

**REPORT OF THE
GRIEVANCE AND APPEALS COMMITTEE
TO THE MGEU 66TH CONVENTION 2021**

COMMITTEE MEMBERS

Area 1	Brent Poclitar	Chair	Robert Wells
Area 2	Leann Oakley/Christopher Geisel/VACANT	Staff	Marc Payette, Staff Representative
Area 3	Nelson Bean		Sharon Kolida, Staff Representative
Area 4	David Giroux/VACANT		Wesley Whiteside, Staff Representative
Area 5	Rebecca Clifton/Karl Bulgrin		Miranda Lawrence, Member Services Manger
Area 6	Kevin Thompson		Lorraine Clark, Legal Assistant (retired)
Area 7	Dylan Almdal		Sara Mason, Legal Assistant
Area 8	Jeanette Kimball		Betty Harrison, Administrative Assistant

PURPOSE OF COMMITTEE

This Committee gives the members a final opportunity to further a grievance to arbitration or an appeal to the Civil Service Commission (CSC) where the Screening Committee has denied the advancement of their grievance or appeal.

MAKE-UP OF COMMITTEE

The Committee is made up of elected members from the Union membership at each of the eight Area Councils. The Chair of the Committee is elected from the MGEU Board of Directors. There is a Staff Representative assigned to the Committee.

HOW THE COMMITTEE WORKS

The Committee normally meets about every six weeks. When a case comes forward to the Committee, a Screening Committee representative provides the rationale for the decision to not proceed to arbitration or appeal to the Civil Service Commission (CSC). The grievor and their Staff Representative present the Committee with evidence they feel may be relevant to their appeal. The Committee members have the opportunity to ask questions during the presentation.

Once the grievor has had every opportunity to present their case, the Committee reviews the case in-camera and reaches a decision on whether or not to proceed to arbitration or appeal to the CSC.

In cases where other employees are affected, this Committee may hear presentations from those employees.

Every case heard by the Committee is different and the decision on whether or not to proceed to arbitration or appeal to the CSC is based on the facts of each case, and on the information that is presented to the

Committee during the hearings. Other factors could include how such an arbitration or appeal to the CSC would impact on our membership as a whole or would it be establishing a negative precedent.

The Grievance and Appeals Committee continues to review policies and make recommendations on an ongoing basis.

Since the last Convention, this includes:

- Committee members and the Chair of the Committee were provided with the opportunity to attend the Mel Myers Labour Conference in 2019. The 2020 Conference was cancelled due to COVID-19.
- Two Committee members attended the Accommodation Law Conference in June 2019.
- Three Committee members attended the Labour Law Review in November 2019.

The Committee reviews the arbitration awards and CSC decisions on an ongoing basis.

The Grievance and Appeals Committee recognizes that the arbitration process is not the only method of resolving grievances. The MGEU is increasing the use of the alternative methods for resolving disputes.

1. Negotiated Settlements

A very high percentage of grievances are settled this way without proceeding to arbitration. This process allows for a compromise between the Union and the employer to reach a mutually agreed settlement without the necessity of a lengthy arbitration process.

2. Mediation/Arbitration

A very effective method that has an arbitrator hear the case as a mediator. The mediator meets with both sides and attempts to forge an agreement. If the parties cannot agree or come to a resolve, the case then goes to arbitration.

3. Neutral Opinion

This is a very good option to use for technical questions. The Union and the employer formulate a question; the question is then presented to an arbitrator. The case is presented without the need for questioning of witnesses or detailed evidence. This third party opinion is given by someone who knows the law and it can be binding if agreed to by both parties.

4. Expedited Arbitration

This process can be used in any grievance. The Labour Board appoints an arbitrator with time limits placed upon the hearing and the issuance of a decision.

These methods of resolving grievances allow for the most cost effective and efficient resolutions to workplace disputes. The MGEU is constantly evaluating the alternatives to best represent its members.

GRIEVANCES

An overview of grievance activities has revealed that, in 2018, there were a total of 820 grievances filed. Of those grievances:

- 354 were Discipline
- 209 were Pay
- 72 were Application of Agreement
- 38 were Selection
- 29 were Leave Issues
- 29 were Accommodation
- 89 were Other (see attachment)

The Components with the highest number of grievances filed in 2018 were Health Care Support Services (272), Corrections (65), and Golico (65).

An overview of grievance activities has revealed that, in 2019, there were a total of 778 grievances filed. Of those grievances:

- 354 were Discipline
- 151 were Pay
- 65 were Application of Agreement
- 45 were Selection
- 32 were Leave Issues
- 25 were Accommodation
- 106 were Other (see attachment)

The Components with the highest number of grievances filed in 2019 were Health Care Support Services (174), Community Support (68), and Community-Based Social Services (68).

An overview of grievance activities has revealed that, in 2020, there were a total of 536 grievances filed. Of those grievances:

- 250 were Discipline
- 39 were Pay
- 40 were Application of Agreement
- 36 were Selection
- 91 were Leave Issues
- 17 were Accommodation
- 63 were Other (see attachment)

The Components with the highest number of grievances filed in 2020 were Corrections (157), Health Care Support Services (57), and Community Support (47).

In 2018, the Committee has dealt with 13 appeals as follows:

- 4 - Discipline (3 terminations, 1 suspension)
- 1 - Duty to Accommodate
- 2 - Reclassifications
- 2 - Probationary Rejection
- 1 - Selection
- 1 - Rescind Designation
- 1 - Pay
- 1 - Application of Agreement

In 2018, the Committee upheld the Screening Committee's decision to not proceed further on 12 appeals and overturned the Screening Committee on one appeal. The Committee recommended three cases be referred back to the Screening Committee.

In 2019, the Committee has dealt with ten (10) appeals as follows:

- 6 - Discipline (2 terminations, 3 suspensions, and 1 reprimand)
- 1 - Reclassification
- 1 - Classification
- 2 - Pay

In 2019, the Committee upheld the Screening Committee's decision to not proceed further on all ten appeals.

In 2020, the Committee has dealt with seven appeals as follows:

- 5 - Discipline (2 terminations, 2 suspensions, and 1 reprimand)
- 1 - Selection
- 1 - Respectful Workplace Policy

In 2020, the Committee upheld the Screening Committee's decision to not proceed further on all seven appeals.

The Committee reviewed the following MGEU Arbitration Awards (sample summaries attached) and CSC Decisions:

- 2018 - 5
- 2019 - 6
- 2020 - 1

Elected representatives and staff encourage and educate our members to ensure that they are knowledgeable with respect to their rights in the workplace. This helps our members to stand up and hold employers accountable for workplace injustices that violate our respective collective agreements. Employer accountability is the key to improving our workplace environment.

Members of the Grievance and Appeals Committee encourage and expect our membership, their elected officers, and staff representatives to work together to bring forth issues for resolve.

The Committee has attached a summary of the grievances filed throughout the province.

IN APPRECIATION

To all the members, stewards, and staff who have appeared before the Committee - thank you.

To the Legal Unit of the MGEU: Helen Krahn, David Lewis (retired), Paul McDonald, Lorraine Clark (retired), and Sara Mason for all their help, patience, and guidance - thank you.

To Dan McKay who assisted in the statistical data for the preparation of this report - thank you.

To MGEU Staff Representatives: Marc Payette, Miranda Lawrence, Sharon Kolida, and Wesley Whiteside for their assistance with the Committee - thank you.

In Solidarity,

MGEU Grievance and Appeals Standing Committee

Grievances by Type

Grievance Types	Year			
	2018	2019	2020	Grand Total
Abandon Position	1		1	2
Allowance	8	2	2	12
Application of Agreement	72	65	40	177
Benefit Plan	5	2	5	12
Contract Out	1	3		4
Disability	2			2
Discipline	354	354	250	958
Discrimination	3	4	2	9
Duty to Accommodate	29	25	17	71
Harassment	3	2	2	7
Health and Safety		3	14	17
Hours of Work	16	18	13	47
Lay-off		11	5	16
Leave	29	32	91	152
Pay	209	151	39	399
Personnel File		1		1
Reclassification	8	9	5	22
Relocation	1	1		2
Resignation	2	2		4
Selection	38	45	36	119
Seniority	30	24	1	55
Term Conversion		2	2	4
Unsatisfactory Working Cond.	8	17	10	35
Work Assignment	1	3	1	5
Grand Total	820	778	536	2,134

Grievances by Component and Local

Components/Local	Year			
	2018	2019	2020	Grand Total
Addictions Foundation				
AFM, Area 2		1		1
AFM, Area 6	3	1	8	12
AFM, Area 8	2	5	4	11
Addictions Foundation Total	5	7	12	24
Administration				
Administration, Area 7	9	19	10	38
Administration, Area 8		2		2
Administration Total	9	21	10	40
Clerical				
Clerical, Area 1			1	1
Clerical, Area 3	1	6	2	9
Clerical, Area 4	1	3		4
Clerical, Area 5	2		2	4
Clerical, Area 7	27	14	16	57
Clerical, Area 8		2	1	3
Clerical Total	31	25	22	78
Community Support				
Interlake-Eastern Community Support, Area 5	9	16	18	43
Northern Community Support, Area 1	3			3
Northern Community Support, Area 8		1		1
Prairie Mountain Community Support, Area 2	1		7	8
Prairie Mountain Community Support, Area 3	1	4	22	27
Southern Community Support, Area 4	1	2		3
Southern Community Support, Area 5	4	4		8
WRHA Home Care/Home Support	41	41		82
WRHA Proctors	3			3
Community Support Total	63	68	47	178
Community-Based Social Services				
ANCR	4	2	4	10
Elizabeth Fry Society of Manitoba	1			1
Family Dynamics Community Staff		1		1
Family Dynamics Office Staff	2	1		3
Family Visions	1		1	2
Knowles Centre		2		2
Knowles Centre SAIL	1			1
Macdonald Youth Services APHP	2	8	2	12
Macdonald Youth Services Crisis Stabilization	2	7	2	11
Main Street Project	4	4		8
Metis CFCS, Area 6	7	8	1	16

Components/Local	Year			
	2018	2019	2020	Grand Total
Metis Child & Family Services Authority		1		1
Michif CFS, Area 1		1		1
Michif CFS, Area 2	1	8	2	11
Michif CFS, Area 3	1			1
Parkland Crisis Centre	1			1
Parkland Res & Voc Services Inc	1	1		2
ROSE		1		1
Sara Riel Inc		2		2
Southeast Child & Family Services		9	4	13
SPIKE Inc	1			1
St Amant Community Residential Program	5	12	6	23
YWCA Westman Women's Shelter			1	1
Community-Based Social Services Total	34	68	23	125
Corrections				
Corrections, Area 1	7	4	11	22
Corrections, Area 2	5		5	10
Corrections, Area 3	4	3	36	43
Corrections, Area 4	13	6	15	34
Corrections, Area 5	5	3	8	16
Corrections, Area 7	31	36	82	149
Corrections Total	65	52	157	274
Emergency Medical Services				
Interlake-Eastern EMS, Area 5	6	3		9
Medical Transportation Coordination Centre	3	11		14
Paramedics of Winnipeg	5	9	18	32
Prairie Mountain EMS, Area 2	1			1
Prairie Mountain EMS, Area 3	13	8		21
Southern EMS Superintendents		3		3
Southern EMS, Area 4	3	7		10
Southern EMS, Area 5	1	7		8
Emergency Medical Services Total	32	48	18	98
Golico				
Golico, Area 1	1			1
Golico, Area 4	1	6	3	10
Golico, Area 5	2	3	2	7
Golico, Area 7	30	18	17	65
Liquor and Gaming Authority, Area 3	6		6	12
Liquor and Gaming Authority, Area 7	11	6	7	24
Manitoba Lotteries Food & Beverage	14	7	9	30
Golico Total	65	40	44	149

Components / Local	Year			
	2018	2019	2020	Grand Total
Government Community Workers				
Government Community Workers, Area 6		3		3
Government Community Workers Total		3		3
Health				
Health, Area 1	1			1
Health, Area 4	3	3	3	9
Health, Area 5	4	11	6	21
Health, Area 7	6	2	2	10
Health Total	14	16	11	41
Health Care Support Services				
Actionmarguerite (Saint-Boniface)	5	4		9
Actionmarguerite (Saint-Vital)	6	4		10
Beacon Hill Lodge	3	2	1	6
Convalescent Home		1		1
Dr Gendreau		1		1
Eden Mental Health Centre HCSS	4			4
Fred Douglas Lodge		1		1
Golden Links Lodge	6	3		9
Holy Family		2		2
Interlake-Eastern HCSS, Area 5	1	4		5
Nisichawayasihk Personal Care Home	32	46	14	92
Poseidon Care Centre	1		1	2
Prairie Mountain HCSS, Area 2	1		3	4
Prairie Mountain HCSS, Area 3			7	7
River Park Gardens Personal Care Home	56	48	24	128
Riverwood Square	1	9		10
Sharon Home		2	1	3
Southeast Personal Care Home		3		3
St Amant Support	2	2		4
St Boniface General Hospital Maintenance & Trades	2	9	5	16
St Norbert Personal Care Home		4		4
Victoria Hospital Support	2	1		3
Victoria Hospital Trades	6	6		12
Villa Youville	1			1
WRHA Pan Am Clinic	5	5		10
WRHA Selkirk Laundry Operations		2		2
zzz INACTIVE - Prairie Mountain HCSS, Area 2		1		1
Health Care Support Services Total	138	14	1	153
Legal				
Legal, Area 1	1			1
Legal, Area 5	3	2	6	11
Legal, Area 7	12	10	7	29

Components / Local	Year			
	2018	2019	2020	Grand Total
Legal, Area 8	2	6	1	9
Legal Total	18	18	14	50
MPI				
MPI, Area 3			2	2
MPI, Area 4		1		1
MPI, Area 7	10	9	9	28
MPI, Area 8	1			1
MPI Total	11	10	11	32
Physical Sciences				
Physical Sciences, Area 1	1			1
Physical Sciences, Area 2	2	1		3
Physical Sciences, Area 3	1	1		2
Physical Sciences, Area 4	1	3	4	8
Physical Sciences, Area 5	1	4	3	8
Physical Sciences, Area 7	7	12	4	23
Physical Sciences, Area 8	1	2		3
Physical Sciences Total	14	23	11	48
Post Secondary Education				
Assiniboine Community College	1			1
Brandon University			1	1
Red River College	34	16	10	60
Université de Saint-Boniface Professors (APPUSB)		1	2	3
University College of the North, Area 1	4	8	1	13
University College of the North, Area 8	4	8		12
Post Secondary Education Total	43	33	14	90
Social Sciences				
Social Sciences, Area 1	2			2
Social Sciences, Area 2			1	1
Social Sciences, Area 3	1	2		3
Social Sciences, Area 4	1	2		3
Social Sciences, Area 5	2			2
Social Sciences, Area 7	20	18	10	48
Social Sciences, Area 8	5	3	1	9
Social Sciences Total	31	25	12	68
Technical/Professional				
Diagnostic Services Manitoba Technical, Area 3	4	5		9
Diagnostic Services Manitoba Technical, Area 4	3	6		9
Diagnostic Services Manitoba Technical, Area 5	3	3		6
Interlake-Eastern T/P, Area 5	7	8	2	17
Prairie Mountain T/P, Area 2	2	2		4
Prairie Mountain T/P, Area 3	6	6	2	14
Southern T/P, Area 4	6	6	6	18

Components / Local	Year			
	2018	2019	2020	Grand Total
Southern T/P, Area 5	3	1		4
Westman Lab	3	4		7
Technical/Professional Total	37	41	10	88
Trades				
Trades, Area 1	2	1		3
Trades, Area 2	2	1		3
Trades, Area 3	3	5	2	10
Trades, Area 4	4		1	5
Trades, Area 5	12	19	11	42
Trades, Area 7	16	17	9	42
Trades, Area 8	2	10	5	17
Trades Total	41	53	28	122
Local with No Component				
Allied Wings	2		1	3
Canadian Blood Services, Area 6	1	1	2	4
Churchill Health Centre - WRHA		1		1
Dakota Ojibway Child & Family Services, Area 6		1	2	3
Impark Services	1	3		4
Les Tournesols de Saint-Vital		10	11	21
Manitoba Centennial Centre	2	2		4
Manitoba Housing Authority, Brandon	1			1
Manitoba Housing Authority, Selkirk			1	1
Manitoba Housing Authority, The Pas	1		3	4
Manitoba Housing Authority, Winnipeg	7	6	5	18
Manitoba Museum	3	3	2	8
MASC, Area 2			2	2
MASC, Area 5		1		1
Patient Transport Services			1	1
Sandy Bay Ojibway First Nation		1	1	2
Seine River School Division Educational Assistants			1	1
Teranet, Area 3			1	1
Teranet, Area 7	1		1	2
University of Winnipeg Students' Association		3		3
Winnipeg Art Gallery		1	1	2
Winnipeg Clinic	3			3
WRHA Community Programs	9	17		26
WRHA HSC Security	4	3		7
Local with No Component Total	35	53	35	123
Grand Total	82	778	536	2,134

Arbitration/Appeal Summary Sheet

Grievor: Group
File No.: 538-126-2015
Issue: Credit for casual service for benefit calculations
Employer: Winnipeg Regional Health Authority
(Selkirk Laundry Operations)
Arbitrator: Michael Werier
Date of Award: November 27, 2018

Summary of Decision

o **Facts**

This grievance concerned a dispute as to whether union members should receive credit for casual service for the purpose of benefit calculations. The case involved interpretation of the collective agreement and the union's position was that the term "continuous employment" was intended to include any casual service. The employer had historically excluded casual service in determining length of continuous employment.

The Union relied on two previous arbitration decisions which had determined the language which was nearly identical to this in other health authority collective agreements. In those previous decisions it was determined that casual service should be counted in the calculation of continuous employment.

The employer argued that different parties were involved in this case and that there were slight differences in the wording which should lead to a different conclusion.

o **Decision**

Ultimately the employer's arguments were all rejected and the grievance was allowed. Casual time is to be included in the calculation for entitlement to vacation and pre-retirement leave.

Grievance allowed

Arbitration/Appeal Summary Sheet

Grievor:	Policy Grievance
File No.:	670-061-2017
Issue:	Wage Premiums
Employer:	Manitoba Liquor and Lotteries Corporation
Arbitrator:	Bill Hamilton
Date of Award:	November 4, 2019

Summary of Decision

o Facts

The Union grieved the employer changed their practice to round up wage premiums to the nearest hour and instead was paying a pro-rated portion of the hour. The language in the agreement referred to an hourly rate shift premium being paid "or portion thereof per day". The issue became what "or portion thereof per day" meant. The Union argued an employee was entitled to the full hour premium and the employer argued it had to be pro-rated. The language had been the same since 1978, and the practice had been the same throughout. The employer relied on evidence from a number of their other collective agreements where the language is the same but the premiums are pro-rated.

o Decision

The arbitrator found that "a portion thereof per day, "or portions thereof" as used in the agreement were ambiguous and as such, had reference to the parties' past practice. He said either interpretation could be supported for numerous reasons and therefore looked to past practice. In this regard, he found past practice consistently rounded up the premium as far back as 1978. That practice existed with the knowledge of both parties, and had many opportunities to address the language. Also, when the Food and Beverage Service Agreement was negotiated, the LCC agreement was renewed, adding part-time employees to the language at issue and the employer continued rounding up the premium. What other practices were with the Employer and other collective agreements did not create an inconsistency nor detract from the practice as noted above. Retroactive payment was ordered.

Grievance allowed