



Know Your Rights Lay-Off Under the Health Sector Agreement

Many UPN members have only recently been transferred from the Public Service to the Health Sector and we are finding that they are having difficulty understanding the new agreement particularly as it deals with your rights when you are being issued notice of lay-off. This has been further exacerbated by the fact that Bill 29 and succeeding Labour Relations Board decisions have dramatically altered what is in the collective agreement.

In order to assist you in understanding these provisions and to make sure you are equipped with the necessary information to protect your rights, we send you this summary of the Lay-off Process. Should you unfortunately receive your displacement notice, you can refer to this document to determine if the Employer is providing you with the correct information and options. If not, you should contact your Local Union Steward to discuss how to proceed. If you have any questions regarding this document, please contact your Local Steward or call the Union office at 604-931-2471.

Lay-off Process

1. Length of notice
 - a) If individual lay-off
 - Less than 5 yrs. service – 28 calendar days or regular pay for 20 work days
 - 5 to less than 10 yrs. service – 40 calendar days or regular pay for 30 work days
 - More than or equal to 10 yrs. service – 60 calendar days or regular pay for 40 work days
 - b) If group lay-off
 - In addition to amounts listed for individual lay-off Section 64 of the Employment Standards Act provides the following:
 - If 50 to 100 employees effected – 8 weeks
 - If 101 to 300 employees effected – 12 weeks
 - If 301 or more employees effected – 16 weeks
2. How long paid
 - a) An employee served notice may be required to continue working as normal for the duration of the notice period or will be entitled to pay in lieu for any part of the notice period in which the employer chooses not to use them. Once the notice period has been completed or paid for in lieu, the employee is deemed to be laid off and pay discontinues.



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3. Procedure
 - a) When an employee is issued with a displacement notice a copy of the notice will be provided to the Local Union Steward.
 - b) A meeting will be arranged between the displaced employee, their Local Steward and Employer representative(s) in which to go over the displaced employee's options.
 - c) At this meeting, the displaced employee will be given the following:
 - a site seniority list if they are employed by a facility within the Provincial Health Services Authority (PHSA) or a dovetailed seniority list for their Dovetailed Seniority List Area (DSLTA) if they are employed in one of the five (5) Regional Health Care Authorities (RHCA); and
 - a listing of "unfilled vacancies" within their DSLTA if they are employed within one of the RHCAs; and
 - a listing of current vacancies and new positions within their worksite.
 - d) Time frames for making a decision on an option will commence once these items are given to the displaced employee.
4. Options
 - a) Bump
 - Employees wishing to exercise a bump may only do so from a seniority list of employees with less than five years' seniority.
 - Employees who wish to exercise their right to bump an employee at the same worksite must advise their employer within forty-eight (48) hours of receiving the seniority list.
 - Employees who wish to exercise their right to bump an employee at a different worksite must advise their employer within seven (7) days of receiving the seniority list.
 - Displaced employees with greater than five years' seniority can only bump an employee with less than five years' seniority provided they are qualified and capable to perform the work.
 - The comparability rule, noted below, does not apply to employees with greater than five years' seniority.
 - Displaced employees with less than five years' seniority can only bump the most junior employee whose hours of work are comparable, regardless of the classification, provided they are qualified and capable to perform the work.
 - comparable means that the regularly scheduled hours of work differ by no more than 20% from the regularly scheduled hours of an employee's current position and the hourly wage rate differs by no more than 5% from the hourly wage rate of the employee's current position.
 - Once an employee has chosen a position to bump into, the employer may assign them into the position within seven (7) days.



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- b) Post into an “Unfilled Vacancy” (All Authorities except PHSA)
- BCLRB 274/2002 defines an “unfilled vacancy” as “a vacancy for which there was no successful candidate when the vacancy was originally posted”. In other words, any vacancy that has already been posted internally and not been filled.
 - A displaced employee has the right to first consideration in the selection of “unfilled vacancies”, provided they are capable and qualified to perform the duties of the vacant position.
 - Should more than one displaced employee opt for the same “unfilled vacancy”, the most senior employee would be selected.
 - Employees who wish to exercise their right to select an “unfilled vacancy” at the same worksite must advise their employer within forty-eight (48) hours of receiving the DSLA unfilled vacancy list.
 - Employees who wish to exercise their right to select an “unfilled vacancy” at a different worksite must advise their employer within seven (7) days of receiving the DSLA unfilled vacancy list.
- c) Opt into a Vacancy
- A displaced employee has the right to first consideration in the selection of vacant or new positions at their home worksite, whether or not such vacancies have been posted, provided they are capable and qualified to perform the duties of the vacant position.
 - Should more than one displaced employee opt for the same vacant position, the most senior employee would be selected.
 - Employees who wish to exercise their right to opt into a vacancy must notify their employer in writing within fourteen (14) calendar days of their meeting as described in Article 19.01 (B) of the NBA collective agreement.
- d) Change to Casual Status
- An employee may chose to transfer to casual status at any time up to and including lay-off.
 - At the time of making the transfer, an employee would forfeit any remaining portion of their notice period.
- e) Lay-off
- Upon the conclusion of the notice period, an employee who has not exercised their right to bump or transferred to casual status would be laid off and subject to recall rights as described below.
5. Definitions
- a) Displacement
- Regular employees are deemed to be displaced when they are provided with written notice that their position is being eliminated or they are being bumped.



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- b) Notice period
 - The period of time between displacement and layoff during which the employer is liable to provide working notice of layoff or pay compensation in lieu of notice.
 - c) Lay-off
 - An employee is deemed to be laid off when their position is actually eliminated or they are bumped and their notice period has expired or they have been compensated in lieu of notice.
 - d) Severance
 - An employee that has been laid off and has either exhausted his/her recall rights, been laid off for more than one year, or has elected in writing to be terminated rather than accept or retain a layoff status, is deemed to be severed from employment. Severance pay, as applicable, would then be payable.
6. Recall
- a) How long on recall
 - An employee that has completed their probationary period shall retain their seniority and be eligible to be recalled to work, in reverse order of seniority, for a period of one year from the date of lay-off.
 - In order to be recalled, the employee must be qualified and capable to perform the necessary duties of the job.
 - b) How recalled
 - Notice of recall must be given by registered mail.
 - The employee is obliged to keep the Employer advised at all times of their current address.
 - c) If recall refused
 - An employee must report for regular work within seven (7) calendar days of receipt of the written notice of recall otherwise they will be considered to have abandoned their recall rights.
 - If an employee is required to give notice to another Employer before returning, they shall be deemed to be in compliance with the seven (7) day provision.
 - An employee may decline recall to one comparable regular position without affecting their layoff status.
 - An employee who abandons their recall rights by not accepting a position, shall be considered to have quit and will also forfeit any rights to severance allowance.
7. Severance Allowance
- a) Eligibility
 - For the purposes of lay-off, all employees who have completed ten (10) years' of service will be entitled to severance allowance on severance from employment.



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- b) Amount
- The severance allowance is equal to one week's pay for every two years' of service.
 - Service of less than two years would be prorated.

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