



TEAMSTERS CANADA RAIL CONFERENCE

CONFÉRENCE FERROVIAIRE DE TEAMSTERS CANADA

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TCRC PRESIDENT'S REPORT

A message from the President

Our CP RTC Brothers and Sisters have a new collective agreement. The contract is a three year deal with significant benefit increases and also addressed workload and training issues. We were greatly encouraged by a 100% voter turnout, with 78% in favour of ratification. Congratulations to the RTC bargaining committee.

Our Ontario Northland Transportation Commission (ONTC) bargaining committee reached a tentative agreement on October 16, 2020. The agreement is a five year term with significant benefit increases. Our ONTC members ratified that agreement on November 30, 2020. The voter turnout was 97%, with 56% in favour of ratification. Congratulations to our Sisters and Brothers at ONTC and thanks to the bargaining committee for all their hard work.

We are currently accepting applications for the TCRC bursary. The essay question for this year is "How can Unions adapt to encourage participation and promote Unionism in the modern workforce?". The deadline for the applications to be received is May 31, 2021.

We have received a request to support two new parliamentary petitions.

The first is to provide the Transportation Safety Board (TSB) with whistleblower protections if investigators find evidence of criminal conduct during an accident or incident investigation.
<https://petitions.ourcommons.ca/en/Petition/Details?Petition=e-3240>

The second is for the Federal Government to have a national inquiry into the private police forces which CN and CP currently employ. The inquiry will investigate the reasons and impact of Parliament's decision to enact laws that allow private railway companies to own the police forces which criminally investigate deaths and serious injuries that occur on railway property.
<https://petitions.ourcommons.ca/en/Petition/Details?Petition=e-3235>

I encourage all of our members to sign and share these petitions for widespread distribution.

As many of you may have heard, Teamsters Canada and its affiliates had been suspended from the Canadian Labour Congress (CLC) as of August 7, 2020. This suspension occurred as a disciplinary action by the CLC to allegations of the Teamsters violating the CLC constitution. President Laporte of Teamsters Canada has refuted these charges for the past year, still a resolution has not been achievable. Consequently, the Teamsters Canada Executive Board made the decision to disaffiliate from the CLC on March 11, 2021.

The Canada Revenue Agency has increased the amount you can claim for meal expenses. Read more at <https://www.canada.ca/en/revenue-agency/news/2020/09/canada-revenue-agency-increases-flat-rate-amount-for-meal-claims-and-reasonable-amount-for-meal-benefits-and-allowances.html> (CRA increases flat rate amount for meal claims).

You should be receiving a ballot shortly to elect our TCRC delegates for the IBT convention this coming June. Based on the TCRC's average membership, we are allotted 13 delegates to represent the TCRC at this convention. Please vote for the 13 members you wish to represent the TCRC membership when you receive the ballot.

In Solidarity,

Lyndon Isaak
President – TCRC

Executive Board Activities

The TCRC Executive Board met January 18 and 19, 2021:

- The Executive Board was updated on the status of the CP RTC Collective Agreement bargaining by Brother McCulloch. An agreement has since been reached and ratified.
- Discussed the TCRC delegate election plan for the upcoming IBT convention in June 2021.
- Updated election guide/manual for division elections will be sent out to Division Presidents and Secretary Treasurers in May 2021.
- Brother Ashley was interviewed by Teamsters Canada Director of Public Affairs Christopher Monette
<https://www.youtube.com/watch?v=7NX5Q21mx48>
- Discussions around the purchase of Bombardier Transportation by Alstom and possible impact to the TCRC.
- The next Executive Board meeting is scheduled for April 2021.

Secretary Treasurer's Report

We have been asked to address some concerns regarding TCRC websites, particularly at the Division level. Many of our Division websites contain documentation from work such as timetables, job aids, company benefit forms, etc. We were also made aware that some websites had our member's personal information such as vacation schedules posted. We completely understand that information is posted as a service to our membership, to make access to this information easier. The issue lies with the fact that many of your websites have no layer of security and information posted is easily accessed by the general public. If your website does not contain a secure login to restrict access from the general public, we ask that you add this layer of security. To be clear, the information presently contained on most Division websites is not an issue as long as access is available only to your members. We are currently developing a policy for all TCRC websites to establish minimum standards. Although we have a direction and scope in mind for this policy, we are open to any feedback provided.

I would like to take this opportunity to remind our Secretary Treasurers at all levels of the TCRC (GCA, PLB and Division) that their yearly audit reports are due by March 31, 2021. For those who have still not submitted their 2019 yearly audit reports, your choices are to contact me immediately with a timeline for completion or to be subject to an audit.

I'm always available to answer questions or provide assistance, you need only ask. I can't assist with your issues unless you make me aware of them.

Sincerely and in Solidarity,



Christopher Friesen
Secretary Treasurer - TCRC

In Memoriam...

Brother Yoan Morneau was fatally injured while performing switching operations at CN Pointe-Saint-Charles rail yard in Montréal on January 7, 2021. Brother Yoan was appreciated by everybody he worked with. He paid special attention to help new people be the best they could be. One of the experiences he was proud of was his active participation in the 2019 CN CTY strike over health and safety issues, of which he brought his efforts towards our union victory. He will remain in our memory as a concerned, diligent and supportive colleague.

Brother Brian Clark worked as a Conductor out of Division 657, Revelstoke for CP rail. He hired on in April 2012 and passed away while on duty February 15, 2021. The details and circumstances around his passing remain unclear at this time. Brian leaves behind his wife and 7-year-old daughter. Brian was a very committed family man, he always said that family was his primary focus in life. Brian's life was centered around his wife and daughter. He always had a positive outlook both in life and at work, he was known for terrible dad jokes and was always entertaining in that regard.



Canada Labour Code Part III – Personal Leave

Through consultation with Labour Canada, we have received some interpretations to the many questions we have been presented with regarding the implementation of the personal leave provisions found in s.206.6 of Part III of the *Canada Labour Code*. Further to that the Labour program at ESDC is finalizing an IPG specific to personal leave to provide greater clarification. This new IPG will be published on the Labour Program website once completed.

Labour Canada's response to our specific questions are as follows.

1. How is personal leave with pay calculated when an employee's hours of work differ from day to day or is paid on a basis other than time?

The method of calculation for personal leave payment for employees who work different hours day to day and or employees who are paid on a basis other than time can be found in the [Canada Labour Standards Regulations – Regulation 17](#):

For the purposes of subsections 206.6(2), 206.7(2.1) and 210(2) of the Act, the regular rate of wages of an employee whose hours of work differ from day to day or who is paid on a basis other than time shall be

(a) the average of the employee's daily earnings, exclusive of overtime hours, for the 20 days the employee has worked immediately preceding the first day of the period of paid leave; or

(b) an amount calculated by a method agreed on under or pursuant to a collective agreement that is binding on the employer and the employee.

In your example, the employer should be taking the average of the employee's daily earning, exclusive of overtime, for the 20 days the employee worked immediately preceding the first day of personal leave. This calculated amount represents the employee's personal leave pay entitlement. Furthermore, if a collective agreement contains an explicit method of calculation for personal leave, which is at least as favorable as the Code, that method should be used.

To further demonstrate, here is an example:

Samuel works as a track maintenance employee for a federally regulated employer. Samuel works 12-hour days, 4 days a week, followed by 3 days off. If using calculation stipulated in s. 17 of the Regulations this is what the employer would do to calculate Samuel's entitlement for personal leave with pay:

Samuel earned a total of \$4,400 within the 20 days he worked immediately preceding his day of personal leave. \$400 of this amount was overtime pay and must be excluded. This leaves a total of \$4,000 in earnings/20 days = \$200. Samuel is entitled to \$200 for his personal leave day.

2. Who makes the determination that documentation was reasonably practicable to obtain?

An employer may, in writing and no later than 15 days after an employee's return to work, request that an employee provide documentation to support the reasons for personal leave. The employee shall provide that documentation only if it is [reasonably practicable](#) for them to obtain and provide it.

The decision as to whether or not documentation was reasonably practicable to obtain the documentation to support the reasons for leave falls to the employee. If an employee determines it is not

reasonably practicable to obtain and provide documentation, the employee as an alternative may choose to provide a written and signed statement to attest to the circumstances that led to the leave. An employer may not deny personal leave on the basis that documentation was not provided when the employee has provided a handwritten attestation to the reason for leave.

3. Who decides what is considered "urgent" in instances where an employee must address an urgent matter concerning themselves or their family members?

An employee may take personal leave when addressing any urgent matter concerning themselves or their [family members](#). The determination as to whether something is considered "urgent" falls to the employee. Only when the matter brought forward by the employee is clearly not urgent and an obvious abuse has occurred, would it be appropriate for an employer to deny a personal leave request on this basis.

4. Can an employer schedule and mandate when an employee takes personal leave?

Personal leave can be requested solely at the discretion of the employee. The Code stipulates that every employee is entitled to and shall be granted a leave for prescribed reasons, which does not provide employers with ability to determine when an employee may take personal leave. In instances where there are multiple leave entitlements available to an employee, the decision on what leave an employee may take rests with the individual.

5. Who has the authority to address personal leave disputes involving unionized employees?

Grievance arbitrators have the authority and duty to enforce substantive rights and obligations of employment related statuses as if they were part of a collective agreement. Unionized employees should file grievances in regard to personal leave disputes as the grievance procedure will provide for an appropriate avenue of recourse.

The Labour Program will proceed with an investigation of the allegations brought forward by the employee only in instances where a collective agreement does not contain rights and benefits equal or greater to what the Code provides for, and a grievance related to the same subject matter has not been filed or a grievance filed has not been addressed.

6. How is personal leave with pay calculated when an employee's hours of work differ from day to day or is paid on a basis other than time?

[Canada Labour Standards Regulations – Regulation 17](#), provides for the correct calculation method:

17 For the purposes of subsections 206.6(2), 206.7(2.1) and 210(2) of the Act, the regular rate of wages of an employee whose hours of work differ from day to day or who is paid on a basis other than time shall be

(a) the average of the employee's daily earnings, exclusive of overtime hours, for the 20 days the employee has worked immediately preceding the first day of the period of paid leave; or

(b) an amount calculated by a method agreed on under or pursuant to a collective agreement that is binding on the employer and the employee.

7. Can an employer add qualifying conditions that must be met before personal leave can be taken?

The only qualifying conditions that must be met for an employee to be eligible for personal leave are contained within section [206.6 of the Code](#). An employer may not impose other qualifying conditions before an employee can take personal leave. For further information on personal leave and other leave entitlements contained within the Code please visit the following [webpage](#).

8. Can an employer force an employee to use personal leave?

Please see answer to question #4. Additionally, it should be noted that personal leave can be used to self-isolate for the reasons of COVID-19. As you may know, the leave can be taken to treat an illness or injury or to manage an urgent situation that concerns an employee or their family member.

9. How should personal leave disputes involving unionized employees be resolved?

The appropriate avenue for recourse for a unionized employee would be through a grievance procedure. Grievance arbitrators have the authority to enforce rights and benefits prescribed under the *Canada Labour Code* even when the rights and benefits are not contained within the collective agreement. Although employers may deny the grievance, the union may request the matter proceed to arbitration.

Only in instances where a collective agreement does not contain rights and benefits equal or greater to what the Code provides for, and a grievance related to the same subject matter has not been filed, the Labour Program will proceed with an investigation of the allegations brought forward by the employee.



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