

# "B" type employees may flex time for personal reasons



The collective agreement says that: "In scheduling their own work... ["B" type] employees will ensure that the primary consideration is the effective and efficient performance of their duties." To the CEU, this means "B" type employees may flex their

time for personal reasons as long as flexing doesn't interfere with the performance of their jobs.

The employer, however, has sometimes had a narrow view of the issue. This column reviews two arbitration decisions from December 2003 and January 2007.

## What is a "B" type employee?

Article 26.02 of the collective agreement states: "Employees not working under direct supervision and who organize their own work schedules within the normal work week are "B" type employees." They are different from "A" and "S" (shift) type employees who work under direct supervision and don't organize their own work schedules.

## What was the outcome of the arbitrations?

The union prevailed in both arbitrations. In the first, the arbitrator issued a consent award -- a mediated settlement which both parties agreed to and are expected to abide by. It included these statements:

- "... 'B' type employees will schedule their work for both business and personal reasons...
- When scheduling their work, "B" type employees will primarily consider the effective and efficient performance of their duties but are also entitled to consider other factors including personal factors.
- Managers have a right to obtain information on employees work schedules retrospectively...
- Employees do not work in isolation and scheduling should take into account their network of colleagues and clients.
- The parties recognize and are committed to providing to every extent possible superior service to clients..."

The second arbitration stemmed from a grievance over the employer's decision not to allow "B" type employees to make up time they lost as result of honouring the picket line Telus workers set up at the Victoria office in October 2005. This was in support of the teachers' day of protest.

The CEU argued that "B" type employees could make up

time missed due to the work stoppage by flexing their hours. Among other things, the employer argued that the reason for the picket line was political not personal. This is what the arbitrator concluded:

"The ...2003 Consent Award clearly recognizes Type "B" employees can flex due to personal reasons ...this includes the personal decisions made in regards to the October 17, 2005 picket line. In real life the distinction between what is political and what is personal is not so clear ... there are few matters more personal than one's politics. The fact a picket line may be respected en masse does not, in itself, mean the reasons behind such actions are not personal ones... Neither the Collective Agreement nor the 2003 Consent Award preclude a Type "B" employee from making adjustments to her or his schedule after it has been set."

## If a "B" type employee's workday can vary in length, how is overtime paid?

One of the major differences between "B" type employees and "A" and "S" types is how overtime is paid:

- With "B" types, overtime is defined as work performed beyond the time that makes up a work week, or on a Saturday, Sunday, or ETO.
- For "A" types, overtime is defined as work performed beyond the time that makes up a work day, and work performed on Saturday, Sunday, or ETO.
- For "S" types, it's work performed beyond the time that makes up a work day or on the first or second day of rest, or while on ETO.

## Is the "B" type designation a "perk" of the job?

No. Most "B" type employees appreciate the ability to flex, but this is not a "perk" of the job. The employer clearly benefits from these "B" type provisions -- and that's why they have been in the collective agreement for the past 20 years. Without "B" type employees, the Board's overtime costs would be astronomical. "B" type employees regularly work outside "normal" working hours because that's the way to get their jobs done, efficiently, effectively, and with "superior service to clients". Given the January 2007 decision, we hope the employer will stop trying to manage "B" types as if they are "A" types. After all, that's what the employer agreed to do in the 2003 consent award.

