

CONTRACT INTERPRETATION MANUAL

Article 43 SPECIAL LEAVE

Interpretation Guidelines

This is an example of a non-discretionary leave with clear and objective conditions for all the leaves addressed by this provision.

Article 43.01 – Accumulation

Effective June 4, 2006, a RFT employee earns special leave credits at the rate of ½ a day every 4 weeks to a maximum entitlement of 20 days x 7.5. Once the bank drops below 20 days, it is replenished on the basis of earning more credits. The normal full day is 7.5 hours.

1. Regular employees who have earned over 20 days of special leave credits as of June 4, 2006 will maintain their existing banks.
2. The new language is effective 1-month post-ratification (i.e. June 4, 2006).

The Union agreed to the reduction in maximum credits in order to expand the application of special leave in Article 43.02(C).

A RPT employee's accumulation of special leave credits is prorated (Article 11.03 (B)). However, the use of special leave is not prorated, RPT employees are entitled to use special leave credits at the same rate as RFT employees per working hour of leave from their scheduled hours of work (Royal Columbian Hospital and BCNU, February 28, 1994 (Laing)).

The Employer is required to record any special leave hours used within a pay period on the employee's statement of wages (Article 56.04 (I)).

Article 43.02 (B) – Application

Marriage Leave and Parental Leave are non-discretionary leaves and the Employer is required to grant the leave on request and provision of proof:

1. Marriage leave – 5 working days, the days do not have to be consecutive and RPT employees are entitled to take all 5 days. For example, the employee can take 2 days paid leave followed by scheduled days off and then take the last 3 days of leave. Or they can divide it as long as there was a clear connection between the wedding and the event relied upon to support the division (e.g. to coincide with more than one event related to the marriage, such as repeating the vows for family members who could not be present for the marriage ceremony itself).
2. Parental leave – 5 days, the leave does not have to be taken on the day of the actual birth of the child, it can be taken at a later time. However, to be eligible, the leave must be consistent with its purpose.

Leave for serious illness of immediate family member. The only qualifier is that the immediate family member has a serious illness. This leave is non-discretionary as long as the employee meets certain conditions:

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1. It is an immediate family member (Article 33 provides a list of those defined as an immediate family member);
2. The family member does not have to live in the same home as the employee; and
3. The family member has a serious illness. It no longer has to be a “sudden” serious illness.

Assisting immediate family member with serious or potentially life-threatening illness with obtaining health education.

When the Employer denies special leave, two dominant themes have been noted in the arbitration awards on this provision:

1. That the Arbitrator must recognize the essential nature of special leave as being provisions that record a negotiated benefit which has been earned through service; and
2. That the onus is upon the grievor to bring the facts of their situation within the governing language.

In arguing grievances, the Union must show that the employee denied special leave came within the criteria set out in the collective agreement.

Arbitration Awards

1. Fraser Health Authority (Surrey Memorial Hospital) and H.S.A., 2012 (Brown). The Arbitrator found that providing care can be defined as providing emotional care to the person.

Industry Troubleshooter

1. HEABC (on behalf of the Chrysalis) and BCNU, July 10, 2004 (Steeves). The Troubleshooter recommended payment of special leave credits for accompanying their child to medical appointments related to cancer treatments on the basis that the grievor was “intimately involved in the treatment of the child and it was important to understanding the health of the child for her to attend with him”.

The following Joint interpretation between the NBA and the HEABC done for the 2014-2019 CA is included below.

HEABC-NBA Provincial Collective Agreement - Joint Interpretation

ARTICLE 43 – SPECIAL LEAVE

HEABC and the NBA agreed to make several changes to Article 43 in the 2014 – 2019 Provincial Collective Agreement, all of which are summarized below.

The parties have agreed to provide both natural fathers and adoptive parents with the opportunity to use up to five (5) day of special leave credits following the birth or adoption of a child.

The parties have further agreed to provide nurses with the opportunity to use up to one(1) day of special leave per calendar year to assist an immediate family member with a serious or life threatening illness with obtaining health education related to his or her illness.

“Health education” must be a health-related education session, such as a healthy hear program, diabetes education session, cancer treatment planning or education session, or other comparable process through

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which significant health information is communicated. “Health education” does not include attendance at a Specialist medical appointment, related to an illness where brief health-related information is provided.

Article 43.02 Personal Leave

In 2019 the language was amended by adding personal leave days to the CA:

1. April 1 2020, add 1 personal leave day per calendar year;
2. April 1 2021, add 2 personal leave days per calendar year; and
3. These days are subject to operational requirements and not to be combined with other leaves.

*As of May 14, 2021, the parties are currently in discussion regarding the outstanding interpretation of this article.

Arbitration Awards

1. Surrey Memorial Hospital and HEU, February 13, 1978 (Larson). Employees are entitled to divide their marriage leave between separate marriage events, as long as a clear connection can be established.
2. Royal Columbian Hospital and BCNU, February 28, 1994 (Laing). The accrual of special leave is prorated for RPT employees, however these employees get to take special leave on the same basis as RFT employees (i.e. the usage is not pro- rated).
3. Royal Columbian Hospital, represented by HEABC, and the British Columbian Nurses Union, April 29, 2010, (Corbin). In an expedited arbitration the arbitrator found that just having a family member in the hospital does not necessarily qualify one for special leave, one must be seen to be providing care for the patient.
4. VCH, VGH, HEABC and BCNU (Bell) September 2017. This ruling found that the employee was not entitled to special leave as they were not providing care during their scheduled shift.
5. PHC SPH, HEABC and BCNU (Ready) October 2017. The Arbitrator ruled that influenza in a 12 year old was a serious illness.

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1. Peace Arch District Hospital and BCNU, September 3, 2002 (Hope). The arbitrator ruled that RPT employees were entitled to the full 5 days of marriage leave and that the leave can be divided as long as there was a clear connection between the wedding and the event relied upon to support the division e.g. to coincide with more than one event related to the marriage, such as repeating the vows for family members who could not be present for the marriage ceremony itself.

Expedited Arbitrations

1. HEABC/Canadian Blood Services and BCNU, February 28, 2005 (Gordon). Confirmed the Union’s position that marriage leave is not prorated for RPT employees that had already been upheld in two previous arbitrations. Namely that the Union’s interpretation ensures equal treatment of RFT and RPT employees, and ensures the same benefit is enjoyed by both groups.

Industry Troubleshooter Recommendation

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1. HEABC (on behalf of the Chrysalis) and BCNU, July 10, 2004 (Steeves). Grievance upheld, special leave was payable for the employee to accompany their child to medical appointments associated with treatment for cancer.
2. Fraser Health and BCNU, July 26, 2004 (Steeves). Grievance denied. Payment of special leave is up to 2 days maximum for each episode of serious illness (i.e. can't apply for another two days special leave after taking a vacation day off in between).
3. HEABC (Interior Health Authority) and BCNU, November 24, 2004 (Sullivan). Grievance denied. The circumstances of travelling to comfort a child away at school did not meet the criteria of vital or critical urgency or the intent of the language where the employee has to stay at home to care for the child or spouse.

Footnotes

Article	43
Sub-Article	43.01, 43.02
Last Update	31-03-21
Related Articles	1, 11, 33, 38, 56