

Pursuant to the *Canada Labour Code*

Between:

BELL TECHNICAL SOLUTIONS

(the Employer)

- and -

UNIFOR

(the Union)

**Re: Overtime Grievance of Paul Popovski
Grievance #2019-1996-90**

Appearances:

For the Employer:

Bethan Dinning
Laura Lee Hamilton

For the Union:

Melissa Kronick, Counsel
Tyson Siddall
Sanjay Singh
Robin Dudley

Paul Popovski Grievor

A W A R D

This case involves a claim for “next day” or DD1 overtime pursuant to article 17.03 of the Collective Agreement between the parties that provides:

“According to the requirements of the job, overtime hours are offered to volunteer employees by seniority.”

The matter convened for hearing via Zoom on January 26, 2021 and a session with Counsel on February 5, 2021.

The material facts are not in dispute and include the following:

By Award dated October 13, 2011 concerning an earlier grievance of Mr. Popovski involving article 17.03, I concluded as follows:

“1. I agree with the Employer that the Article mandates the Employer to offer overtime to volunteer employees by seniority. This includes a requirement that there be a reasonable time to respond to the offer. Therefore I find that a response within two hours of the notice or before 5:30 pm whichever is later, constitutes a reasonable time. Accordingly the Employer will be presumed to have acted consistently with Article 17.03 if:

- The Employer notifies an employee with a notification that includes a requirement that the employee must respond within two hours from the time of notification or by 5:30 p.m., whichever is later.

AND

- The Employer then assigns on the basis of seniority to those who have responded.

Since the issuance of my earlier award, and up until June 24, 2019, the Employer's requirements were such that they were able to comply with the presumption in the Award.

However, in the months leading up to June 24, 2019, Bell Canada advised the Employer that its current business needs required the Employer to provide Bell with the list of volunteers by 5:00 p.m.

The Employer maintains that Bell Canada's change in business needs requires the Employer to close the window to volunteer for overtime sooner in the day, while still providing the employees with as much notice as possible/a reasonable time to respond.

On or about June 24, 2019, the Employer implemented a revised notification schedule as follows:

“When the Employer solicits volunteers for overtime, the employee will need to respond by 3:00 p.m. on weekdays or 1:00 p.m. on weekends or within 2 hours of the time of the solicitation was sent, whichever is greater.”

The Grievor's family responsibilities are such that he maintains that this window is not sufficient for him to respond in a timely manner and results in lost overtime opportunities for him given his seniority.

Having considered all this carefully, I hereby conclude as follows:

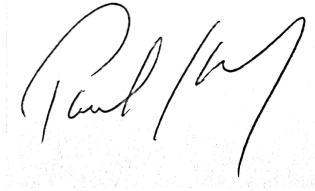
I find that the Employer has a process of scheduling volunteers for additional hours that includes adherence to the requirements of the collective agreement and that of Bell Canada's business needs.

Given the change in the demands on the Employer due to Bell Canada's current business needs, I find that the Employer will be presumed to have acted consistently with the collective agreement including Article 17.03 if :

- a. *During the week (Monday-Friday), Work Force Management (WFM) will extend a response time to 3 hours or 3:00 p.m., whichever is later. During the weekend (Saturday-Sunday), WFM will extend a response time to 3 hours or 1:00 p.m., whichever is later.*
 - b. *The Employer will in turn provide notification to technicians as soon as practicably possible on DD-1 for confirmed hours for DD, however, for part-time employees the notification requirement will be in accordance with the Collective Agreement by 7:00 p.m. on DD-1.*
 - c. *The Company will advise the Union in writing of any changes to Bell Canada's current business needs with as much advanced notice as possible and table for discussion at future Labour Relations Committee Meetings.*
- *Further, with respect to Mr. Popovski's family obligations, the Employer will review any accommodation request, along with proof of a need for an accommodation as required by the Grievor in accordance with the Accommodation Policy and guidelines in contemplation of required responses for overtime opportunities that meet his documented family obligations.*

I remain seized with regard to the implementation and application of this Award.

DATED at Toronto this 27th day of April 2021.

A handwritten signature in black ink, appearing to read "Paula Knopf", is centered on the page. The signature is written in a cursive style with a large initial 'P'.

Paula Knopf – Arbitrator