

NEGOTIATING HOURS OF WORK

GUIDELINES FOR BCGEU STEWARDS WORKING IN COMPONENT 5

BC RETAIL LIQUOR STORES AND WAREHOUSES

Many of our members work a schedule that was negotiated by the Union on their behalf. Some employees have been told by their employers that they cannot negotiate a new schedule and simply accept this.

This is not true - you can negotiate a new schedule, but must follow the proper procedures.

The purpose of this document is to clarify the procedures, responsibilities and steps involved in negotiating changes to work schedules

By: Component 5 RS&W Hours of Work Committee

Last revised: **MARCH 2012**

Introduction

Many of our members work a schedule that was negotiated by the Union on their behalf. Some employees have been told by their employers that they cannot negotiate a new schedule and simply accept this. **This is not true – you can negotiate a new schedule, but must follow the proper procedures.**

Let's say you have been working the same schedule for quite some time but notice that with some small changes to the schedule, you could not only improve store efficiencies but also improve work/life balance and morale at your workplace. This would also increase productivity and save money

How would you proceed as a staff member/steward from here?

The following information will guide you in the process of negotiating a new schedule for your worksite.

Article 14 of the 15th Master Agreement and Article 7 of the Component 5 Agreement are agreements between the BCGEU and Employer on hours of work. A steward and the employer's designate will establish work schedules based on shift patterns and hours of work contract language in Article 7 of Component 5 Agreement. Contract language describes the process for notice, and negotiations or changes to the agreement, and provides for hours of work umpire to resolve any disputes. Work schedules will be by mutual agreement between the parties.

Recently, questions have arisen regarding changes to existing hours of work schedules. In particular, it is important to remember that Article 14.2 of the 15th Master Agreement and Article 7 of the 15th Component 5 Agreement confirm that **"major changes"** to existing work schedules must be negotiated between the employer's designate and the union steward at the local level.

A **"major change"** includes but is not limited to:

- Any change in shift pattern (i.e. changing a 5 x 7 work week to a 5, 5, 4 work schedule) or an alteration that would make a change in weekend days off which may also include Friday and Saturday/or Monday resulting in an extended period of rest for the employee. In addition, any of the following "major changes" must be negotiated between the parties.
- Increase or decrease full-time regular positions as required to meet the needs of the worksite.

The first thing a shop steward needs to do when approached about an Hours of Work agreement/work schedule, is to thoroughly review the following two articles and the Korbin Award for assistance when investigating or negotiating scheduling issues.

Don't skim them – study the following and then think about how they may apply to the worksite:

Article 14.2 of the Master agreement is the main article to review for guidance when negotiating work schedules. However, stewards must also be familiar with **Article 7** in the Component 5 Agreement that governs hours of work.

WHAT IS THE KORBIN AWARD?

ON MAY 21, 2004 ARBITRATOR KORBIN ISSUED A CONSENT ORDER (AWARD #881) REGARDING WORK SCHEDULES, SHIFT ROTATION, STAFFING LEVELS, EXCHANGING OF SHIFTS, CONVERSION AND VDP/ERIP.

KEY POINTS OF THE KORBIN AWARD INCLUDE:

The parties agree that Judi Korbin (Arbitrator) is constituted with the jurisdiction, to hear and

determine all matters in dispute arising out of interpretation or implementation of this award.

The Parties shall negotiate:

- A) Shift pattern, length of scheduled work days and, where appropriate, averaging periods to meet the annual hours of work;
- B) Work schedules based on Article 7 hours of work in the Retail Stores and Warehouse Component 5 Agreement.

The party wishing to change the existing work schedule must:

- A) Provide the other Party with the earliest possible advance notice, in writing;
- B) Give notice at the local level, to Union and /or Employer designate.

The party requesting the change bears the onus to prove that its proposed new schedule meets the hours of operation, considers seasonal demands, does not result in increased costs to the employer and, where possible, results in a decreased cost and/or improved efficiency and /or improved customer service.

Example

A clerk /member contact you about their schedule?

Let's start by using this employer initiated example:

The Manager or Area Manager presents you and your Co-workers with a new schedule and advises it will start next month. There has been no negotiation or input by you or any of your co-workers into this schedule. You and your co-workers study the schedule and do not accept the new schedule as presented.

.....**this is what you do next.....**

READ THE FOLLOWING STEPS # 1 – 10

- 1) Establish time line: Has the employer given 14 days notice and posted the new schedule?
- 2) Keep in mind Article 14.2 (c) (1) (2) (3) "if" 14 day notice has not been given for new schedule and the new schedule is being imposed, this would be grounds for a grievance as per the above articles.
- 3) The steward must make an appointment to meet with the manager and formally give notice (under Art.14.2 (2) that the staff members do not accept the schedule and wish to negotiate an hours of work agreement agreeable to both parties.
- 4) The Manager may or may not want to acknowledge or negotiate with you. You will still have 14 days to meet with staff members and agree upon a proposed schedule to bring forward. Make sure you are following the language set out in Article 14.2 M.A. and Article 7.1 (a) (i-iv) C.A. and the series of principles to guide the scheduling process and to help resolve disputes that may arise. You will not be successful in negotiating a work schedule if it includes overtime for coverage or a change in hours of operation. You might prepare a schedule that would show the manager:
 - No increased costs, meets hours of operation and operational needs, (employee coverage) i.e. liquor and beer loads, licensees, customer service and employee preference.

Any of the following "significant changes" must be negotiated between the parties:

Changing the staff schedule rotation pattern to accommodate increases or decreases in staff

levels i.e. assigning part time regulars to new full time regular positions

The following minor change does not have to be negotiated by the employer:

Changes in the shift start time.

- 5) See attached blank and sample schedules to assist the process.
- 6) If the Manager will negotiate, and you have met with the staff members and agreed upon a proposed schedule, you must make an appointment with your manager to discuss the employee/employer proposal.
- 7) You meet with the Manager and negotiate/go over the revised schedule. You will then inform the manager of the benefits of the proposed schedule and the ways that the Employer's needs are met by your schedule.

For example:

You may mention (if staff members voted for this change)

- a) That a half hour lunch break instead of an hour would allow staff to be present at a peak time.
- b) You could mention the benefits of employees having more time with their families, having time to schedule medical appointments on a day off instead of disrupting a regular work day.
- c) Store and employee morale would be improved and therefore the employer would also benefit.

- 8) You should consult and ensure you have the support of the staff members for any proposed changes by management during the negotiations. In some work settings, the Employer will refuse to negotiate with the steward or even consider the possibility of a change to the hours of work or the schedule.

- 9) Depending on the results of this meeting, it will establish your next step.

If you are able to reach an agreement, you should review the agreement with your assigned union staff representative to ensure that it is consistent with the Collective Agreement. Have the agreed schedule signed off by all parties and forward a copy to the Union.

If you are unable to reach an agreement, Providing that the proposed schedule meets the criteria in the previous steps and the Employer refuses to negotiate an agreement within 14 days, you will refer the matter to a Union Staff Representative who will assess the schedule to ensure it complies with the Articles and the Korbin Award. Then a decision will be made if this schedule has merit to go forward to an Hours of Work Umpire.

You should be aware that you will continue working your original or employer proposed schedule until this has been resolved by the hours of work umpire, as stated in Article 14.2 (a) (1) read the language!!!! Remember work now grieve later.

- 10) Your staff representative is the person who contacts the Hours of Work Umpire. The Umpire will then contact the staff representative and the manager involved to reach agreement on a hearing date.

It is a very informal hearing compared to an arbitration. The Employer will make their arguments and will likely have an HR advisor or two with them. At the end of the hearing, the Umpire will advise when to expect a decision.

The process is not complicated, but it will be unsuccessful if you don't do your homework. With the support and assistance of your co-workers, your local executive and your area office staff representative, the process has been broken down into a series of steps that, if successful, will more than compensate you for your time and effort.

- It needs to be understood this is not a grievance process. This is a different process and would be taken to the hours of work umpire through a staff representative.



BCGEU

COMPONENT

5

RS&W!!

SEE THE FOLLOWING
SUPPORTING DOCUMENTS:

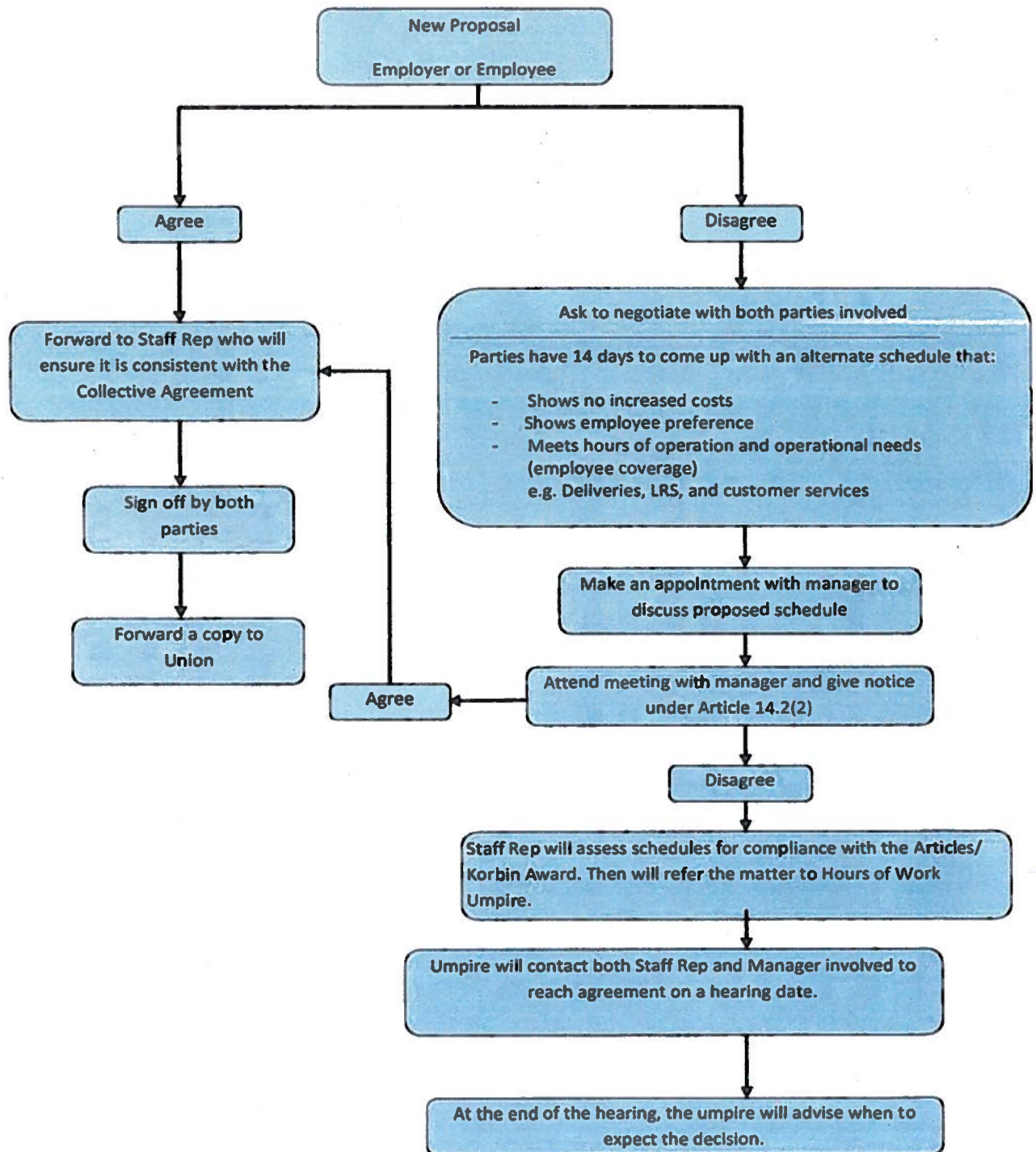
- **ATTACHED FLIPCHART FOR
VISUAL PRESENTATION**
- **NOTICE OF SCHEDULE CHANGE**
- **BLANK SCHEDULE
TEMPLATES**
- **EXAMPLES OF SCHEDULES**
- **KORBIN AWARD**

For your reference, links to the
15th Master and Collective Agreements
are on the BCGEU website:

http://www.bcgau.ca/sites/default/files/CS_Agr_102010.pdf

<http://www.bcgau.ca/sites/default/files/15th%20MA%20100727%20standard%20size.pdf>

IF YOU REQUIRE ANY FURTHER
INFORMATION OR ASSISTANCE
CONTACT YOUR LOCAL CHAIR OR
AREA OFFICE STAFF REPRESENTATIVE
FOR RS&W



Completed by: Component 5 RS&W H.O.W. Committee

Notice of Schedule Change or New Schedule

Sign off Sheet

Date: _____

Store Name & Number: _____

Current Schedule Rotation Attached

Note Any Comments:

Change to Current Rotation or New Schedule Rotation Proposal Attached

Note Any Comments:

New Scheduling Change to take effect: _____

(Fourteen days notice required)

Approved by:

Agree or Disagree (circle)

Signature: _____

Print Name: _____

Title: _____

Date Signed: _____

For: BC Liquor Stores (LDB)

Agree or Disagree (circle)

Signature: _____

Print Name: _____

Title: _____

Date Signed: _____

For: BCGEU

COMPONENT 5
BLANK STORE SCHEDULE WORKSHEET

	SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
CLERK 1							
CLERK 2							
CLERK 3							
CLERK 4							
CLERK 5							
CLERK 6							
CLERK 7							
CLERK 8							
CLERK 8							
CLERK 10							
CLERK 11							
CLERK 12							
CLERK 13							
CLERK 14							
P.C. 1							
P.C. 2							
P.C. 3							
Store Managers	MANAGER	MANAGER	MANAGER	MANAGER	MANAGER	MANAGER	MANAGER
	ASST.MANAGER	ASST.MANAGER	ASST.MANAGER	ASST.MANAGER	ASST.MANAGER	ASST.MANAGER	ASST.MANAGER
	SUPERVISOR	SUPERVISOR	SUPERVISOR	SUPERVISOR	SUPERVISOR	SUPERVISOR	SUPERVISOR
Hours day							
Hours week							

BLANK STAFF SCHEDULE WORKSHEETS

STAFF SCHEDULE

[illegible]

Store Hours
Mon – Thurs. + Sat
9:30 AM – 6:00 PM
Fri - 9:30 AM – 9:00 PM

STAFF SCHEDULE FOR PERIOD
PERIOD,

DATE	R	28	29	30	1	2	3	5	6	7	8	9	10	12	13	14	15	16	17	19	20	21	22	23	24	26	27	28	29	30	31	
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WEEK 2 TOTAL HOURS

WEEK 3 TOTAL HOURS

WEEK 4 TOTAL HOURS

WEEK 5 TOTAL HOURS	TOTAL HOURS FOR PERIOD	TOTAL HOURS FORECAST	PROJECTED EFFICIENCY
100	100	100	100

STAFF SCHEDULE

GLS #	PERIOD 9																													25-Nov-07 TO		29-Dec-07																												
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DAY TOTAL			85.75	80.75	84.25	79.50	80.00	87.25			85.75	80.75	84.25	79.50	80.00	87.25			85.75	80.75	71.25	78.50	87.00	74.75			74.25	74.25	79.25	84.00	108.00	89.25			89.25		83.50	85.50	81.25																					
WEEK 1 TOTAL USED HOURS			417.50									418.00									448.00									818.00																														

Sun – 11:00 AM – 6:00 PM

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Store Hours
Mon – Sat
9:30 AM – 9:00 PM

GLS #		PERIOD 7 10/27-09 27-Sep-09 To 31-Oct-09																																				
		WEEK 39							WEEK 40							WEEK 41							WEEK 42							WEEK 43								
DATE		27	28	29	30	1	2	3	4	5	6	7	8	9	10		11	12	13	14	15	16	17	18	19	20	21	22	23	24		25	26	27	28	29	30	31
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	3	OFF	O	7:00	14:00	14:00	14:00	14:00	OFF	O	7:00	14:00	14:00	14:00	14:00	35.00	OFF	H	7:00	14:00	14:00	14:00	14:00	28.00	OFF	O	7:00	14:00	14:00	14:00	35.00	OFF	O	7:00	14:00	14:00	14:00	35.00
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	8	OFF	O	7:00	14:00	14:00	14:00	14:00	OFF	O	7:00	14:00	14:00	14:00	14:00	35.00	OFF	H	7:00	14:00	14:00	14:00	14:00	28.00	OFF	O	7:00	14:00	14:00	14:00	35.00	OFF	O	7:00	14:00	14:00	14:00	35.00
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STAFF SCHEDULE

Mon – Sat

9:30 AM – 9:00 PM

Sun – 11:00 AM – 6:00 PM

GLS #										PERIOD 5										2-Aug-09 TO 28-Aug-09																													
WEEK 32										WEEK 33										WEEK 34										WEEK 35										WEEK 36									
DATE	shift	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29																				
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APPENDIX A

6 DAYS FE SHOPPING HOURS		#041 POWELL RIVER WORK SCHEDULE - Consent Order									7 \$M SALES	TAB 11	
Should be OK as this is only a change in supervisory shift length within 5-10 hours on Mon and Wed.													
POSITION AND GRID LEVEL		HOURLY COST	SUN	MON	TUE	WED	THU	FRI	SAT	TOT	START	FINISH	WEEKLY COST
Manager	18	\$34.54	O	9.5	9	6.5	5	5	O	35	8:15 AM	6:15 PM	\$1,209
										0			\$0
Assistant Manager	14	\$30.65	O	O	O	8	9	9	9	35	4:15 PM	9:15 PM	\$1,073
										0			\$0
Clerk 1	9	\$26.49	O	O	7.5	O	7.5	7.5	7.5	30	10:15 AM	6:15 PM	\$795
Clerk 2	9	\$26.49	O	7.5	7.5	7.5	7.5	7.5	O	37.5			\$993
Clerk 3	9	\$26.49	O	7.5	7.5	7.5	O	7.5	7.5	37.5	1:15 PM	9:15 PM	\$993
Clerk 4	9	\$26.49	O	8	8	5	7	7	O	35	8:15 AM	..5:15 PM	\$927
										0			
Auxiliary 1		\$25.28	O					5	7	12	4:15 PM	9:15 PM	\$303
Auxiliary 2		\$25.28	O					5	5	10			\$253
Auxiliary 3		\$25.28	O						5	5			\$126
Auxiliary 4		\$25.28	O							0			\$0
Auxiliary 5		\$25.28	O							0			\$0
Auxiliary 6		\$25.28	O							0			\$0
Auxiliary 7		\$25.28	O							0			\$0
Auxiliary 8		\$25.28	O							0			\$0
Auxiliary 9		\$25.28	O							0			\$0
										0			\$0
Total Regulars	6	0.00	32.50	39.50	34.50	36.00	43.50	24.00	210	Total Regular Work Hours			
		0	4	5	5	5	6	3	28	Total Regular Shifts			
Total Suggested Auxiliaries	9	0.00	0.00	0.00	0.00	0.00	10.00	17.00	27	Total Auxiliary Work Hours			
		0	0	0	0	0	2	3	5	Total Auxiliary Shifts			
TOTAL STAFF	15	0.00	32.50	39.50	34.50	36.00	53.50	41.00	237	Total Work Hours			
		0	4	5	5	5	8	6	33	Total Shifts			
TOTAL WORK HOURS COST FOR WEEK											\$6,673		
(SAVINGS)										WEEKLY		YEARLY	
Work Hours used in February Week 2004				262	Proposed(Savings)				(25)	-1,300	(\$35,066)		
Possible unplanned hours scheduled				7	Savings Reduction				7	364	\$9,202		
Minimum Proposed (Savings)										(18)	-936	(\$25,864)	
2003 Average Weekly Hours Used										286	14,853	\$403,667	

**IN THE MATTER OF A
CONSENT ORDER**

BETWEEN:

GOVERNMENT OF BRITISH COLUMBIA

(As represented by the
BC Public Service Agency)

(the "Employer")

AND:

B.C. GOVERNMENT & SERVICE EMPLOYEES' UNION

(the "Union")

Re: Hours of Work at the Liquor Distribution Branch (LDB)

ARBITRATOR:

Judi Korbin

COUNSEL:

Greg Wood
for the Employer

Jaynie Clark
for the Union

DATE OF ORDER:

December 7, 2006

The Parties are agreed that I am constituted with the jurisdiction under the May 21, 2004 consent Order between the Parties regarding hours of work at the LDB to hear and determine all matters in dispute arising out of interpretation or implementation of that Award.

I met with the Parties jointly on June 2, 2006 and heard opening statements related specifically to three liquor stores, 100 Mile House, Powell River and Quesnel. After hearing the dispute the Parties agreed to my suggestion that this matter be referred back to the Parties representatives who negotiated the language and who were involved with the implementation through the Collective Agreement Implementation and Consolidation Committee (CAIACC) and who were also the Counsel involved in the May 21, 2004 Consent Order referred to above.

Ms. Clark and Mr. Wood met on several occasions prior to meeting again with me to request my assistance. As a result of this process the Parties agreed to the following settlement of these three particular hours of work disputes, as well as some general principles that will assist the Parties in future hours of work disputes, all of which shall hereinafter be known as a Consent Order.

1. The goal of the LDB is to contain costs while enhancing customer service and efficiency, while ensuring the continuation of liquor retail sales and distribution by the public service.
2. The goal of the Union is to increase available work, prevent job loss while advancing employee preference for work schedules and ensure the continuation of liquor retail sales and distribution by the public service.
3. The Parties agree that Article 14 of the Master Agreement is applicable to hours of work cases in the LDB and that the criteria in that Article applies. Specifically, the Employer shall decide:
 - a) The hours of operation;
 - b) The classifications of positions and the number of employees required to provide the services.

The Parties shall negotiate:

- a) shift patterns, length of scheduled work days and, where appropriate, averaging periods to meet the annual hours of work;
- b) work schedules based on the hours of work clauses in the Retail Stores and Warehouse Component Agreement;
- c) a list of Hours of Work Umpires/Arbitrators.

The Party wishing to change the existing work schedule must:

- a) provide the other Party with the earliest possible advance notice, in writing;
- b) notice shall be given at the local level for a single store or to the President of the Union or the LDB's Executive Director of Human Resources, if the request is for multiple stores.

The Parties shall have 14 days to reach an agreement and if they are not successful either Party may refer the matter to an Hours of Work Umpire on the appropriate form.

4. The Party requesting the change bears the onus to prove that its proposed new schedule:
 - a) meets the hours of operation and considers seasonal demands;
 - b) does not result in increased cost to the Employer and, where possible, results in a decreased cost and/or improved efficiency and /or improved customer service.

The onus of proof shall be on the Employer to prove decreased cost. The parties agree there must be consideration of employee preference, fairness and equity.

5. The Parties agree that the Employer will not prohibit the Local designates from agreeing to any of the schedule options listed in Article 7.1(a)(i)-(vi) of the Retail Stores and Warehouse Component Agreement that meet the criteria listed in 4. above.
6. The Parties agree that only shifts of five hours or longer will be prescheduled.
7. The Parties agree that the Employer's designate at the local level shall be the first level of management excluded from the bargaining unit and the Union's designate at the local level shall be the store's Shop Steward or a Local Officer elected in the area of the province where the store is located.

Regarding the three stores referred by the Union, only the Powell River store proposed schedule shall be amended and implemented as it meets the goals of the Parties and the criteria outlined above. Specifically this proposal meets the hours of operation, does not result in increased cost to the Employer and it takes into consideration employee preference.

The Quesnel and 100 Mile House proposed schedules and shift lengths do consider employee preference, but they reduce staffing to the point that certain busy periods were left with insufficient staffing. Therefore, those proposed schedules and shift lengths fail to meet the Parties' agreed principles.

The schedules and shift lengths in respect of the Quesnel proposal reduced the number of shifts per week by 4 while the 100 Mile House proposal reduced the number of shifts worked per week by 3. Both proposed schedules kept the number of hours per week at the same level but redistributed them so that there were fewer people available to do the work.

For instance, the proposed Quesnel Friday schedule had the Manager and Assistant Manager and one auxiliary working their current shift pattern to cover the extended store hours. However, the proposal reduced the number of regular clerks from 4 to 3 but extended their hours. The 4th regular clerk would have Friday as a day off. The result is that the proposed shift has 6 employees working a total of 42.25 hours on Friday instead of 7 employees working 44 hours.

The 100 Mile House proposed schedule and shift lengths also reduces the staff available on Monday, Wednesday and Saturday while maintaining the same number of hours worked per week. This proposal has additional hours worked on Friday but 15 fewer hours worked on the 3 days where shifts are reduced, including 5 ¾ hours less on Saturday.

The proposed schedules for the 100 Mile House and Quesnel stores would therefore make it necessary for the Employer to add additional staff at additional cost to maintain appropriate coverage.

In the result, consistent with clause 14.2(f)(2), although the proposed work schedules for 100 Mile House and Quesnel are preferred by the employees they substantially increase the cost to the Employer and therefore cannot be successful under the terms of the Collective Agreement.

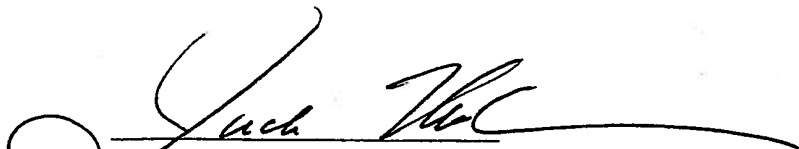
For all the foregoing reasons, the 100 Mile House and Quesnel applications are denied.

The parties have agreed to accept the Powell River proposed schedule with modifications based on the 5,5,4 rotation with a 3 week averaging period. Although it too reduces the number of regular shifts on Saturday it increases the number of auxiliary staff on Saturday which maintains the coverage. This proposal does not result in an increased cost to the Employer. It provides for adequate coverage by knowledgeable staff and also reflects employee preference.

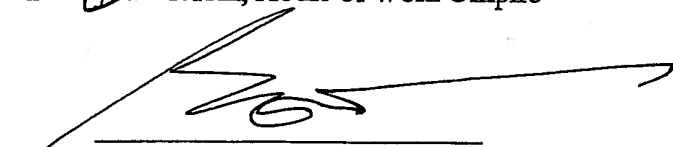
In the result, the amended schedule for the Powell River store meets the required test and is approved. The new Powell River schedule is attached as Appendix A to this Order.

It is so ordered by consent of the parties.

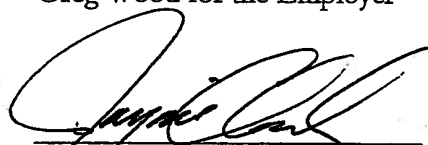
Dated at the City of Burnaby in the Province of British Columbia this 7th day of December, 2006.



Judi Korbin, Hours of Work Umpire



Greg Wood for the Employer



Laynie Clark for the Union