

CONTRACT INTERPRETATION MANUAL

Article 39 LEAVE – PAID HOLIDAYS

Interpretation Guidelines

Article 39.01 - Paid Holiday Entitlement

RFT and RPT employees are entitled to a day off “on or for” the paid statutory holidays each year as listed in the current PCA.

Article 39.02 - Payment for Paid Holidays

RFT employees are paid regular pay for each day off listed in 39.01 as a paid holiday.

RPT employees receive regular pay for each day off listed in Article 39.01 as calculated using the formula set out in Article 39.02(B) bi-weekly.

Casuals receive a percentage of pay in lieu as per Article 11.04 (G) (2).

Work schedules should have the days off “on or for” each of the paid holidays marked in the schedule:

1. These stat days are numbered from 1 to 12 and generally evenly distributed over the course of a year resulting in stat days being identified about every 5 weeks;
2. If the stat day is not numbered, it will correspond to the closest stat day in the calendar year (e.g. New Year's Day equals the first stat day in the year and first stat day marked on the master schedule in the corresponding calendar year);
3. Employees called in to work on these designated “stat days off” are paid at the appropriate overtime rate set out in Articles 27.05 (C) and 29.04 (B); and
4. The Employer is required to give 14 days notice of changes to the schedule which result in the employee being required to work on a stat day or a day designated as a “stat day off”. Overtime rates will apply with less than 14 days notice. Articles 27.05 (C) and 29.04 (B).

Paid leave does not include premiums paid only when an employee works, such as shift and weekend differential or overtime. It does not include qualification differential.

Article 39.03 - Work on a Paid Holiday

A regular or casual employee who works on one of the 9 regular stat holidays listed in Article 39.03 (A) (1) is paid 2x their regular rate of pay.

An employee working a normal full shift (e.g. 7.5 hours) gets paid the premium rate for all hours of work in the shift when a minimum of ½ of the hours fall within 0001 and 2400 hrs on the paid holiday.

An employee working an Extended Work Day shift gets paid the premium rate for all hours of work within 0001 and 2400 hrs on the paid holiday (Article 39.03 (A) (1) in the Extended Work Day Memorandum).

CONTRACT INTERPRETATION MANUAL

A regular or casual employee who works on one of the 3 super stat holidays listed in Article 39.03 (A) (2) is paid 2.5 x their regular rate of pay.

An employee working a normal full shift (e.g. 7.5 hour) gets paid the super stat rate for all hours of work in the shift when a minimum of ½ of the hours fall within 0001 and 2400 hrs on the paid holiday.

An employee working an Extended Work Day shift gets paid the super stat rate for all hours of work within 0001 and 2400 hrs on the paid holiday (Article 39.03 (A) (2) in the Extended Work Day Memorandum).

Employees who are working on one of the stat holidays as set out above and required to be available during their meal break(s) receive the appropriate premium pay for the stat holiday for their meal break(s) (Powell River General Hospital and BCNU, November 4, 1991 (Munroe)).

Regular employees are entitled to receive a paid day off in lieu of any stat holiday (Article 39.02).

Casuals are not entitled to receive a paid day off in lieu of the stat holiday, as they receive a percentage of pay in lieu on each pay cheque (Article 11.04 (G) (2)).

Article 39.04 - Premium Rates of Pay

Overtime

1. When an employee works overtime on a stat holiday, the overtime is payable at 1.5 x the appropriate holiday rate for all overtime hours worked. For example $1.5 \times 2x \text{ rate} = 3 \times \text{rate}$ on regular stat holidays and $1.5 \times 2.5x \text{ rate} = 3.75 \times \text{rate}$ on all super stats (Article 27.05 (C)).

Call-Back

1. Where a regular employee is on-call and called back to work on a day off identified in their work schedule as a paid holiday, the call-back rate of pay is 1.5x the appropriate stat holiday rate for all hours worked with a minimum pay of 2 hours for each separate call-back.
2. Where a regular or casual employee is on-call and called back to work on one of the named stat holidays, they are entitled to the overtime rate 1.5 x the appropriate stat holiday pay for all hours worked (Article 29.04 (B)) with a minimum pay of 2 hours for each separate call-back, for example:
 - (a) $1.5 \times 2 = x3$ for a regular stat
 - (b) $1.5 \times 2.5 = x3.75$ for the super stats

Three Different Shifts Worked in any 7 Consecutive Days

1. This provision only applies to RFT employees.
2. If the employee is required by the Employer to work 3 different shifts in 7 consecutive days and the 3rd shift change is a paid holiday, the employee receives 1.5x the appropriate stat holiday rate for that day unless the arrangement is requested by the employee.

Changes in Schedule with Insufficient Notice

1. If an employee's schedule is changed without 14 days notice; and
2. If an employee is required to work on either a stat holiday or a day previously scheduled as a stat holiday; then

The interpretations in this manual are provided on a *without prejudice, errors and omissions* basis to any position Unions in the Nurses' Association of Bargaining Agents may take in any arbitral proceeding or any other forum.

CONTRACT INTERPRETATION MANUAL

3. The employee is entitled to be paid the appropriate overtime rates for all hours worked and the paid holiday must be rescheduled with pay.

In HEABC (Vancouver Hospital and Health Sciences Centre) and BCNU, April 24, 1998 (Kinzie), the Arbitrator dismissed the grievance where an employee grieved the fact that the Employer changed the work schedule and as a result the employee was no longer scheduled to work Labour Day (a super stat), stating that there was no violation of the PCA.

Article 39.05 - Paid Holiday Coinciding with a Rest Day

Where a calendar stat holiday day falls on the regular employee's day off, the employee receives an additional day off in lieu.

When working a Monday to Friday schedule, some stat days may fall on the weekend. The usual process in this case is to have the Monday following the actual stat marked as a paid stat day off.

When working a schedule that is not a Monday to Friday schedule, it is expected that some regular scheduled work days will coincide with calendar stat days. In order to ensure stat days are provided, stat days are marked on the mutually agreed to master rotation.

How stat days are dealt with must be noted on the agreed to master rotation template. BCNU rotation representatives may be available for consultation.

Article 39.06 - Paid Holiday Coinciding with Vacation

Where a paid holiday falls within a regular employee's vacation, the employee receives an additional day off in lieu, unless the stat day is paid as a stat day and not a vacation day.

Scheduling of this additional day off in lieu is to be mutually agreed between the employee and Employer and is subject to operational requirements. The Employer has to demonstrate they have been reasonable. The Union recommends these days off in lieu of stats be worked into the schedule in advance.

Article 39.07 - Scheduling of Paid Holidays

Application

1. The "stat days off" may be scheduled on the actual stat holiday or on any other scheduled work day. All "stat days off" should be marked in the mutually agreed to Master Work Schedule (HEABC/BCNU Shift Rotation Manual (2003)).
2. The scheduling is subject to mutual agreement and operational requirements, reasonably applied.
3. With the exception of Christmas Day and New Year's Day, (Article 39.07(B)), there is no requirement in the PCA that "stat days off", as marked on the mutually agreed to Master Schedule be altered.
4. The Holidays Act provides Canada Day to be observed on July 1, unless it falls on a Sunday, in which case it is to be observed on July 2. If Canada Day falls on a Sunday, the premium pay is applied to employees who have worked July 2 instead of July 1 (Salvation Army Grace Hospital and ONA, (1990), 15 LAC (4th) 126 (Stanley)).

CONTRACT INTERPRETATION MANUAL

Christmas or New Year's Day

1. Where a worksite operates on Christmas and New Year's Day, a regular employee must receive either Christmas or New Year's Day off, unless the employee requests to work both days and the Employer agrees.
2. There is no requirement in the PCA to use seniority to determine who works each of these days.
3. The request should be in writing to ensure there is a record.
4. It is recommended that employees at the worksite come to mutual agreement with the Employer to rotate who works Christmas and New Year's Day from year to year. A scheduled night shift on December 24 or December 31 is not considered to be working Christmas or New Year's Day.

Sick Leave

1. An employee may apply sick leave credits to a paid holiday where they have been on sick leave immediately before and after the scheduled paid holiday.
2. In this case, the paid holiday would be paid using sick leave credits and the paid holiday would need to be rescheduled at a mutually agreeable time between the employee and Employer.

Arbitration Awards

1. Salvation Army Grace Hospital and ONA, (1990), 15 LAC (4th) 126 (Stanley). The employee working July 2 receives the stat holiday pay when Canada Day falls on July 2 pursuant to the Holidays Act.
2. Cranbrook and District Hospital and BCNU, January 17, 1986 (Thompson). The provisions of the PCA to the granting of a paid day off nor do the specific provisions regarding call-backs contain any exclusions to the general rules.
3. Powell River General Hospital and BCNU, November 4, 1991 (Munroe). Employees working on a stat holiday and scheduled to be available during their meal break(s) are entitled to receive the appropriate premium rate for their meal break(s).
4. Vancouver Hospital and Health Sciences Centre and BCNU, April 24, 1998 (Kinzie). Grievance alleging the Employer breached the collective agreement by rescheduling an employee who was previously scheduled to work on a super stat holiday was dismissed.

BCHOA Decisions

1. FHA and BCNU, July 31, 2017 (Ready). Ruling agreed that OT worked on paid stat holidays is bankable (Article 27).

Additional Resources

Legislation

1. Holidays Act: (R.S. 1985, c.H-5) can access a version at [http://laws.justicegc.ca/en/H-51](http://laws.justice.gc.ca/en/H-51)
2. Employment Standards Act, Part 5

BCNU Resources

1. HEABC/BCNU Shift Rotation Manual (2003)

CONTRACT INTERPRETATION MANUAL

Footnotes

Article	39
Sub-Article	39.01, 39.02, 39.03, 39.04, 39.05, 39.06, 39.07
Last Update	31-03-21
Related Articles	11, 27, 29, Extended Hours Memorandum