

CAPTIVE TIME: ROUND TWO

For PSAC members who travel regularly as part of their work, we made an important gain on the issue of “Captive Time” during the last round of Treasury Board bargaining. Led by members of the Table 3 bargaining team, we became the first union to negotiate, into a national collective agreement, special recognition and benefits for workers doing extensive travel. Specifically, our achievement was a new clause, called “Travel Status Leave,” that provides up to five days compensatory leave to employees who are away from home more than 40 nights per year.

As proud as they were of this gain, the members who fought so hard to make this breakthrough saw the new clause as just a beginning – a foot in the door. They argue that Captive Time represents a major work-life balance issue. Just as unions have fought hard over the years to achieve special protections and compensation for shift-work, we see the need to work for continual improvements of benefit to captive time workers.

This *Issues* paper re-caps the Captive Time issue, describes who is affected by it, and provides detail on the gains made last round. However, the primary purpose of this paper is to suggest further collective agreement improvements that we can pursue as we bargain this issue at Treasury Board and with other employers of PSAC members.

What is Captive Time?

Captive Time is an issue affecting a wide range of workers in the federal government. The problem first got attention in the 1980s because members fought back against situations where they were stuck in an isolated field location or on a ship, but not working or getting paid. The work environment was holding them “captive” and despite not being paid, they couldn’t go home like other workers. Some grievances on the issue were won, but others were not, and members turned to collective bargaining as a solution. For years we were not able to get any attention to the issue at the table, but as more and more federal employees were asked to do extended travel away from home, awareness of Captive Time grew.

Our first breakthrough on the issue was the agreement between PSAC and Treasury Board reached at Table 3 in March 2000, to undertake a joint study of the Captive Time

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issue. A joint committee was formed, and a survey of members was conducted by the PSAC and a survey of departments was carried out by Treasury Board. Two reports were prepared as a result of this work. A joint report described the level of travel, and the purpose, duration and destination of travel. The second, prepared by PSAC, examined the human side.

One of the findings of the study was that the negative impacts of Captive Time weren't restricted to those working in field situations or ships. While those workers face particular problems of isolation, the most common problems facing Captive Time workers were found across a wide range of departments and classifications:

- missing out on family and community activities was the most widely reported impact of frequent and extended travel;
- even when not travelling, an inability to make firm social commitments is a problem, since the requirement to travel can come up at a moments' notice;
- almost half of the travelers in the over 40 nights per year category report that their spouse works reduced hours or has to take unpaid leave in order to cover family responsibilities;
- the majority of travelers report increased home maintenance expenses because of travel;

Captive Time – the members' views

Some 550 Table 3 PSAC members responded to our Captive Time survey. Here's how one member described captive time:

"I have kept copies of all of my expense accounts for my entire career and they serve as a bitter reminder of each night away from home, stuck in some hotel room. I feel very well qualified to speak about captive time. There's all of the missed family time that can never be replaced. All of the hobbies that could have been started, the clubs and organizations not joined, the volunteer work not performed, the lousy restaurant meals. When you are on the road, you are basically alone for the length of time that you are away from home. I would venture to say that there is a high rate of divorce, alcoholism, cancer, obesity, depression and suicide, among members who spend a lot of time in captive time."

- captive time workers don't get to take advantage of sick leave or family-related responsibility leave the same way other employees do;
- employees from a wide range of departments are being asked to stay over Saturday nights in order to save money on airfare – but with little or no benefit to the employee in return.

In short, captive time workers face a major challenge in terms of work-life balance. During their working hours, their work may not be significantly different from that of other workers in the same classification, level and pay rate. But when other employees get to go home at the end of the day, the captive time worker goes back to his or her hotel room, tent or bunk. The "theft of personal time" became the defining feature of the captive time experience.

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It is in this way that captive time workers link their experience to that of shift work – they can't participate in the normal rhythm of family and community life like most workers. They recognize that there are features of the work and job which require this, but believe this needs to be recognized. Just as shift workers have fought over the years to negotiate premium payments and scheduling rules, captive time workers are looking for recognition and compensation given the demands of the work.

How many people are affected by it?

What we found was that a large proportion of Table 3 members were doing extensive travel. The joint study found that some 40% of Table 3 members traveled at least once during the year for the employer, and that among those who traveled, the *average* number of nights away from home was 24 per year. Approximately 10% of Table 3 members were found to be travelling away from home in excess of 40 nights per year, and many employees were doing over 80 nights per year.

Travel was particularly high among:

- Technical Inspectors at Industry Canada;
- Fisheries Officers at the Department of Fisheries and Oceans (DFO);
- Aviation Inspectors with Transport Canada and the Transportation Safety Board;
- Facilities Managers with Public Works, Health Canada and Foreign Affairs;
- Field research staff with Environment Canada and DFO.

Although PSAC's 2000 survey was directed at Table 3 members, we also had responses from other bargaining units. While the overall proportion of frequent travelers is lower in these units, the captive time workers reported the same impacts. Some examples include immigration officers at Table 1, tradespeople from Table 2 working at remote locations, food inspectors from the Canadian Food Inspection Agency, and tax assessors at the Canada Customs and Revenue Agency.

What improvement did PSAC achieve in 2001?

The language we negotiated at Table 3 provides for compensatory leave of up to five days for employees who travel more than 40 nights during a fiscal year. There is a cap of five days. The comp time is earned as follows:

Nights of Travel in a year	Compensatory Days Earned
40-59	1
60-79	2
80-99	3
100-119	4
120+	5

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The actual language (see text box) does restrict the clause to travel not related to conferences, training sessions and similar events. Another important feature of the clause is that it provides for granting of the compensatory leave and pay-out of unused compensatory leave on the same basis as comp leave earned for overtime work. This is done through the reference in clause (c) to XX.02 (c) and (d). At Table 3 the actual reference is to 28.02 (c) and (d).

The same provisions were agreed to in negotiations at Tables 1 and 2. In all cases the new language took effect November 19, 2001, and so members should have been able to claim for any travel undertaken in fiscal year 2001-2002. By the time we are bargaining again with Treasury Board, members will have also been able to file claims under this clause for fiscal year 2002-2003, and we should be able to access information about the number of days claimed, and to receive reports about any problems with the interpretation of the new article.

Subsequent to the breakthrough at Treasury Board, PSAC achieved the same language at Parks Canada, and with some small separate employers including the Office of the Auditor General (OAG) and the Social Sciences and Humanities Research Council (SSHRC). The language has also been picked up by other unions, such as PIPSC for their HE (Health) and AV (Audit Commerce and Purchasing) Groups, and by IBEW for the Electronics (EL) group.

Collective agreement language

The standard language negotiated reads as follows:

ARTICLE XX TRAVELLING TIME

XX.XX Travel Status Leave

- (a) *An employee who is required to travel outside his or her headquarters area on government business, as these expressions are defined by the Employer, and is away from his permanent residence for forty (40) nights during a fiscal year shall be granted one (1) day off with pay. The employee shall be credited with one additional day off for each additional twenty (20) nights that the employee is away from his or her permanent residence to a maximum of eighty (80) additional nights.*
- (b) *The maximum number of days off earned under this clause shall not exceed five (5) days in a fiscal year and shall accumulate as compensatory leave with pay.*
- (c) *This leave with pay is deemed to be compensatory leave and is subject to paragraphs XX.02 (c) and (d).*

The provisions of this clause do not apply when the employee travels in connection with courses, training sessions, professional conferences and seminars.

Looking ahead: future improvements for Captive Time workers

The new “travel status leave” clause was a important breakthrough for captive time workers in those bargaining units where it was negotiated. Nevertheless, most captive time workers will only be able to earn 1-2 days leave under the clause, which is small compensation for the hardship they endure.

In order to further restore the work-life balance for captive time workers, there are a series of demands worth considering:

- **Lower the threshold:** amend Travel Status Leave so that the first day of compensatory leave is earned after just 20 days of overnight travel in a fiscal year, instead of the current 40 days. Our original demand at Table 3 classified Captive Time employees as those spending more than 15% of normal work days away from home. This translates to about 34 days per year. We found that the negative impacts from travel were reported starting at 20 days, so there is a rationale for lowering it.
- **Increase the rate for earning additional days:** change the clause so that another day of comp leave is earned for every 10 additional nights away (If we start the threshold at 20 days, that would mean someone travelling 100 nights a year would earn 9 days leave). Under the current clause, the twenty day increments means that someone travelling up to 79 days a year can't earn more than two days compensatory leave – which is small compensation indeed for such a heavy schedule.
- **Change the cap:** in conjunction with above changes, increase the maximum days available from five to ten days.
- **Scheduling rules:** introduce scheduling rules for employees who meet the “travel status leave” threshold. Specifically, require that travel schedules be established a minimum of seven days in advance. In the event that seven days advance notice of travel or a change in travel is not provided, the employee will receive compensation at double-time for all work and travel time performed for the first two days of additional travel. Require the employer to make every reasonable effort to restore the employees' originally scheduled days of rest. These proposals would be similar to the penalty clauses for shift workers. The intention is not to gain additional compensation for captive time workers, but to create an incentive for the employer to better plan the travel requirements of captive time workers so that last minute changes are not imposed.
- **Isolated work and field locations:** for employees working in isolated or field locations where they do not have access to normal social activities or recreational facilities, provide that employees shall receive the greater of fifteen hours pay at the straight-time rate, or the compensation at the applicable overtime rate for all time worked, whichever is greater. This concept currently exists for a few specific work

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situations (such as Table 3, Appendix L covering EG employees working on DND Sea Trials).

- **Pay for days of rest:** require that any employee who must stay away from home on a day of rest shall be paid. The language could provide that he or she will be paid "the normal daily hours of work at straight-time pay, or compensation at the applicable rate of overtime compensation for time worked and/or traveled, whichever is greater." This would not necessarily stop the practice of Saturday night stayovers, but would at least ensure that employees receive some of the benefit the government receives as a result of the airfare savings.

Extending the provisions

Finally, there are other PSAC members affected by captive time who are not yet covered by the "travel status leave" clause negotiated at Tables 1, 2, 3, Parks and the other small employers. These could include food inspectors at CFIA, tax assessors at CCRA, a wide variety of separate employer members, and employees from the three territorial governments. Whether or not the language is pursued with these other employers will depend on the decisions of the bargaining teams, who must weigh these demands against other priorities. Once agreed to as a demand, the fact that at least a minimum breakthrough on the issue was achieved for Table 3 means that we have a good chance of achieving it either at the bargaining table, or with the help of a third party during the later stages of negotiations.

We hope that this information is useful. For any comments or suggestions, please communicate with Kate Rogers or David Orfald - negotiations section of PSAC in Ottawa.