

ARTICLE 18

GRIEVANCE PROCEDURE

18.01 The parties recognize the value of informally resolving problems prior to presenting a formal grievance or using alternative dispute resolution mechanisms to resolve grievances that are presented in accordance with this Article.

Accordingly, when an employee:

(a) within the time limits prescribed in clause 18.11, gives notice that he or she wishes to take advantage of this clause for the purpose of informally resolving a problem without recourse to a formal grievance and facilitating discussions between the employee and their supervisors, it is agreed that the period between the initial discussion and the final response shall not count as elapsed time for the purpose of grievance time limits;

or,

(b) following the presentation of a grievance and within the time limits prescribed under this Article, gives notice to the delegated grievance step authority of his or her intention to take advantage of alternative dispute resolution mechanisms, the time limits stipulated in this Article may be extended by mutual agreement between the Employer and the Employee and, where appropriate, the Alliance representative.

(c) No representative of the Employer or the Bargaining Agent shall seek by intimidation, threat or any other means to compel an employee to either participate or not participate in an alternate dispute resolution mechanism.

(d) When an employee wishes to take advantage of a process outlined under 18.01 (a) or 18.01 (b) above that pertains to the application of a provision of the collective agreement, the employee may, at his or her request, be represented by the Alliance at any meeting or mediation session held to deal with the matter.

18.02 In determining the time within which any action is to be taken as prescribed in this Article, Saturdays, Sundays and designated paid holidays shall be excluded.

18.03 The time limits stipulated in this Article may be extended by mutual agreement between the Employer and the employee and, where appropriate, the Alliance Representative.

18.04 Where the provisions of clauses 18.06, 18.23 or 18.37 cannot be complied with and it is necessary to present a grievance by mail, the grievance shall be deemed to have been presented on the day on which it is postmarked and it shall be deemed to have been received by the Employer on the day it is date stamped received by the appropriate office of the department or agency concerned.

Similarly, the Employer shall be deemed to have delivered a reply at any level on the date on which the letter containing the reply is postmarked, but the time limit

within which the grievor may present his or her grievance at the next higher level shall be calculated from the date on which the Employer's reply was delivered to the address shown on the grievance form.

18.05 A grievance shall not be deemed to be invalid by reason only of the fact that it is not in accordance with the form supplied by the Employer.

Individual Grievances

18.06 An employee who wishes to present a grievance at any prescribed level in the grievance procedure, shall transmit this grievance to the employee's immediate supervisor or local officer-in-charge who shall forthwith:

(a) forward the grievance to the representative of the Employer authorized to deal with grievances at the appropriate level,

and

(b) provide the employee with a receipt stating the date on which the grievance was received by him or her.

18.07 Presentation of grievance

Subject to and as provided in Section 208 of the *Public Service Labour Relations Act*, an employee who feels that he or she has been treated unjustly or considers himself or herself aggrieved by any action or lack of action by the Employer, in matters other than those arising from the classification process, is entitled to present a grievance in the manner prescribed in clause 18.06 except that:

(a) where there is another administrative procedure for redress provided by or under any Act of Parliament other than the *Canadian Human Rights Act* to deal with the employee's specific complaint, such procedure must be followed,

and

(b) where the grievance relates to the interpretation or application of this Agreement or an arbitral award, the employee is not entitled to present the grievance unless he or she has the approval of and is represented by the Alliance,

18.08 There shall be no more than a maximum of four (4) levels in the grievance procedure. These levels shall be as follows:

(a) Level 1 - first (1st) level of management;

(b) Levels 2 and 3 – intermediate level(s), where such level or levels are established in the Agency;

(c) Final level - the Commissioner or his authorized representative.

Whenever there are four levels in the grievance procedure, the grievor may elect to waive either Level 2 or 3.

18.09 Representatives

(a) The Employer shall designate a representative at each level in the grievance procedure and shall inform each employee to whom the procedure applies of the title of the person so designated together with the title and address of the immediate supervisor or local officer-in-charge to whom a grievance is to be presented.

(b) This information shall be communicated to employees by means of notices posted by the Employer in places where such notices are most likely to come to the attention of the employees to whom the grievance procedure applies, or otherwise as determined by agreement between the Employer and the Alliance.

18.10 An employee may be assisted and/or represented by the Alliance when presenting a grievance at any level. The Alliance shall have the right to consult with the Employer with respect to a grievance at each or any level of the grievance procedure.

18.11 An employee may present a grievance to the first (1st) level of the procedure in the manner prescribed in clause 18.06, not later than the twenty-fifth (25th) day after the date on which he or she is notified orally or in writing or on which he or she first becomes aware of the action or circumstances giving rise to grievance.

18.12 The Employer shall normally reply to an employee's grievance at any level of the grievance procedure, except the final level, within ten (10) days after the grievance is presented, and within thirty (30) days when the grievance is presented at the final level.

18.13 An employee may present a grievance at each succeeding level in the grievance procedure beyond the first (1st) level either:

(a) where the decision or offer for settlement is not satisfactory to the employee, within ten (10) days after that decision or offer for settlement has been conveyed in writing to the employee by the Employer,

or

(b) where the Employer has not conveyed a decision within fifteen (15) days from the date that a grievance is presented at any level, except the final level, the employee may, within the next ten (10) days, submit the grievance at the next higher level of the grievance procedure.

18.14 Where an employee has been represented by the Alliance in the presentation of his or her grievance, the Employer will provide the Alliance with a

copy of the Employer's decision at each level of the grievance procedure at the same time that the Employer's decision is conveyed to the employee.

18.15 The decision given by the Employer at the Final Level in the grievance procedure shall be final and binding upon the employee unless the grievance is a class of grievance that may be referred to adjudication.

18.16 Where it appears that the nature of the grievance is such that a decision cannot be given below a particular level of authority, any or all the levels except the final level may be eliminated by agreement of the Employer and the employee, and, where applicable, the Alliance.

18.17 Where the Employer demotes or terminates an employee for cause pursuant to paragraph 51(1)(f) or (g) of the *Canada Revenue Agency Act*, the grievance procedure set forth in this Agreement shall apply, except that the grievance may be presented at the final level only.

18.18 An employee may by written notice to his or her immediate supervisor or officer-in-charge withdraw a grievance.

18.19 Any employee who fails to present a grievance to the next higher level within the prescribed time limits shall be deemed to have abandoned the grievance unless, due to circumstances beyond his or her control, he or she was unable to comply with the prescribed time limits.

18.20 No person shall seek by intimidation, by threat of dismissal or by any other kind of threat to cause an employee to abandon his or her grievance or refrain from exercising his or her right to present a grievance, as provided in this Collective Agreement.

18.21 Reference to Adjudication

Where an employee has presented a grievance up to and including the Final Level in the grievance procedure with respect to:

(a) the interpretation or application, in respect of him or her, of a provision of this Agreement or a related arbitral award,

or

(b) disciplinary action resulting in termination of employment pursuant to paragraph 51(1)(f) of the *Canada Revenue Agency Act*, suspension or financial penalty,

and the employee's grievance has not been dealt with to his or her satisfaction, he or she may refer the grievance to adjudication in accordance with the provisions of the *Public Service Labour Relations Act* and Regulations.

18.22 The employee must obtain the approval of, and be represented by, the Alliance in respect of any grievance referred to in paragraph 18.21(a).

Group Grievances

18.23 The Alliance may present a grievance at any prescribed level in the grievance procedure, and shall transmit this grievance to the officer-in-charge who shall forthwith:

- b. forward the grievance to the representative of the Employer authorized to deal with grievances at the appropriate level,

and
- b. provide the Alliance with a receipt stating the date on which the grievance was received by him or her.

18.24 Presentation of a Group Grievance

Subject to and as provided in Section 215 of the *Public Service Labour Relations Act*, the Alliance may present to the employer a group grievance on behalf of employees in the bargaining unit who feel aggrieved by the interpretation or application, common in respect of those employees, of a provision of a collective agreement or an arbitral award.

18.25 There shall be no more than a maximum of three (3) levels in the grievance procedure. These levels shall be as follows:

- (a) Level 1 - first (1st) level of management;
- (b) Level 2 – intermediate level, where established in the Agency;
- (c) Final level: the Commissioner or his authorized representative.

18.26 The Employer shall designate a representative at each level in the grievance procedure and shall inform the Alliance of the title of the person so designated together with the title and address of the officer-in charge to whom a grievance is to be presented.

18.27 The Alliance shall have the right to consult with the Employer with respect to a grievance at each or any level of the grievance procedure.

18.28 The Alliance may present a grievance to the first (1st) level of the procedure in the manner prescribed in clause 18.24, no later than the twenty-fifth (25th) day after the earlier of the day on which the aggrieved employees received notification and the day on which they had knowledge of any act, omission or other matter giving rise to the group grievance.

18.29 The Alliance may present a grievance at each succeeding level in the grievance procedure beyond the first (1st) level either:

(a) where the decision or offer for settlement is not satisfactory to the Alliance, within ten (10) days after that decision or offer for settlement has been conveyed in writing to the Alliance by the Employer,

or

(b) where the Employer has not conveyed a decision within twenty (20) days from the date that a grievance is presented at any level, except the final level, the Alliance may, within the next ten (10) days, submit the grievance at the next higher level of the grievance procedure.

18.30 The Employer shall normally reply to the Alliance's grievance at any level of the grievance procedure, except the final level, within fifteen (15) days after the grievance is presented, and within thirty (30) days when the grievance is presented at the final level.

18.31 Where it appears that the nature of the grievance is such that a decision cannot be given below a particular level of authority, any or all the levels except the final level may be eliminated by agreement of the Employer and the Alliance.

18.32 The Alliance may by written notice to officer-in-charge withdraw a grievance.

18.33 Opting Out of a Group Grievance

(1) An employee in respect of whom a group grievance has been presented may, at any time before a final decision is made in respect of the grievance, notify the Alliance that the employee no longer wishes to be involved in the group grievance.

(2) The Alliance shall provide to the representatives of the Employer authorized to deal with the grievance, a copy of the notice received pursuant to paragraph (1) above.

(3) After receiving the notice, the Alliance may not pursue the grievance in respect of the employee.

18.34 The Alliance failing to present a grievance to the next higher level within the prescribed time limits shall be deemed to have abandoned the grievance unless, due to circumstances beyond its control, it was unable to comply with the prescribed time limits.

18.35 No person shall seek by intimidation, by threat of dismissal or by any other kind of threat to cause the Alliance to abandon the grievance or refrain from exercising the right to present a grievance, as provided in this Collective Agreement.

18.36 Reference to Adjudication

The Alliance may refer to adjudication any group grievance that has been presented up to and including the final level in the grievance process and that has not been dealt with to its satisfaction.

Policy Grievances

18.37 The Employer or the Alliance may present a policy grievance to the other in respect of the interpretation or application of the collective agreement or arbitral award as it relates to either of them or to the bargaining unit generally.

18.38 A policy grievance shall be presented at the final level in the grievance procedure to the representative of the Alliance or the Employer, as the case may be, authorized to deal with the grievance. The party who receives the grievance shall provide the other party with a receipt stating the date on which the grievance was received.

18.39 The Employer and the Alliance shall designate a representative and shall notify each other of the title of the person so designated together with the title and address of the officer-in charge to whom a grievance is to be presented.

18.40 The Employer or the Alliance may present a grievance in the manner prescribed in clause 18.38, no later than the twenty-fifth (25th) day after the earlier of the day on which it received notification and the day on which it had knowledge of any act, omission or other matter giving rise to the policy grievance.

18.41 The Employer or the Alliance shall normally reply to the grievance within forty (40) days when the grievance is presented.

18.42 The Employer or the Alliance, as the case may be, may by written notice to officer-in-charge withdraw a grievance.

18.43 Reference to Adjudication

A party that presents a policy grievance may refer it to adjudication in accordance with the provisions of the *Public Service Labour Relations Act*.

Expedited Adjudication

18.44 The parties agree that any adjudicable grievance may be referred to the following expedited adjudication process:

(a) At the request of either party, a grievance that has been referred to adjudication may be dealt with through Expedited Adjudication with the consent of both parties.

(b) When the parties agree that a particular grievance will proceed through Expedited Adjudication, the Alliance will submit to the PSLRB the consent form signed by the grievor or the bargaining agent.

(c) The parties may proceed with or without an Agreed Statement of Facts. When the parties arrive at an Agreed Statement of Facts it will be submitted to the PSLRB or to the Adjudicator at the hearing.

(d) No witnesses will testify.

(e) The Adjudicator will be appointed by the PSLRB from among its members who have had at least two years experience as a member of the Board.

(f) Each Expedited Adjudication session will take place in Ottawa, unless the parties and the PSLRB agree otherwise. The cases will be scheduled jointly by the parties and the PSLRB, and will appear on the PSLRB schedule.

(g) The Adjudicator will make an oral determination at the hearing, which will be recorded and initialed by the representatives of the parties. This will be confirmed in a written determination to be issued by the Adjudicator within five days of the hearing. The parties may, at the request of the Adjudicator, vary the above conditions in a particular case.

(h) The Adjudicator's determination will be final and binding on all the parties, but will not constitute a precedent. The parties agree not to refer the determination to the Federal Court.