve in order to be considered for any future vacancy.

16.06 In the event that an employee has been accepted to fill a permanent vacancy, then at anytime within the first one hundred and fifty (150) working hours after being assigned to such vacancy the employee may elect to revert to their old position. The trial period may be extended by mutual agreement, but in any case, not longer than an additional one hundred and twelve and one-half (112 ½) working hours.

The successful applicant shall be placed on trial for a period of one hundred and fifty (150) working hours. Conditional on satisfactory performance, any promotion or transfer made in accordance with this Article, shall become permanent after the period of one hundred and fifty (150) working hours. In the event the applicant proves unsatisfactory in the position during the aforementioned period, they shall be returned to their former position without loss of seniority.

16.07 (a) When an Employee is the successful applicant for a different job classification with a higher rate of pay, the Employee will be paid the rate of pay for the new job classification that is next closest (but not lower) to the Employee's current rate of pay.

(b) Employees temporarily required to work in a different job classification, shall receive their current rate of pay or the rate of pay for the different job classification that is next closest (but not lower) to the Employee's current rate of pay, whichever is greater, for all hours worked in the different job classification.

(c) When an Employee is the successful applicant for a different classification with a lower rate of pay, the Employee's salary shall be adjusted immediately to the basic rate of pay that is next closest (but not higher than) her current rate of pay.

16.08 An employee filling a temporary vacancy of six (6) weeks or longer duration shall not bid on any other temporary posting until the end of his/her temporary position, except as otherwise agreed to by the Employer.

16.09 Temporary Employees

A Regular Employee who applies for and is successful on a Temporary posting shall maintain their status as a Regular Employee. At the completion of the temporary term, the Regular Employee shall return to their former position.

A Casual Employee who applies for and is successful for a Temporary position shall be entitled to the terms and conditions applicable to a Temporary Employee. At the completion of the temporary term, the Casual Employee shall resume the normal terms and conditions of employment applicable to a Casual Employee.

Article 18 – Employee Orientation

18.01 Employee Orientation

(a) Employees will be given a sufficient paid orientation under guidance and supervision to equip them for their work, including an orientation for at least two (2) shift patterns if applicable (days, and/ or evenings, and/ or nights) that the Employer assigns the Employee to work;

(b) The Employee's first (1^{st}) four (4) shifts of resident care shall be under guidance in the relevant work area and should include dementia care and safety information as applicable by classification.

(c) Employees absent from work for at least one (1) calendar year or more will be provided with appropriate support to properly re-orient them to the position.

(d) An Employee's request for additional orientation shifts under guidance or supervision in resident care shall not be unreasonably denied and extended at the Employer's discretion.

Article 19 – In-Service And Professional Development

19.01 In-Service and Professional Development

(a) The Parties to this Agreement recognize the value of continuing in-service education for Employees and that the responsibility for such continuing education lies with the Employer and the Employee. The term "in-service" includes acquisition and maintenance of essential skills and other programs, related to work with the Employer.

(b) Employees who, with the prior approval of the Employer, attend an in- service or development program (including e-learning) shall not suffer a loss of pay for such attendance.

(c) An Employee who is required to attend a training course or seminar, shall be paid at the Basic Rate of Pay for attendance at such a meeting.

19.02 The Employer may make available in-service education programs for the purpose of maintaining proficiency and safe work procedures. Those programs may include the following: first aid training, prevention of resident and staff abuse, managing aggressive behaviours, privacy, and client confidentiality.

Article 20 – Hours Of Work

20.01 Hours of Work

(a) The following is not a guarantee of hours per day, per week or on a bi- weekly basis.

(b) Regular hours of work for Full-time Employees, exclusive of meal periods shall be:

(i) Seven point five (7.5) hours per day;

(ii) Seventy-five (75) hours bi-weekly.

(c) Regular hours of work shall be deemed to:

(i) Include, as scheduled by the Employer, two (2) paid rest periods of fifteen (15) minutes during each full working shift of seven and one half (7.5) hours; or

(ii) Include, as scheduled by the Employer, one (1) paid rest period of fifteen (15) minutes during each half shift of four (4) hours or more; and

(iii) Exclude, a meal period of thirty (30) minutes to be scheduled by the Employer, during each working day, on which the Employee works in excess of five (5) hours.

(d) Unless an employee is directed by the General Manager or their immediate supervisor to work through their meal period or rest period, they are then expected to take all their designated breaks. Should an employee be directed to work through their meal period or rest period, the employee shall be given a full meal period or full rest period later in the shift. Where receiving a meal period or rest period is not possible, the Employee shall be paid for their meal period or rest period at one point five times (1.5X) the Basic Rate of Pay.

(e) On the date fixed by proclamation, in accordance with the *Daylight Savings Time Act*, of conversion to Mountain Standard Time, regular hours of work shall be extended to include the resultant additional hour with additional payment due therefore at the overtime rate. On the date fixed by said Act for the resumption of Daylight Savings Time, the resultant reduction of one (1) hour in the shift involved shall be effected with the appropriate deduction in regular earnings.

(f) Employees who are required to remain in the building during their meal period will be paid one half (1/2) hour straight time. Such time will not constitute an extension to their normal shift.

(g) If the Employer requires an Employee to work during their meal break, the Employee shall be paid for that meal break at one point five times (1.5X) the Basic Rate of Pay for the full meal break.

20.02 Work Schedules

(a) Work schedules covering a four (4) week period will be posted two (2) weeks in advance.

(b) The Employer will endeavour to schedule shifts such that there will be a minimum of twelve (12) hours off duty between shifts.

(c) Those employees working less than thirty (30) hours a week may work two (2) weekends out of three (3).

(d) The first shift of the day will be the shift starting at, or close to midnight, or the night shift.

(e) Employees shall not be scheduled work more than seven (7) consecutive days.

(f) If the Employer intends to make any changes to the shift patterns or master schedules that are currently in place, the Union shall be notified and the parities will meet to discuss the changes being contemplated. The Employer shall provide at least thirty (30) days of notice to the Union of its intention to change or revise shift rotations. The parties will meet to discuss the changes being contemplated at a convenient time within fourteen (14) days of the notice.

20.03 Employee requests for specific days off should be submitted to the immediate supervisor two (2) weeks in advance of the scheduled shift where possible.

20.04 Additional Hours of Work

(a) Regular Part-time Employees shall have first preference for the available work. Regular Part-time Employees working extra hours under this arrangement will not be entitled to overtime on these hours unless they qualify under the Overtime provisions in this Article 22. In no case will the Employer be obliged to use a Regular Part-time Employee such that doing so would create an overtime situation.

(b) A Regular Part-time Employee may submit in writing their willingness to pick up additional shifts. The Employer may schedule Part-time Employees, who have given their request in writing, for additional shifts with the consent of the Part-time Employee. Where there are available additional shifts, the Employer shall distribute the additional shifts to Regular Employees first consistent with the principles of seniority (within the worksite) and on a rotational basis.

(c) Opportunity to work additional hours of work shall be made available:

(i) First to Part-time Employees who are senior, available and have requested additional hours of work; and

(ii) then to Casual Employees based upon their availability form and on a fair rotational basis.

At the request of the Union or the Employer, the parties agree to meet to discuss the distribution of additional hours of work.

20.05 Shift Exchanges

(a) Employees may exchange shifts with another regularly scheduled

Employee provided that:

(i) The shift exchange is agreed to, in writing, between the affected employees of the same classification;
(ii) An Employee must submit a request in writing to their immediate supervisor not less than five (5) working days in advance of the scheduled shift, except in the case of emergency;
(iii) Shift exchange request forms approved or denied will be returned to the Employee within two (2) business days, and approved exchanges will be recorded on the shift schedule;
(iv) The shifts exchanged will be within two (2) pay periods, unless otherwise mutually agreed;
(v) Once a shift exchange has been approved it will not be changed without mutual agreement between the Employer and Employees;
(vi) The shift exchange will not result in overtime or any additional cost to the employer.

(b) Such exchange shall not be deemed a violation of the scheduling provisions of this Article.

(c) There shall not be any permanent shift exchange arrangements.

(d) It is understood that shift exchanges are not intended and will not be approved where the employee is consistently exchanging the same shift(s) and therefore is not fulfilling the requirements of their position.

Article 22 Overtime

22.01 Overtime is all time authorized by the Employer for all hours worked in excess of the hours worked as per Article 20.01(b).

22.02 The overtime rate of one and one-half (1 ½) times the applicable basic rate of pay shall be paid for all overtime hours worked.

22.03 No Employee may waive their entitlement to overtime.

22.04 Employees may request to receive time off in lieu of overtime at the straight time banked hourly rate. Any request to bank overtime must be made within the pay period in which it is earned. Such time off shall be taken at a time mutually agreed to by the Employee and the Employer. If the banked time is not used by December 31st in any given year, the banked time shall be paid out, unless otherwise mutually agreed to carry forward the banked time into the next year.

22.05 When an Employee who is scheduled reports for work in a normal manner and is notified that no work is available, the Employee shall receive a minimum of three (3) hours of pay. The Employer may assign work to the Employee for the three (3) hours.

22.06 For the purposes of clarity, a full-time Employee who is required by the Employer to work on their scheduled day off shall receive overtime premium of one point five times (1.5x) their Basic Rate of Pay.

Article 23 – Named Holidays

23.01 Employees shall be entitled to receive a day off with pay on or for the following Named Holidays:

New Year's Day

Labour Day

Alberta Family Day

Thanksgiving Day

Good Friday

Remembrance Day

Victoria Day
Canada Day

Christmas Day

Boxing Day

August Heritage Day

23.02 Subject to Clause 22.01, to qualify for a Named Holiday with pay the Employee must:

(a) Work their scheduled shift immediately prior to and immediately following the holiday, except where the Employee is absent due to illness, or other reasons acceptable to the Employer; and

(b) Work on the holiday when scheduled or required to do so.

23.03 An Employee required by the Employer to work on a Named Holiday shall be paid for all hours worked on a Named Holiday at one point five times (1.5X) their Basic Rate of Pay plus:

(a) an alternate day off with pay at a mutually agreed time, or

(b) failing mutual agreement within thirty (30) calendar days following the Named Holiday, the Employee shall receive payment for such day at their basic rate of pay.

23.04 When a Named Holiday falls on a day that would otherwise be a Regular Employee's regular scheduled day off, or during an Employee's vacation, the Employee shall receive either:

(a) an alternate day off with pay at a mutually agreed time; or

(b) failing mutual agreement within thirty (30) calendar days following the Named Holiday of the option to be applied, the Employee shall receive payment for such day at their Basic Rate of Pay.

23.05 Unless an Employee requests otherwise in writing, Employees shall be scheduled, so as to be given either Christmas Day or New Year's Day off.

23.06 Notwithstanding Articles 22.03 and 22.04, any remaining alternate days off not taken by December 31st of each year shall be paid out at the Employee's Basic Rate of Pay.

23.07 In lieu of Named Holidays, Part-time and Casual Employees will be paid **four-point two three percent (4.23%)** of the Basic Rate of Pay for hours worked in each bi-weekly period.

23.08 Overtime worked on a Named Holiday shall be paid at two times (2X) the Basic Rate of Pay.

Article 24 – ANNUAL VACATION

24.01 Definition
For the purpose of this Article, "Vacation" means vacation with pay.

24.02 Vacation Year

Vacations are not cumulative from year to year. Employees must take their full vacation entitlement during the applicable vacation year. Vacation cannot be waived, in order to draw double pay.

24.03 The vacation year will commence on January 1st and end on December 31st.

24.04 Vacation Entitlement
An Employee with less than a year of service prior to the first (1st) of January in any one (1) year shall be entitled to a vacation calculated on the number of months from the date of employment in proportion to which the number of months of the Employee's service bears to twelve (12) months.

YEARS OF SERVICE	VACATION ENTITLEMENT
Less than 1950 hours paid	4% of gross earning for the vacation year
1 TO 3 years	4% or 2 weeks
4 to 8 years	6% or 3 weeks
8 years or more	8% or 4 weeks

Vacation may be taken at any time in the vacation year, unless otherwise specified and not in conjunction with the previous year's vacation. In the selection of dates, every effort will be made to be consistent with the necessities of the operation of the Employer to allow employees to exercise their choice in accordance with their seniority.

Part-time employees - 1950 hours of work = 1 year of service.

Vacations during December 15 to January 15 will be granted based on business needs. Such requests will be on a first come, first serve basis. In the event 2 or more employees apply at the same time, the deciding factor shall be first, who worked the previous year and if equal, and then seniority. The granting of vacation at Christmas is based on the efficient operations of the Residence.

Upon request employees will be allowed to carry-over 5 days, which must be taken before April 30 of the following year.

Scheduling Vacation

The Employer will post by January 1 a vacation sheet in each department. Each employee employed in each unit / department should indicate prior to January 31th her/his preference for that vacation. Vacation request must be approved by the employer by February 28th, in the event of conflict, seniority shall govern.

24.05 Cessation of Vacation Accrual

Notwithstanding section 24.02, accrual of vacation pay will cease during a period of Employee absence in excess of thirty (30) calendar days, for any or a combination of the following reasons:

(i) illness or injury, unless in receipt of sick leave with pay pursuant to Article 25, Sick Leave;
(ii) in receipt of compensation from Workers Compensation Board in excess of thirty (30) calendar days;
(iii) layoff;

24.06 Vacation Pay for Casual Employees

Casual Employees shall be paid earned vacation pay on each payday. Casual Employees with less than 5 years' service shall earn vacation pay in accordance with the applicable percentage of the Casual Employee's earnings as outlined in the *Employment Standards Code*. Casual Employees with more than 5 years' service shall earn vacation pay in accordance with the applicable percentage of the Casual Employee's earnings as outlined in the *Employment Standards Code*.

24.07 Vacation Accrual upon Termination

Employees who have terminated their employment shall be paid any outstanding vacation pay on their last cheque.

Article 25 – Sick Leave

25.01 Following the completion of probation, Full-time and Part-time Employees are eligible for Sick Leave. Full-time and Part-time Employees will accrue three and three quarters (3.75) hours sick leave for every one hundred and sixty-two point five (162.5) hours worked to a maximum of three hundred and forty-five (345) hours. The remaining sick leave credits will be transferred to the following year's Sick Leave bank. The maximum accrual of sick leave at any one time is three hundred and forty-five (345) hours.

25.02 When an Employee has accrued the maximum Sick Leave credits, the Employee shall no longer accrue Sick Leave credits until such time as the Employee's total accumulation is reduced below the maximum. At that time the Employee shall recommence accruing Sick Leave credits.

25.03 An Employee granted Sick Leave shall be paid at their Basic Rate of Pay for regularly scheduled hours absent due to illness, and the number of hours paid shall be deducted from their accumulated Sick Leave credits up to the total amount of their

accumulated credits at the time the Sick Leave commenced.

25.04 **Proof of Illness**

(a) An Employee may be required to provide a doctor's note, as satisfactory proof of absence and illness for sick leave credits.

(b) If the Employee requires a sick leave certificate in accordance with the collective agreement and the doctor charges the employee for such certificate, the Employer will pay up to twenty-five dollars ($25.00) for the certificate.

(c) The Employer will advise an Employee of their accumulated sick leave credits when requested.

25.05 Upon termination of employment, all sick leave credits shall be canceled, and no payment shall be due.

25.06 An Employee who has exhausted their sick leave credits during the course of an illness, and the illness continues, shall be required to pay their portion of the group benefits plan. The Employee shall advise the Employer of their intent to remain on the health benefit plan in writing and shall make arrangements to pay the premiums in a lump sum or on a monthly basis. A failure to remit the payment required will result in cancellation of benefit.

Article 29 – Shift Differentials, Weekend Premium and Pyramiding

29.01 Evening Shift Weekday Monday to Friday Premiums

Effective two (2) full pay periods following the effective date:

Evening Shift – LPN and HCA

A Shift Differential of two dollars and twenty-five cents ($2.25) per hour shall be paid:

(a) to Employees for each hour when the majority of hours are worked between fifteen hundred (1500) hours to twenty-three hundred (2300) hours; and

(b) to Employees for all overtime hours when the majority of hours are worked within the period of fifteen hundred (1500) hours to twenty-three hundred (2300) hours.

Evening Shift – all other employee classifications

Shift Differential of seventy-five cents ($0.75) per hour shall be paid:

(a) to Employees for each hour when the majority of hours are worked between fifteen hundred (1500) hours to twenty-three hundred (2300) hours; and

(b) to Employees for all overtime hours when the majority of hours are worked within the period of fifteen hundred (1500) hours to twenty-three hundred (2300) hours.

29.02 Night Shift Weekday Monday to Friday Premiums

Effective two (2) full pay periods following the effective date:

Night Shift – LPN and HCA

A Shift Differential of two dollars and seventy-five cents ($2.75) per hour shall be paid:

(a) to Employees for each hour when the majority of hours are worked between twenty-three hundred (2300) hours to zero seven hundred (0700) hours; and

(b) to Employees for all overtime hours when the majority of hours are worked within the period of twenty-three hundred (2300) hours to zero seven hundred (0700) hours.

Night Shift – all other employee classifications

A Shift Differential of one dollar ($1.00) per hour shall be paid:

(a) to Employees for each hour when the majority of hours are worked between twenty-three hundred (2300) hours to zero seven hundred (0700) hours; and

(b) to Employees for all overtime hours when the majority of hours are worked within the period of twenty-three hundred (2300) hours to zero seven hundred (0700) hours.

29.03 Weekend Premium

Effective two (2) full pay periods following the effective date:

Weekend Premium – LPN and HCA

An Employee shall be paid a Weekend Premium per hour for each hour worked between twenty-three hundred (2300) hours Friday and zero seven hundred (0700) hours Monday as follows:

(a) Two dollars and twenty-five cents ($2.25) per hour shall be paid:
to Employees for each hour worked between seven hundred (0700) hours to fifteen hundred (1500) hours; and

(b) Two dollars and fifty cents ($2.50) per hour shall be paid:
to Employees for each hour worked between fifteen hundred (1500) hours to twenty-three hundred (2300) hours; and

(c) Three dollars ($3.00) per hour shall be paid:
to Employees for each hour worked between twenty-three hundred (2300) hours to zero seven hundred (0700) hours.

Weekend Premium – all other employee classifications

An Employee shall be paid a Weekend Premium per hour for each hour worked between twenty-three hundred (2300) hours Friday and zero seven hundred (0700) hours Monday as follows:

(a) One dollar ($1.00) per hour shall be paid:
to Employees for each hour worked between seven hundred (0700) hours to fifteen hundred (1500) hours; and

(b) One dollar and twenty-five cents ($1.25) per hour shall be paid:

to Employees for each hour worked between fifteen hundred (1500) hours to twenty-three hundred (2300) hours; and

(c) One dollar and fifty cents ($1.50) per hour shall be paid:
to Employees for each hour worked between twenty-three hundred (2300) hours to zero seven hundred (0700) hours.

29.04 All premiums payable under this Article shall not be considered as part of the Employee's Basic Rate of Pay.

29.05 There shall be no pyramiding or stacking of premiums unless specified in an article.

Article 32 – Health Care Benefits

32.01 The following benefits apply to regular employees who work an average of 30 hours per week and have completed the probationary period:

Benefits	**Details**
Life Insurance	$25,000
Dependent Life Insurance	Spouse: $5,000. Child: $2,500.
AD&D	$25,000 Max: age 70
Health	100% hospital Drugs $6.00 on each drug and 80% for all additional amount $300 per calendar year for each of the 9 practitioners
Dental	80% for basic – max of $1,500 50% for major – max of $1,000
Vision	100% to a maximum of $250.00 every 24 months $50 eye exam every 24 months

Article 33 – Layoff and Recall

33.01 Notice

When, in the opinion of the Employer, it becomes necessary to displace an Employee, due to a reduction of the work force, or reduction in regularly scheduled hours of work of a Regular Employee, or wholly or partly discontinue an undertaking, activity or service, the Employer will notify the Union fourteen (14) calendar days prior date of layoff, except that notice shall not apply where layoff results from an act of God, fire, flood or a natural disaster.

33.02 Joint Discussions

The Employer and the Union recognize the value of joint discussions when a layoff will occur. Representatives of the Employer and the Union may meet to discuss alternative layoff

processes that may be more appropriate in the particular circumstances. In the event that the parties do not mutually agree in writing that alternative processes are appropriate, the following will apply.

33.03 Layoff Process

(a) In reducing the work force, Employees will be laid off in reverse order of seniority within a department, subject to the following:

(i) The remaining Employees have the ability to perform the work involved.

(ii) An Employee cannot achieve a position in a higher paid position through the operation of the lay-off provisions.

(iii) A more senior Employee may be permitted to refuse a reassignment and be laid off.

(b) Temporary Employees shall be released prior to regular Employees being laid off, provided the regular Employees have the ability to perform the work involved.

33.04 Recall

(a) Employees on lay off shall be recalled in the order of their seniority for the job classification in the worksite, subjected to Article 15 - Seniority.

(b) (i) The Employer shall notify the Employee of the date of return to work when recalled from layoff. The Employer may agree to an alternate date should the Employee request.

(ii) Employees on layoff are responsible for informing the Employer of any changes in address or telephone number, which may be used to contact the employee for recall.

(c) In any event, should an Employee fail to return to work on the specified date, the Employee will forfeit any claim to re-employment.

(d) Regular Employees on lay off may accept casual work without affecting their recall status and seniority standing upon recall. Such Employees shall be governed by the Collective Agreement provisions applicable to Casual Employees.

(e) The Employer will not hire new Employees into a classification when others in that classification are on layoff subject to ability to do the work required.

33.05 Health and Insurance Benefits

Employees on layoff shall make prior arrangements for payment of the full premiums of any applicable health and insurance benefits.

Article 34 – Casual Employees

34.01 All provisions of the Collective Agreement apply to Casual Employees subject to specific language in each Article or with the following exceptions and stipulations:

(a) Article 6 – Union Representation (6.05 does not apply to Casual Employees)
(b) Article 15 – Probation and Seniority
(c) Article 17 – In-Service Programs and Professional Development (17.03 Professional Fees do not apply to Casual Employees)
(d) Article 20– Hours of Work (20.02 and 20.05 do not apply to Casual Employees)
(e) Article 24 – Annual Vacation (except 24.08 which does apply to Casual Employees)
(f) Article 25 – Sick Leave
(g) Article 27 – Leaves of Absence
(h) Article 28 – Health Care Benefits
(i) Article 30 – Layoff and Recall

Retroactivity

Retroactive pay shall be paid to all current employees on the first pay period following sixty (60) days from the date of this Award. Retroactive pay will be based on hours worked since the date of certification.

Wages

Effective April 8, 2022	2.0%
Effective April 8, 2023	1.75%