

Sept 14, 2015

Following you will find the consent award that resulted from the Surish Keram - unjust discipline grievance. The arbitrator, Mark Brown, convinced both parties that it would be in everyone's best interest to agree to a better understanding on how to apply for and administer this leave, and the consent award may help in doing that.

We have also attached the interpretative guidelines from the B.C. Government Ministry of Labour.

The last thing we want to have you consider are a few examples of what the Union believes are good examples on proper/improper wording to use on the leave forms.

Proper:

- 1) Education needs of my 8 year old daughter
- 2) Take my spouse for a medical appointment

Improper: (basically providing too much information)

- 1) My 8 year old daughter has been suspended from school I have to see the principal.
- 2) My spouse has broken arm and is scheduled for surgery to repair.

Ben Ruether

Unifor 1115 1st Vice.

IN THE MATTER OF AN ARBITRATION

BETWEEN:

CARIBOO PULP & PAPER COMPANY

EMPLOYER

AND:

UNIFOR LOCAL 1115

UNION

(Suresh Keram -- Discipline Grievance)

CONSENT ORDER OF ARBITRATOR MARK BROWN

The parties agree to the following terms of settlement as full and final settlement of the above noted grievance:

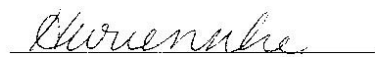
1. The written warning dated June 16 2014 of Suresh Keram ("Grievor") was not adjudicated, but is no longer on the Grievor's file due to the operation of the sunset provision in Article XXX of the collective agreement.
2. An employee seeking leave from work as Family Responsibility Leave must identify they are seeking Family Responsibility Leave at the time.
3. The employee must provide particulars at the time of the Family Responsibility Leave or on completion of the leave form to establish that the leave falls within the provisions of Section 52 of the Employment Standards Act (ESA), including the identity of the family member and the reason for the leave. Where the request for leave is pursuant to Section 52(a) of the ESA, the employee must also provide the age of the child.
4. The Employer is entitled to reasonable proof to establish the legitimacy of the leave if there is reasonable doubt that the leave is legitimate.

5. The Union reserves the right to grieve a denial of a requested leave.

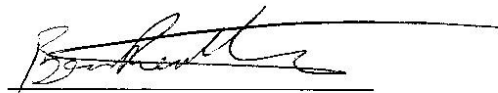
Signed on behalf of

Employer

Union

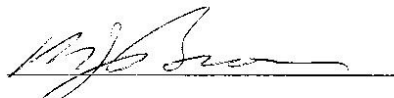


Heather Wuensche



Ben Ruether

IT IS SO ORDERED:



Mark Brown



Dated

Family Responsibility leave literature form the B.C. Ministry of Labour:

This section specifies which persons qualify as "a child in the employee's care" or "immediate family" in the Act and under what circumstances an employee qualifies for up to 5 days of leave under this section.

Text of Legislation

52. An employee is entitled to up to 5 days of unpaid leave during each employment year to meet responsibilities related to

- (a) the care, health or education of a child in the employee's care, or
 - (b) the care or health of any other member of the employee's immediate family.
-

Policy Interpretation

Family responsibility leave is an employee-initiated unpaid leave of up to 5 days in an employee's employment year, based on their starting date. This leave is designed to help employees deal with family problems that conflict with job responsibilities. This leave is a statutory entitlement, not something that may or may not be granted at the discretion of the employer.

Family responsibility leave does not carry over from year to year if it is not used during the employment year.

Employers should record the absence as leave without pay and keep a record of the absence.

Subsection (a)

"A child in the employee's care" means a child under the age of nineteen. Parents are not entitled to family responsibility leave to attend to education-related issues of their children after they reach the age of nineteen.

Subsection (b)

"Immediate family"

Under s.1 of the Act, "immediate family" means the spouse, child, parent, guardian, sibling, grandchild or grandparent of an employee, and any person who lives with an employee as a member of the employee's family. It includes common-law spouses, step-parents, and step-children, and same sex partners and their children as long as they live with the employee as a member of the employee's family.

Duration of leave

Employees are entitled to request up to 5 days off, to be taken at their discretion. Any time taken off on any day (*even one hour*) qualifies as **one day** for purposes of this section, unless the employer and employee agree otherwise. (*See definition of "day" in s.1 of the Act*)

Reason for leave

The request does not need to be made because of a crisis or emergency. It must be related to the care or health, and in the case of a child, education, of a member of the employee's immediate family. An employee is encouraged to give reasonable notice of any request for leave to allow the employer to accommodate the absence. Employers are entitled to reasonable proof, after the event, that the request for a leave was valid.

Examples

- Thomas is notified by school authorities that his child has been injured in a school yard accident and taken to hospital. Family responsibility leave should be allowed.
- Carin has an appointment to meet with a school counsellor to discuss behaviour issues. The appointment is during her scheduled working hours. Family responsibility leave should be allowed.
- Fisher has to accompany his elderly, disabled parent to attend a medical appointment. Family responsibility leave should be allowed.
- Neil wants to accompany his child on a school recreational activity excursion. Since this activity is not related to the care, health or education of the child, it does not justify family responsibility leave.
- Bob wants two days family responsibility leave to go to Edmonton to help his son pack up his belongings after his second year at university and drive him home to Terrace, where he will live with his parents and work for the summer before going back to Edmonton to continue his studies. Since Bob's son is over the age of nineteen, this activity is not related to the education of a child in the employee's care and does not justify family responsibility leave.

