

*IN THE MATTER OF AN ARBITRATION
UNDER THE LABOUR RELATIONS ACT*

BETWEEN:

WEST HALDIMAND GENERAL HOSPITAL

(the “Employer/Hospital”)

and

ONTARIO NURSES’ ASSOCIATION

(the “Union/ONA”)

**Grievances of Maurice Houver and Megan Salter
ONA Consolidated File No. 202511382**

SOLE ARBITRATOR: COLIN JOHNSTON

APPEARANCES

FOR THE EMPLOYER:

Glen Christie, Counsel
Joe Olig, Articling Student
Sarah-Jane Irvine, Chief Human Resource Officer
Melissa Duguid, Human Resource Manager

FOR THE UNION:

Rob Dobrucki, Counsel
Emily Kindy, Bargaining Unit President
Hannah Stahl, Labour Relations Officer

***Hearing held by Video Conference
on March 27, 2026***

AWARD

1. The grievances before me concern claims for premium pay arising from circumstances in which the Grievors did not have 12 hours off between their shifts. Maurice Houwer is a full-time nurse in the Hospital's emergency department. On April 16, 2024, the Hospital scheduled him to work a 12-hour tour from 7:00-19:00. That day, the Employer asked if he could work additional hours until 21:00 that evening, which he accepted. He was scheduled to work the next day at 7:00, but the Hospital offered him the option to start at 8:00, which he did. The Hospital paid him a premium for the overtime hours he worked and an additional two hours of premium from 8:00-10:00 on April 17 because the Hospital did not schedule him off for 12 hours between tour changes. ONA is claiming a premium for the entire shift on April 17 from 8:00-20:00 at the 1 ½ rate per Article 14.02. It submits that the additional hours he worked, combined with the change in start time for his next shift, constituted a tour change under Article F-9(e), entitling him to premium pay per Article F-9(f).
2. Megan Salter is another full-time nurse who works in the emergency department. The Hospital scheduled her to work on April 25, 2024, from 7:00 – 19:00, and on April 26 from 19:00 - 7:00 the next day, but she requested to change the latter shift to 7:00 to 19:00 on April 26. During her April 25 shift, the Hospital requested and she accepted to work until 21:00. She received premium on her overtime hours and an additional premium for two hours from 7:00-9:00 on April 26 because the Hospital did not schedule her off for 12 hours. ONA again claims a premium for the entire April 26 shift.
3. The Hospital refutes the claim for premium in both instances, arguing that the additional hours worked by the Grievors did not trigger premium entitlement, and even if they did, the remedy sought is beyond what the language entitles them to receive. The parties relied on an Agreed Statement of Facts that set out all pertinent facts and posed two questions for me to answer.

AGREED STATEMENT OF ISSUE AND FACTS

1) To expedite the Arbitration process pertaining to the grievances defined below, the Employer and ONA (the "Parties") have agreed to use this Agreed Statement of Facts. Neither Party may call evidence to contradict any of the facts noted below.

Background

2) The Employer operates a public hospital incorporated pursuant to the Public Hospitals Act, R.S.O. 1990, C.P.40 that serves the western part of the County of Haldimand and

the surrounding areas with respect to the provision of a variety of health services. The Hospital is located in the community of Hagersville within the County of Haldimand.

3) ONA is a trade union that represents all Registered Nurses ("RNs") and graduate nurses employed by the Employer, save positions named in Article A-1 of the Local Appendix, infra.

*4) The Parties are subject to a Collective Agreement that consists of a central portion (the "Central CA") and local portion (the "Local Appendix") (together, the "CA"). At the time of the Grievance was filed, the most recent CA between the parties was to nominally expire on March 31, 2025. The 2023-2025 Central CA is attached as **Tab 1** and the 2023-2025 Local Appendix is attached as **Tab 2**. The Parties agree that the terms of the CA were in effect at the time that the Grievances were filed.*

Time off between shifts of work

5) Article F-9(e) of the Local Appendix reads as follows: "At least twelve (12) consecutive hours off will be scheduled between tour changes."

6) Article F-9(f) of the Local Appendix reads as follows: "A nurse will receive premium payment as provided for in Article 14.03 for all hours worked where any of the scheduling provisions are violated in F-9 (c) (d) and (e) above."

Houwer fact pattern

7) Maurice Houwer ("Houwer") held a Full-time ("FT") position in the Employer's Emergency Department ("ED") Unit at all times relevant to this grievance.

a) The ED unit schedules only 12-hour shifts for ONA members, of which 11.25 hours are paid hours. These scheduled shifts are all from 07:00 to 19:00, 09:00 to 21:00, or 19:00 to 07:00 on the following morning.

b) Where the Employer receives a sick call or other last minute need to find staff, and no nurse is available to work the full shift, the Employer may offer ONA members partial tours of different lengths. If the Employer makes an offer for a particular time frame to be worked and he nurse counter-offers to work a subset of the Employer's offer, the Parties agree that the nurse's counter-offer of a different shift length does not constitute an acceptance of an Employer offer of work.

8) Houwer was scheduled to work, inter alia, a shift beginning at 07:00 and ending at 19:00 on April 16/25.

9) Houwer was contacted by the Employer on April 16/25 at or about 14:00 and asked to work an additional hours on April 16/25 from 17:00 to 21:00. He accepted this offer and

worked on this day; due to patient demands associated with a patient being transferred from the Employer to a different health care facility, Houwer worked until 22:00 on April 16/25.

10) Prior to leaving the workplace on April 16/25, Houwer was advised that he could start work the following day at 08:00 rather than the 07:00 start time for which he was scheduled.

11) Houwer was compensated at time-and-one-half rates for the hours worked on April 16/25, as these hours were above his full-time schedule of hours of work. Houwer was paid at time-and-one-half rates for two hours (i.e. from 8:00 to 10:00) and at straight time rates for the balance of his work on April 17/25.

*12) On or about May 5/25, ONA filed a grievance (#202505906) on behalf Houwer with respect to the Employer failing to pay him at premium rates for all hours worked on April 17/25. A copy of this grievance is attached as **Tab 3**.*

Salter fact pattern

13) Megan Salter ("Salter") held a FT position in the Employer's ED Unit at all times relevant to this grievance.

14) Salter was scheduled to work, inter alia, a shift from 07:00 to 19:00 on April 25/25. She worked this shift.

15) Salter was scheduled to work from 19:00 beginning on April 26/25 and ending the following morning at 07:00. Several days prior to April 26/25, Salter requested to change this shift to a 07:00 to 19:00 shift on April 26/25, and this change was approved through normal Employer protocols in advance of April 26/25. Salter worked from 07:00 to 19:00 on April 26/25.

16) At or about 17:00 on April 25/25, Salter was asked by the charge nurse on her unit to work past the end of her scheduled shift to 21:00 that day. Salter was authorized to work until 21:00 that day, and did so.

17) When Salter received her paycheque for the period including April 25 and 26 of 2025, she discovered that she received time-and-one-half premium for two hours of work on April 25/25. Salter also saw that she was paid at time-and-one-half rates for two hours of her work on April 26/25 (i.e. from 07:00 to 09:00), but only straight-time rates for the remainder of her work on April 26/25.

*18) On or about May 13/25, ONA filed grievance 202506468 on behalf of Salter, alleging that the Employer had failed to pay premium rates for all hours worked by Salter on April 26/25. A copy of this grievance is attached as **Tab 4**.*

Issue

19) The Parties agree that the issue to be decided in this arbitration is: Based on the facts above, were Grievors Houwer and Salter entitled to receive:

a) premium pay rates for a limited number of hours on the days in question as described above; or

b) for the whole of their respective shifts worked on the days in question?

Position of the Union

4. The Union submits that the language in the local agreement provides a framework for determining entitlement to premium whenever the Hospital violates a scheduling rule. There are normally three parts to this framework. The first part begins with the scheduling rule itself, which it refers to as the normative provision. In this case, it is an employee's right to be free from work for 12 consecutive hours between tour changes, as provided for in Article F-9(e) of the local agreement. The second part of the framework is the operative provision, which sets out the consequences or remedies for a breach of the scheduling rules. The remedy in this case is premium pay for all hours worked on the next shift per Article F-9(f). The third part sets out exceptions to the scheduling rules and/or remedies. The local language does not appear to include any exceptions to this rule.
5. The scheduling rules provide that the Hospital can offer tours or partial tours to nurses, who can choose to accept the shifts. Nurses may offer to work a partial shift if they are unable to work the entire tour. ONA submits that when the Hospital offers a different shift, this constitutes a shift change that triggers the language in Article F-9. In Mr. Houwer's case, the Employer offered him an additional shift on April 16 and then modified his work hours on April 17, which constitutes a tour change. In Ms. Salter's case, the Hospital offered her a partial tour which again violates the 12 hours free from work rule.
6. The scheduling rules provide that a nurse is entitled to 12 hours off between tour changes and to premium pay on all hours worked until the Hospital complies with the rule. The operative provision entitles the Grievors to premium pay on their next tour until they have 12

hours of free time. ONA submits that there is no rationale for paying the Grievors only two hours' premium and not the entire next shift. Article F-9(f) requires payment for all hours; the Hospital has effectively read this language out of the provision. In summary, ONA argues that the Hospital improperly limited its compensation for the scheduling breach by paying the Grievors for only two hours, when they were entitled to a premium for all hours in their next shift.

7. ONA relies on the following jurisprudence to support its position on the grievances: *Homewood Health Centre v Ontario Nurses' Association*, 2020 CanLII 101233 (ON LA), *Cambridge Memorial Hospital and Ontario Nurses' Association*, 2021 CanLII 51696 (ON LA), *Listowel MH and ONA*, 2022 CanLII 119992 (ON LA), *Homewood Health Centre and ONA*, 2022 CanLII 119993 (ON LA), *Welland County General Hospital and Ontario Nurses' Association*, (unreported decision of Arbitrator Dunn dated December 23, 1982), *Re: Rizzo and Rizzo Shoes Ltd.*, [1988] 1 SCR 27, 1998 CanLII 837, and *Re: Imperial Oil Strathcona Refinery and CEP Loc 777, L.A.C. (4th) 239*, [2004] CarswellAlta 94375 (Elliott).

Position of the Hospital

8. The Hospital argues that there are two flaws to the Union's interpretation of the agreement. The first regards the interpretation of Article F-9(e) and whether entitlement triggers in the circumstances. The second involves the remedy that flows from Article F-9(f). The Employer does not contest that it did not provide 12 hours free from work. It is willing to ignore the language in Article F-9(e), which refers to twelve hours off between a 'tour change' as opposed to twelve hours between shifts. It is willing to concede that the Grievors did not have the requisite time off between shifts, regardless of whether it triggers the tour change language.
9. However, the remedy for such a breach is compensation at the premium rate for those hours that violate the rule on twelve hours free from work. Article F-9(e) describes the scheduling rule that entitles nurses to 12 hours off. If the employee does not receive 12 hours of free time, they are entitled to a premium payment for the hours worked that violate that rule. If a nurse works two of the twelve hours they should be off, they are entitled to premium pay for those two hours. The article does not entitle them to a premium for all hours worked on the next shift.

10. Article F-10(c) is an example of language in this agreement that specifically contemplates compensating a nurse for hours worked on their next shift. Similar language exists in Article F-13(5), which provides premium pay for all hours worked on an additional weekend. Article F-9(f) does not detail the same type of remedy. Absent clear and unambiguous language in the agreement, the Grievors are not entitled to the premium on the hours the Union claims.
11. The Union's case law exemplifies the type of language needed to support the Union's claims in this case. For example, the local agreement between *Guelph General Hospital and ONA* stipulates that nurses receive a premium for their next tour. In the collective agreement between *Listowell General Hospital and ONA*, the language refers to premium pay on all hours worked on the next shift. Similar language does not exist in the collective agreement before me.
12. The Hospital offers the following decision in support of its position: *Guelph General Hospital and ONA (2009-15)*, 2010 CarswellOnt 11572, *Peterborough Regional Health Centre and ONA (Consecutive Weekends)*, 2012 CarswellOnt 13684, *Brockville General Hospital and ONA Local 67 (Smith)*, 2020 CarswellOnt 14887, *OPSEU, Local 475 v. Eastern Ontario Regional Laboratory Association*, 202 CanLII 106447, *Sault Area Hospital v. OPSEU, Local 620*, 2022 CanLII 15978, *Homewood Health Centre v. United Food & Commercial Workers Canada, Local 175*, 2023 CanLII 50972, *Brant Community Healthcare System v. ONA*, 2009 CarswellOnt 10341, *Kingston General Hospital v. ONA*, 2001 CarswellOnt 9690, *Re Quinte Health Corp. and ONA (Chapman)*, 2025 CarswellOnt 797.

Union Reply

13. The Union refutes the Hospital claim that there was no change in tour in these circumstances. The Hospital clearly changed the Grievors' working hours. The language of the local agreement does not support the conclusion that the only remedy available is payment for the hours worked between shifts.

Analysis

14. I begin with Article F-9(e), which refers to 12 hours off between a 'tour change'. A tour or shift change typically refers to a transition from one shift to another. The local agreement refers to day, evening, and night shifts performed by nurses working 8-hour tours, as set out in Articles F-1(h), F-3(3), and F-9(d). It also refers to day, evening, and night shifts for nurses working 12-hour tours, as set out in Articles F-9(d) and F-10(b). The agreement provides longer rest periods for nurses moving from night shifts to day or evening shifts. Article F-10(b) extends the time off to 48 hours in those circumstances.
15. Similar tour change language exists in Article F-2(d), which applies to nurses working regular 8-hour tours. The article stipulates that nurses are entitled to 16 hours off between tour changes and 48 hours following 5 or more night or evening tours to the commencement of another tour. Ostensibly, Article F-2(d) combines the rules in Articles F-9(e) and F-10(b), with modifications, and applies them to nurses working 8-hour shifts.
16. I note that the local agreement also includes a provision in Article F-11(b) which applies to part-time nurses. It provides that part-time nurses are entitled to 32 hours off after completing a night shift and commencing another tour. This provision does not use the language 'tour change'. However, I suspect the term 'another tour' refers to something other than a night shift.
17. The language in Article F describes changes in defined tours from day to evening, from evening to night, from night to day, or any combination of the above. If a nurse is working day shifts and their schedule changes to an evening shift, this represents a 'tour change'. I contrast this with the situation where a nurse accepts overtime at the beginning or end of their shift, which is typically not considered a change in tour. Similarly, if a nurse accepts a partial shift that adds hours to the start or end of their scheduled shift, it is not, in my view, a change in tour.
18. I make these comments simply as an observation; they are not meant as a definitive ruling on this issue, as the parties did not make submissions on this point. Instead, the Hospital concedes, in this case, that it applies the language in F-9(e) and (f) if a nurse does not have 12 hours of free time between shifts. I will assume that the circumstances in this case trigger

the article. However, the question remains: what remedy applies to a violation of this provision?

19. The Union argues that the appropriate remedy is premium pay for the hours the Grievor worked on their next shift or until they get 12 hours off. The implication for this interpretation is that whenever a nurse accepts overtime, they become entitled to a premium on their next shift if the Hospital does not separate the two shifts by 12 hours. The Hospital's obligation to pay at the premium rate increases from 2 to 12 hours. I would expect the parties to negotiate much more precise language to achieve that result.
20. Arbitrator Randazzo in *Homewood Health* describes the general arbitral principle that the party seeking a monetary benefit must point to clear and unambiguous language in the agreement; an arbitrator cannot infer a monetary benefit.

25. Further, the principle that monetary benefits should not be inferred but require clear and unambiguous language is also expressed in Algoma Steel, supra, (see paragraph 18), and see as well, O.P.S.E.U., supra, where Arbitrator Abramsky states at paragraph 37,

37. The case law, as cited in some of the numerous cases relied on by the Employer, is clear that payment of a monetary benefit to an employee must be based on "clear and unequivocal terms." E.g. 2020 CanLII 101233 (ON LA) 14 Re OPSEU (Vitorino et al.), supra; Re Cardinal Transportation, supra; Re Coast Hotel, supra. The Absenteeism Incentive Bonus, at 2% of all hours worked, can be a significant monetary benefit. The language here is clear – it is a lump sum payment, not a retroactive wage increase.

26. I agree with Arbitrator Abramsky, and with those who have expressed a similar view, that the case law is clear that a monetary benefit is not to be inferred but must be described in clear and unequivocal language.

21. These comments apply equally in the circumstances. There is no clear language in Article F-9(f) entitling a nurse to the remedy that ONA seeks. I contrast its language with Article F-10(c), which describes the entitlement to premium pay on the next shift if a nurse is not provided 48 hours off between shift changes following a night shift. This provision explicitly provides for premium pay for all hours worked on the next shift. The language in Article F-9 is silent on that point. Union counsel surmised that the parties likely negotiated these provisions at different times, which explains the differing language. They chose to be more precise in Article F-10(c), but the articles provide the same remedy.

22. I appreciate the comments from Union counsel that collective agreement language may differ from one provision to another, depending on when the parties negotiated it into the collective agreement. The parties sometimes negotiate more precise language into the agreement to better capture their intent. That does not mean the parties had a different intention for the language negotiated in an earlier round, which was less precise. I do not dispute that logic.
23. However, as an arbitrator I am left to interpret the language of the agreement before me and must interpret each provision within the context of the whole agreement. To do otherwise would violate the rules of contract interpretation. The parties do not argue that the language is ambiguous and requires extraneous evidence to clarify its meaning. If one provision in the agreement provides for a specific remedy and another provision is silent, I must attribute some meaning to that difference. I cannot just ignore it.
24. The Union cites the interpretative principles articulated by Arbitrator Elliott in *Imperial Oil Strathcona Refinery* at page 252, which are applicable in this case.

The modern Canadian approach to interpreting agreements (including collective agreements) and legislation, is encompassed by the modern principle of interpretation which, for collective agreements, is:

In the interpretation of collective agreements, their words must be read in their entire context, in their grammatical and ordinary sense, harmoniously with the scheme of the agreement, its object, and the intention of the parties.

Using this principle, interpreters look not only to the intention of the parties, when intention is fathomable, but also to the entire context of the collective agreement. This avoids creating a fictional intention of the parties where none existed, but recognizes their intention if an intention can be shown. The principle also looks into the entire context of the agreement to determine the meaning to be given to words in dispute.

25. Applying these interpretative principles, I will begin by looking at the specific language in Article F-9(f), which provides a premium for “*all hours worked where any of the scheduling provisions are violated in F-9(c) (d) and (e) above.*” ONA submits that the phrase “*all hours worked*” cannot refer to only two hours, as the Hospital suggests, but must mean all hours on the next shift. I do not read the language that way. A plain reading of the language

suggests that the hours worked in violation of Article F-9(e) are those that exceed the rule requiring nurses to have 12 hours of free time.

26. The provision also provides a remedy for breaches of the scheduling rules set out in Articles F-9(c) and (d). It may be helpful to consider what remedies flow from a breach of those provisions to determine the appropriate remedy for a violation of Article F-9(e). Article F-9(c) describes the scheduling rule that nurses will not be scheduled more than 3 consecutive extended tours without days off. If a nurse were to work a fourth consecutive tour, they would be entitled to a premium on that shift. If they worked a fifth consecutive tour, they would be entitled to shift on that shift as well, until they had 12 hours free from work. Entitlement to premium pay accrues to the consecutive shift worked in violation of the rules, not to the next scheduled shift.
27. Article F-9(d) provides that nurses are entitled to 5 consecutive days off in conjunction with the Christmas and New Year's holidays. If the Hospital were to violate this provision, a nurse would be entitled to premium pay for the hours worked in breach. The remedies for breaching Articles F-9(c) and (d) do not require the Hospital to pay a premium on the next scheduled shift. I do not see how a different remedy would apply to Article F-9(e).
28. If the parties intended to pay a premium on the next shift, they would have clearly stated that fact using language similar to Article F-10(c), but chose not to do so. After considering the stipulated facts, the collective agreement language, and the parties' submissions, I answer the question posed in paragraph 19 of the ASF by affirming option (a). I conclude that the Hospital did not violate the collective agreement and dismiss the grievance for all of the reasons described above.

Dated this 18th of April 2026 in the Municipality of Halton.

"Colin Johnston"

Arbitrator Colin Johnston