

Article 3

Article 3 - Management Rights

Related Articles: 1.02, 15.04, 18.01, 18.02, 18.03, 59

Interpretation Guidelines:

Article 3.01 - General Rights:

1. This provision deals with the scope of “management rights” which traditionally include the ability to hire, fire, promote or demote employees.
2. Management rights generally prevail unless obeying would place the nurse (or patient) in an unsafe situation or the Union wins a grievance. In other words, employees are usually expected to obey the “work now, grieve later” rule.
3. The purpose of the provisions of the collective agreement is to limit or place conditions on the scope of management rights.

Examples of clauses that limit management rights are:

- The use of casual nurses (Article 11.04) - managers are required to call casuals in by seniority.
- Job vacancies and postings (Article 17 and 18) - managers are required to post all vacancies within a defined period of time and follow the criteria in the agreement in making their selections.
- Layoff and Recall (Article 19) - layoff is by order of seniority.

Article 3.02 - Employer Policies:

It is management's responsibility to ensure all nurses are made aware of any new policies and that new employees are made aware of the Employer's policies, rules and procedures as part of their orientation. Employer policies must be readily accessible for employees to read.

Please note: If you have concerns about any Employer policies, please send them to your Labour Relations Officer (LRO).

Article 3

Employer policies:

- **Cannot be arbitrary** or conflict with provisions of the collective agreement.
- **Cannot be unreasonable.** The test used by arbitrators to assess "unreasonableness" is whether the rule is "reasonable in light of all the facts available".
- **Must be clear and unequivocal**, they should not be vague or ambiguous.
- Must be brought to the employee's attention before the Employer can act on it.
- The **employee concerned must have been notified that a breach** of such a rule could result in discipline if the rule is going to be used as the basis for discipline (including termination).
- **New or changed workplace rules** should be brought to the attention of the Union and the affected employees before the implementation date.
- The **rule must be consistently enforced** by the Employer from the time it was introduced.

Additional References:

Arbitration Awards:

Lumber and Sawmill Workers Union - Local 2537 and KVP (1965), Robinson

- Set out the above noted criteria to be used in evaluating employer policies.

Rosewood Manor and HEU Local 180 (1990), Greyall -

The arbitrator dealt with Employer sick leave and attendance management policies.