

ARTICLE 26 - Cont'd.

26:07 Reference to Arbitration

Failing satisfactory settlement of the grievance, the grievance may be referred to arbitration as set forth in Article 26.

ARTICLE 27 - ARBITRATION

27:01 Composition of Board of Arbitration

When either party requests that a grievance be submitted to arbitration, the request shall be made in writing, addressed to the other party to the Agreement. Within five (5) working days thereafter, each party shall name an arbitrator to an Arbitration Board and notify the other party of the name and address of the appointee. The two so named shall within five (5) working days select a third person to act as Chairman on the Board of Arbitration but should they not do so within the five (5) working days, either party may apply to the Manitoba Labour Board to appoint a person to be Chairman.

27:02 Who May Be an Arbitrator

No person shall be selected as a member of an Arbitration Board who:

- (i) is acting or has, in a period of twelve (12) months preceding the date of his appointment, acted in the capacity of solicitor, legal advisor, counsel or agent of either of the parties;
- (ii) has any pecuniary interest in the matters referred to the Board, other than being a taxpayer.

27:03 Board Procedure

The Board may determine its own procedure, but shall give full opportunity to all parties to present evidence and make representations to it. The Board shall commence its proceedings within forty-eight (48) hours after the Chairman is appointed. It shall hear and determine the difference or allegation and render a decision within ten (10) days from the time the Chairman is appointed. The decision of the majority shall be the decision of the Board and in the event of there being no majority, the decision of the Chairman shall be the decision of the Board.

27:04 Decision of the Board

The decision of the Board of Arbitration shall be final and binding to both parties, but in no event shall the Board of Arbitration have the power to alter, modify, or amend this Agreement in any respect. Should the parties disagree as to the meaning of the decision, either party within three (3) working days of the date of the decision may apply to the Chairman of the Board of Arbitration to reconvene the Board in order to clarify the decision, which it shall do within three (3) working days.

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ARTICLE 27 - Cont'd.

27:05 Expenses of the Board

Each party shall pay:

- (i) the fees and expenses of the Arbitrator it appoints;
- (ii) one-half the fees and expenses of the Chairman;
- (iii) one-half the expenses of the Arbitration Board for clerical assistance, supplies, and rent of a place to meet.

27:06 Amending of Time Limits

The time limits in both the grievance and arbitration procedures may be extended by consent of the parties to this agreement in writing. If the Grievor fails to process a grievance to the next step within the time limits specified, the grievance shall be deemed to have been abandoned. If the Division fails to answer a grievance within the time limits specified, the grievance shall be deemed to have succeeded.

27:07 Witnesses

At any state of the Grievance or Arbitration Procedure, the parties may have the assistance of the employee(s) concerned as witnesses, or other witnesses, and all reasonable arrangements will be made to permit the conferring parties or the Board of Arbitration to have access to any part of the Employer's premises in order to view any working conditions which may be relevant to the settlement of the grievance. Any employee subpoenaed as a witness to an arbitration hearing shall be allowed time off with pay to attend such arbitration hearing.

27:08 Arbitration Jurisdiction

No matter shall be subject to arbitration which involves:

- (i) any request for modification of the Agreement;
- (ii) any matter not covered by the Agreement;
- (iii) any matter which by the terms of the Agreement is exclusively vested in the Employer.

27:09 Single Arbitrator

Nothing herein shall prohibit the parties from agreeing on a single arbitrator. If the parties so agree, the provisions of this article relating to an arbitration board shall apply, mutatis mutandis, to the single arbitrator.

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