



GRIEVANCE PROCEDURE: PAY AND ACTING PAY ISSUES

Grievances can be launched around three broad areas – job description problems, classification-related issues and pay and compensation matters. Each is discussed in an Info Key Kit separate topic sheet.

Disagreements over pay – either substantive or acting – are a common issue giving rise to grievances. With substantive pay issues, there is a close link to work description and/or classification matters. Therefore, it is strongly recommended that readers also refer to the additional *Info Key* sheets on these topics mentioned above.

With regard to acting pay issues, most collective agreements contain an article similar to the following:

Pay Administration

“When an employee is required by the Employer to substantially perform the duties of a higher classification level in an acting capacity and performs those duties for at least the period specified in (b) below, the employee shall be paid acting pay calculated from the date on which he or she commenced to act as if he or she had been appointed to that higher classification level for the period in which he or she acts”.

Filing a grievance correctly is an important step in resolving any issue in a manner that is acceptable to you.

When grieving under this article, members must meet three criteria:

The employee must be required by the employer to perform the duties of the higher position;
They must substantially perform the duties of the higher position; and
They must meet the qualifying period for acting pay as outlined in the relative collective agreement.

The member must provide documentation and proof that he/she has met the three criteria outlined above as well as examples of the work performed on behalf of the employer.

Grievance wording should be simple:

Acting Pay

Details of grievance:

I grieve that the employer is not paying me appropriately for the duties I am performing. I am asked to perform the duties of a higher position. As a result, the employer is not following the provision of Article _____ (Pay Administration) of my collective agreement.

Corrective Action:

That I be paid in accordance with my collective agreement for the performance of the duties mentioned above, retroactive to the date on which performance of these duties began (specify date).

As qualifying periods for acting pay vary from collective agreement to collective agreements, check for qualifying periods of acting pay for the member grieving.

Grievances under the Acting Pay provisions of the collective agreement may proceed to Adjudication before the Public Service Labour Relations Board. The Representation Section of the Public Service Alliance of Canada, which conducts representation at Adjudication, must approve the grievance for referral to the PSSRB.

An Important Note on Avoiding ‘Tainted Grievance Wording’

While pay grievances are adjudicable, those dealing with classification are not. Therefore, you should NOT use the words “classification” or “effective date” in your acting pay grievance.

If you do so, there is a very serious risk that an adjudicator will decline jurisdiction on the grounds that to accept jurisdiction would be to interfere with the off-limits subject of classification. The Public Service Labour Relations Act protects classification decisions as a management right which is not subject to the scrutiny of a third party.

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