

Article 55

Article 55 - Severance Allowance

Related Articles: 11.03 (B), 19.01 (5), 42, 49, 51

Interpretation Guidelines:

1. Regular employees are entitled to severance allowance if they come under 1 of the following categories:
 - (A) In the 1st category, an employee must meet the following 3 criteria:
 - The employee must have a minimum of 10 years service
 - The employee must be leaving the Employer's workforce voluntarily; and
 - The employee must leave the Employer's workforce after their 55th birthday.
 - (B) In the 2nd category, an employee must satisfy the following 2 criteria:
 - The employee must have a minimum of 10 years service; and
 - The employee's service is no longer required by the Employer (e.g. facility closure, reorganization etc).
 - (C) In the 3rd category, an employee must satisfy the following 2 criteria:

The employee is required to retire because of a medical disability as defined in the Pension (Municipal) Act or Pension (Public Service) Act; or

If the employee is required to retire because of a medical disability but the employee is not enrolled under the provisions of the Pension (Municipal) Act or Pension (Public Service) Act, the medical disability is to be determined by a board of medical practitioners established in a like manner to the Act.
 - (D) In the 4th category, an employee must satisfy the following 2 criteria:
 - The employee must have a minimum of 10 years service; and
 - The employee dies while in service.
2. Employees who are terminated for cause are not eligible for severance allowance.
3. An employee doesn't have to be a participant or be contributing to the Municipal Superannuation Plan.

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4. An employee is eligible for severance allowance when the employment relationship is terminated. In particular, a laid off employee is entitled to severance allowance under Article 19.01 (5). The payment of severance allowance only occurs after the 1 year period of recall, unless the Union waives the employee's rights to recall [See Troubleshooter Recommendation: *HLRA and HEU*, September 21, 1982 (Larson)].

Article 55.02 - Severance Allowance Entitlement

1. An eligible employee is entitled to 1 week of pay for every 2 years of service.
2. Service is defined as service with the Employer, plus any service ported from another Employer under the PCA. Arbitrators have clarified that this includes only service accumulated from working in a regular position [See Expedited Arbitration: *Vancouver Coastal Health Authority and BCNU*, October 1, 2002 (Gordon)].
3. The pay rate is based on the employee's hourly wage rate on the employee's last day worked in their position.
4. If the employee is on LTD and retires without returning to work, the pay rate is the employee's hourly wage rate on the effective date of acceptance of their LTD claim.
5. The severance allowance of an eligible employee who dies on service is paid to her/his estate.

Article 55.03 - Calculation of Severance Allowance

1. Eligible employees are entitled to proportionate payments for periods for service of less than 2 years based on the formula set out in Article 55.03 in the PCA.
2. The same periods of service cannot be used more than once for calculating severance allowance.
3. Calculation of service for regular part-time employees is based on the formula set out in Article 55.03 (B).
4. Calculation of service can include time away from work as the result of a WCB claim as long as the claim arises out of a workplace accident with the employee's current Employer [See Arbitration Decision: *Oceanview Care Home and BCNU*, January 8, 2003 (Sullivan) - the grievance was dismissed as the arbitrator found that the time on WCB leave couldn't be included in the calculation for service because the WCB ruled that the employee's WCB leave with the current employer arose from an injury that occurred with a previous employer].

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5. Calculation of service may include service as an LPN with the same Employer if there was no interruption in the employee's service [See Troubleshooter Recommendation: *HEABC (Victoria General Hospital and Royal Jubilee Hospital) and BCNU, June 28, 2004 (Sullivan)*].
6. Casual employees are not entitled to severance allowance.

Article 55.04 - Portability of Service for Severance Allowance Purposes

1. A regular employee is entitled to port her/his service for severance allowance purposes if they:
 - Voluntarily resigns from one Employer; and
 - Are rehired within 1 year by that Employer or another Employer covered by the PCA.
2. Portability of service only applies to:
 - Rehires within 1 year which take place on or after January 1, 1976; or
 - Rehires after the effective date of a first collective agreement where the effective date is later than January 1, 1976 [See *Arbitration Award: Burnaby General Hospital and BCNU, September 8, 1987 (Hope)*].

Article 55.05 - Service

Service for the purpose of severance allowance means any service with the current Employer and any service ported under Article 55.04.

Additional References:

Arbitration Awards:

Burnaby General Hospital and BCNU, September 8, 1987 (Hope) - The grievance was dismissed. The bargaining history did not support the Union's claim that the Employer had agreed to industry wide portability for the purpose of calculating severance allowance. Retroactive application of a provision requires clear expression of intention.

Oceanview Care Home and BCNU, January 8, 2003 (Sullivan) - The grievance was dismissed. The calculation of service for severance did not include service for the period of time the grievor was on a WCB leave that arose out of an injury that occurred with a previous employer.

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Expedited Arbitrations:

Vancouver Coastal Health Authority and BCNU, October 1, 2002 (Gordon) - The grievance was dismissed. Service for the purpose of severance only includes service accumulated as a regular employee. i.e. it does not include service accrued as a casual employee.

Troubleshooter Recommendations:

HEABC (Victoria General Hospital and Royal Jubilee Hospital) and BCNU, June 28, 2004 (Sullivan) - Grievance was upheld. Service for the purpose of severance could include service accumulated as an LPN with the same Employer.