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Important Arbitration Decision for Full-Time Nurses at Nova Scotia Health (Unifor LPN)

Arbitrator Eric Slone has issued an Arbitration Award about the cancellation of overtime shifts for full-time nurses. The Award says the Employer can cancel overtime shifts that have been assigned to a permanent full-time nurse without providing notice or incurring any financial penalty.

The decision, issued on October 14, 2020, was issued in response to a policy grievance about Nova Scotia Health cancelling overtime shifts for full-time nurses on short notice.

Arbitrator Slone dismissed the grievance and upheld the Employer's position. He found that when a full-time nurse accepts a shift above their regularly scheduled shifts (i.e. an overtime shift), Article 7.26(a) does not apply. Article 7.26(a) says:

7.26 (a) Once a Permanent Nurse has accepted an extra or relief shift as set out in Article 7.23 or Article 7.24, the Employer may not cancel the shift without the mutual agreement of the Permanent Nurse.

Because Article 7.26(a) does not apply, the Employer can cancel an overtime shift even after a full-time nurse has accepted the shift. The Employer is not required to pay the full-time nurse any penalty for cancelling the shift.

Arbitrator's Slone's decision was based on his interpretation that overtime shifts worked by full-time nurses are not "extra" or "relief" shifts. That is, none of the provisions in Article 7.23 or 7.24 apply to overtime shifts by full-time nurses.

He also found that the assignment of overtime shifts to full-time nurses was an exercise of management rights. That means the Employer only has to act in a way that is "reasonable" when deciding whether to cancel an overtime shift for a full-time nurse.

Although the decision was about an NSGEU grievance, the decision applies to all full-time nurses at Nova Scotia Health under the Council of Nursing Unions collective agreement, which includes all full-time Unifor nurses.

Unifor is still assessing all the possible implications of the decision and what it means for our members. If you are a full-time nurse at Nova Scotia Health and the Employer cancels an overtime shift after you have accepted the shift, please contact your Local President or Unit Chair so your options can be assessed.