

**IN THE MATTER OF AN ARBITRATION UNDER
THE *LABOUR RELATIONS CODE*, RSBC 1996 C. 244**

BETWEEN

HEALTH EMPLOYERS ASSOCIATION OF BC

AND

NURSES' BARGAINING ASSOCIATION

Employment Standards Act – Sick Leave – Industry-Wide Application Grievance

1. This matter concerns an Industry Wide Application Dispute grievance (IWAD) regarding *Employment Standards Act* (ESA) sick leave, under the 2022-2025 Collective Agreement between HEABC and the Nurses' Bargaining Association (the Collective Agreement). The IWAD relates to the entitlement to paid illness or injury leave under s. 49.1 of the ESA (ESA Sick Leave).
2. Amendments to the ESA effective March 31, 2022, provided that s. 49.1 of the ESA is a minimum standard. As a result, casual nurses who did not have an entitlement to sick leave under the Collective Agreement were now entitled to ESA Sick Leave of up to five (5) sick leave days per calendar year.
3. The issue in dispute in this IWAD concerns the entitlement to ESA Sick Leave for those nurses who also have a Collective Agreement entitlement to sick leave. The Union's position in the IWAD was that due to the ESA amendment, regular nurses are entitled to five (5) additional days of ESA Sick Leave, beyond the sick leave entitlement that is already provided for regular employees under the Collective Agreement. HEABC disputes this interpretation. The Union states that it has also filed individual grievances on behalf of nurses related to sick leave entitlements which are in abeyance.
4. The parties agreed to submit this IWAD for resolution based upon written argument and attached documents. I have reviewed all of the submissions; the authorities cited and the attached documents. I will not recite the entire history of events or the positions of the parties. Rather, I will proceed directly to set out the findings on the issue in dispute.

5. Section 49.1 of the ESA sets out a minimum standard for paid illness or injury leave. Having reviewed the Collective Agreement, the authorities and the parties' submissions, I have found that this is not a case where regular employees are entitled to the sick leave benefit under s. 49.1 of the ESA in addition to the sick leave days available under the Collective Agreement. Rather, the ESA sets a minimum standard that is applicable to all employees, including employees covered by the Collective Agreement.
6. Employers are required to meet the minimum standard in s. 49.1 of the ESA respecting sick leave pay for those Collective Agreement sick leave days that form part of the ESA Sick Leave minimum entitlement. Differences between the parties as to how sick leave pay is calculated in those circumstances are not the subject of the present IWAD.

Dated this 2nd day of August, 2024

A handwritten signature in black ink that reads "Ken Saunders". The signature is written in a cursive, flowing style.

Ken Saunders, Arbitrator