IN THE MATER OF AN ARBITRATION

BETWEEN:

THE LONDON HEALTH SCIENCES CENTRE

("the Employer")

AND:

THE ONTARIO PUBLIC SERVICE EMPLOYEES UNION. LOCAL 106

("the Union")

IN THE MATTER OF:

GRIEVANCE RE: ARTICLES 19.01(a) and 10.05(a) (ii) OF THE CENTRAL COLLECTIVE AGREEMENT

SOLE ARBITRATOR:

Kevin M. Burkett

FOR THE EMPLOYER:

Brian O'Byrne	- Counsel
Angela Hodgson	- Director of People Services
Lisa Haalstra	- Manager, Employee and Labour Relations
Phil Cifarelli	- Consultant Labour Relations Ontario Hospital Association

FOR THE UNION:

Julia Williams	- Counsel
Sandi Blancher	- Union, VP
Steve McCaw	- Union, Local President
Marc Casey	- Negotiator, OPSEU

Hearing in this matter was held on May 25, 2018 in Toronto, Ontario

A W A R D

Reference is made to a Union Policy Grievance dated February 2, 2017 concerning the interpretation of Articles 19.01 (a) and 10.05 (a) (ii) of the central collective agreement that expires March 31, 2019.

The parties have agreed that an employee who is on an unpaid leave of absence (which includes pregnancy leave and parental leave) in excess of 30 continuous calendar days will receive vacation pay based on a percentage of her or his gross salary for work performed during the vacation year as follows:

3 week entitlement	6%
4 week entitlement	8%
5 week entitlement	10%
6 week entitlement	12%
7 week entitlement	14%

The following examples illustrate how this will apply:

At London Health Sciences Centre (LHSC) the vacation year is April 1 to March 31

EXAMPLE 1

An employee has a 3 week vacation entitlement. This employee will have 3 weeks' vacation with pay deposited to her vacation bank on April 1, 2018. The employee goes off on pregnancy leave on April 1, 2018 followed immediately by parental leave. She returns to work on April 1, 2019. On March 31, 2019, the end of the vacation year, a reconciliation will be completed, to determine what her vacation time off and vacation pay should be for the vacation year April 1, 2018 to March 31, 2019. Since she was on pregnancy and parental leave the whole vacation year and therefore had no earnings, the vacation pay for that year is zero. However she had an entitlement to 3 weeks of vacation time off for that year but under the Local Provisions between LHSC and OPSEU only 2 weeks of vacation can be carried forward. Accordingly she may carry forward 2 weeks of unpaid vacation time into the April 1, 2019 to March 31, 2020 vacation year.

Effective April 1, 2019 this employee (who has now returned to work) will have 3 weeks' vacation with pay deposited to her bank for use during the April 1, 2019 to March 31, 2020 vacation year and two weeks of unpaid vacation carried forward from the previous vacation year as set out above.

EXAMPLE 2

An employee has a 3 week vacation entitlement. This employee will have 3 weeks' vacation with pay deposited to her vacation bank on April 1, 2018.

This employee works April 1, 2018 to September 30, 2018 and then goes off on pregnancy leave on October 1, 2018 followed immediately by parental leave. She returns to work on October 1, 2019.

On March 31, 2019, the end of the vacation year, a reconciliation will be completed to determine what her vacation time off and vacation pay should be for the vacation year April 1, 2018 to March 31, 2019.

Since she was on pregnancy and parental leave for half the vacation year (October 1, 2018 to March 31, 2019) her vacation pay for the vacation year April 1, 2018 to March 31, 2019 will be 6% times her gross salary for work performed during the period April 1, 2018 to March 31, 2019. A reconciliation of the deposit of 3 weeks' vacation pay which was deposited to her bank on April 1, 2018 will take place so that she will only have a vacation pay entitlement of 6% times her gross salary for work performed during the period April 1, 2018 to March 31, 2019. If this employee had utilized all or a portion of the 3 weeks' vacation with pay that had been deposited to her bank on April 1, 2018 she will have to pay back to LHSC any amount that was paid in excess of the amount that equaled 6% times her gross salary for work performed during the period April 1, 2018 to March 31, 2019 and such pay back will be carried out through payroll deduction. The specific arrangements with respect to payroll deductions will be discussed with the affected employee and the Union.

On April1, 2019 this employee will have a further 3 weeks' vacation with pay deposited to her vacation bank.

She returned to work on October 1, 2019 and worked until the end of the vacation year (March 31, 2020).

On March 31, 2020 a reconciliation will be completed to determine what her vacation time off and vacation pay should be for the vacation year April 1, 2019 to March 31, 2020. Since she was on parental leave from April 1, 2019 to September 30, 2019 and had no earnings during this time her vacation pay for the vacation year April 1, 2019 to March 31, 2020 will be 6% times her gross salary for work performed during the period April 1, 2019 to March 31, 2020. A reconciliation of the deposit of 3 weeks' vacation pay which was deposited to her bank on April 1, 2019 will take place so that she will only have a vacation pay entitlement of 6% times her gross salary for work performed during the period April 1, 2019 to March 21, 2020.

If this employee had utilized all or a portion of the 3 weeks' vacation with pay that had been deposited to her bank on April 1, 2019 she will have to pay back to LHSC any amount that was paid in excess of the amount that equaled 6% times her gross salary for work performed during the period April 1, 2019 to March 31, 2020 and such payback will be carried out through payroll deduction. The specific arrangements with respect to payroll deductions will be discussed with the affected employee and the Union.

DATED in Toronto, Ontario on this 20th day of June, 2018.

Kevin Burkett

Kevin M. Burkett