IN THE MATTER OF AN EXPEDITED ARBITRATION

BETWEEN:

AIR CANADA

("Air Canada" or the "Company")

AND:

IAMAW DISTRICT LODGE 140

("IAMAW" or the "Union")

(General Holiday Pay Calculation)

EXPEDITED ARBITRATOR:	Corinn M. Bell, K.C.
COUNSEL:	Alexandra Meunier for the Employer
	Chris Lipsit for the Union
HEARING:	June 2, 2025 Richmond, BC
DATE OF AWARD:	July 10, 2025

I. INTRODUCTION

1. The parties agree that I have the jurisdiction, further to their November 16, 2017 Memorandum of Agreement respecting expedited arbitrations of a National nature (the "MOA"), to hear this matter.

2. The Union filed a grievance on May 1, 2024. It reads:

> The Union is grieving The Company's policies surrounding General Holiday (GHO) payments, their calculations as well as including the GHO payments in the calculation of Vacation Pay (VP) owed and paid, since the addition of the GHO to the CBA. The Company's policy is to count GHO payments to time bank or paid days off on GHO as vacation pay paid to employees. Based on both the CBA and Canada Labour Code, the Union disagrees with these policies, as the stance is that GHO is not vacation and therefore associated payments are not vacation pay. The GHO week was a negotiated article between The Union and The Company. The intent of the addition of GHO and the subsequent language in the contract was written to make clear that GHO is not part of employee's vacation. The Union's stance is that not only should GHO payment not be used by the Company as part of Vacation Pay paid out, but also that the GHO payments are to be considered part of the over all wages of the employees, and thus should be included in the calculation as to how much vacation pay is due each employee.

3. The Company submits that there is no dispute that the terms "vacation" and "general holiday" are different for the purposes of the Collective Agreement. It says the question before me is whether the Company can treat GHO the same as vacation for the administrative purpose of vacation reconciliation only. It argues that it can and has been doing so for fourteen years. It asks that the grievance be dismissed.

4. Both parties provided documentary evidence. Will-Say statements were tendered by Steve Prinz, IAM International Representative and John Beveridge, Senior Director of Labour Relations, Air Canada. In writing this

Award I considered all materials filed by the parties as well as the oral arguments presented.

II. THE FACTS

5. In April 2024, two Lead Statement Attendants ("LSAs") learned that forty GHO hours were added to the balance of their vacation hours, for the purpose of reconciling their 2023 vacation. The LSAs disputed the calculations which resulting in the May 1, 2024 national grievance.

6. The GHO was introduced in the 2011 round of Collective Bargaining. The Union proposed that the Company provide additional vacation time for employees with greater than 10 years of service. The Company responded with a comprehensive management proposal, dated February 8, 2012. In that comprehensive management proposal, the following was proposed:

> 5. Vacation and Time Off
>
> 5.1 General Holidays
> The Company accepts the Union's proposal to add 1 week of General Holidays. This one week of General Holidays entitlement will be added to each employee with 10 years or greater seniority. This additional time off will be bid in conjunction with the annual vacation bid. The General Holidays liability will be scheduled in time periods through the year at the discretion of the Company.

7. The final GHO language was agreed to by the parties on February 9, 2012. That sign-off sheet provides:

> TMOS employees (with the exception of Technical Services, Logistics and Supply and GSE) who have (10) or more years of service, will receive one week of additional paid time off in the form of General Holidays.
>
> General Holidays shall be bid separately from Vacation bidding.
>
> Fifty (50) percent of the General Holiday liability will be distributed evenly ever week throughout the calendar year with the remaining

> General Holiday liability being planned at the discretion of the Company based on operational requirements.
>
> The General Holiday entitlement will be as per the appropriate vacation guide chart.

8. A labour relations memo was provided by Denis Boucher, Manager, Labour Relations in 2018. That memo reads:

> Subject: GENERAL HOLIDAYS
>
> As per Appendix XXXXIII of the current collective agreement, a type trial has been agreed to which allows employees covered by article 6 to opt to have their General Holidays (GH) deposited into their time bank programs.
>
> To be eligible for the General Holidays you must have 10 years or more of Company service by December 31, 2019.
>
> Your designation of Full time (40 GH hours) or Part time (20 GH hours) is determined as of your status on December 15 of the preceding year.
>
> Employees interested in having their General Holidays deposited into their time bank must log into the portal during the open period commencing on April 3, 2018 and prior to May 31, 2018 at 23:59 (EST) and via HRConnex elect the option to deposit their General Holidays into their time bank.
>
> Employees who do not make a selection to deposit their hours will continue to select their General Holidays during the vacation selection period.

9. In September 2019, Division IV of Part III of the *Canadian Labour Code,* RSC, 1985,C.L-2 (the "*Canada Labour Code*") provided that "employees are entitled to four weeks of vacation" if they have completed ten years of service. It also provided that: "where the employee is entitled to four weeks, vacation pay is eight percent of earnings."

10. In response to these *Canada Labour Code* amendments, the Company provided an extra week of vacation to all employees who had between 10-14 years service.

11. A message from the Vice President, Airports-North America reads:

> We are pleased to inform you that recent that recent amendments to the Canada Labour Code adopted by the Federal government include an increase in the allotment of vacation days by one week (five days) for employees with 10-14 years of service. As an employee that falls into this group, you will receive time bank credits representing the additional two days prorated for 2019, calculated as of September 1 (when the amendment goes into effect) as part of your 2019-2020 vacation entitlement.
>
> Our approach to implementing this change takes into consideration collective agreement obligations, including seniority rights, the timing of the increase and ensures compliance with the revisions to the Canada Labour Code (Part III).

12. There were no changes to GHO in the Collective Agreement at the time of the *Canada Labour Code* amendments.

III. POSITIONS OF THE PARTIES

(i) The Union

13. The Union writes as follows in its written brief:

> 3. Vacation vs. General Holiday
>
> There are some notable differences between the General Holiday negotiated between Air Canada and the IAM and vacation.
>
> 1) General Holiday is an item negotiated exclusively for Airports & Cargo.
>
> 2) Memorandum Of Agreement 12 Shift Schedules has language that links General Holiday entitlement to a shift scheduling agreement. A union withdrawal from the Shift Schedule language in MOA12 would cause the union

employees to forfeit three paid General Holiday days for the full calendar year. Vacation is not affected by MOA 12.

3) Appendix XXXXIII offers eligible employees to opt to have their General Holiday entitlements deposited directly into their time banks at the beginning of each year. The hours can then be withdrawn as pay or used for paid time off at the employees' discretion. This is not an option with regular vacation.

4. Union Position

If the company and union had intended for GHO to be treated exactly like vacation, the two sides would have agreed to simply add a week to vacation entitlement. The collective bargaining agreement makes it clear that GHO was negotiated as a completely separate item and therefore should not be combined with vacation when annual pay adjustments are completed. As per the Canada Labour Code, employees with over ten consecutive years with the employer are entitled to four weeks of paid vacation, and vacation pay is calculated at 8% of earnings. The difference between the 8% vacation pay and the amount of paid vacation rightfully belongs to the employee. GHO should not be a factor in these calculations. The company willfully granting a fourth week of vacation to employees with ten to fourteen years service to comply with the September 2019 Canada Labour Code changes is an admission that General Holiday is not equal to vacation.

14. The Union disputes that the Company has substantiated a past practice that it can rely on to support its estoppel claim, and points to the Will-say statement of Steve Prinz, outlining the collective bargaining history, as well as the communications from Air Canada which do not indicate or make clear that GHO was combined with vacation for any purpose.

15. The Union submits that the changes to the *Canada Labour Code* occurred in 2019. The years after the changes were introduced, there was a pandemic which impacted the industry. The Union notes there would have been no extra shifts in the years 2020-2022. Further, it argues that information respecting payroll adjustments are not provided unless the Company is owed money and employees are not informed on the

adjustment otherwise (as evidenced by the communications payroll from the LSAs in this case).

16. The Union requests that the Company cease its practice of including GHO from vacation pay calculation. It seeks that all impacted employees are made whole from September 2019, when the *Canada Labour Code*, was amended.

(ii) The Company

17. The Company writes as follows at paras. 11-20 of its written brief:

> In practice, GHO is functionally treated as vacation. Employees bid for GHO in a separate round during the annual vacation bid, ensuring that GHO is integrated into the overall vacation planning process.
>
> The Company's HR Connex portal, under "Policies and Forms," includes a section titled IAM Vacation – Frequently Asked Questions. This resource outlines the IAM Vacation Program, including GHO and Vacation Reconciliation, and confirms that GHO entitlement is based on an employee's "vacationable service."
>
> The transparency and accessibility of information reinforce the established practice and long-standing understanding that GHO is an integral component of the broader vacation and compensation framework.
>
> Finally, GHO is reconciled with vacation, further solidifying its role as part of the comprehensive vacation structure. The Company has been consistent and forthcoming with regards to the vacation and GHO reconciliation process and has never deviated from it.
>
> A. Long-standing Agreement
>
> The Union originally proposed the inclusion of GHO, and Air Canada accepted this proposal during negotiations. This collaborative decision underscores the mutual agreement and shared understanding that GHO be treated as vacation.

This interpretation has been consistently upheld for over 14 years, and three CBAs, demonstrating a clear and long-standing agreement within the framework of the CBA.

B. The Union is Estopped

The present grievance marks the first instance in which the Union contests this well-established interpretation and application. This challenge is unprecedented and contradicts the historical and consistent practice agreed upon by both parties.

The Union's acceptance of the Company's practices over an extensive period has created a situation where the Union is estopped from now arguing that GHO should not be considered vacation.

Estoppel is established when the following elements are present:

a) A clear and unequivocal representation: The Union's proposal and subsequent acceptance by Air Canada clearly represented that GHO would be treated as vacation.

b) Intended to affect the legal relations between the parties and be relied on by the party to whom it was directed: This representation was intended to affect the legal relations between the Union and Air Canada, and Air Canada relied on this understanding in its practices and

c) Detriment as a result of the reliance: Air Canada has structured its vacation and GHO policies based on this representation, and changing this practice now would result in detriment.

The law is clear that an unequivocal representation may be made by words, conduct, or, in some circumstances, it may result from silence. In particular, where a practice that conflicts with the terms of a collective agreement is in place for many years with the knowledge of both parties and without any objection from either, an estoppel may be applied against the party who later wishes to revert to the strict application of the collective agreement.

18. The Company relies on its practice of treating GHO as vacation for the purpose of vacation reconciliation as well as the Will-Say Statement of Mr. Beveridge. It asks that the grievance be dismissed.

IV. DECISION

19. The Union grieves the application of Article 13.13 (GHO) of the Collective Agreement for the purpose of vacation reconciliation. It argues that the Company's method of vacation reconciliation violates the Collective Agreement and the *Canada Labour Code.* Article 13.13 reads:

> 13.13 General Holidays
>
> TMOS employees (with the exception of Technical Services, Logistics and Supply and GSE), who have ten (10) or more years of service, will receive one (1) week of additional paid time off in the form of general holidays. General Holiday entitlement for full-time employees shall be 40 hours of paid time off work and shall be 20 hours of paid time off work for part-time. General Holiday liability will be planned and bid out as outlined in Article 13.12.

20. The established rules of Collective Agreement interpretation are cited in the well-known case of *Pacific Press Pacific Press v. Graphic Communications International Union, Local 25-C*, [1995] B.C.C.A.A.A. No. 637. Those principles are as follows:

> The first major issue I address is one of interpretation. I reaffirm my adherence to the rules of interpretation which I set out *White Spot, supra*. I summarize as follows:
>
> 1. The object of interpretation is to discover the mutual intention of the parties.
> 2. The primary resource for an interpretation is the collective agreement.
> 3. Extrinsic evidence (evidence outside the official record of agreement, being the written collective agreement itself) is only helpful when it reveals the mutual intention.

4. Extrinsic evidence may clarify but not contradict a collective agreement.
5. A very important promise is likely to be clearly and unequivocally expressed.
6. In construing two provisions a harmonious interpretation is preferred rather than one which places them in conflict.
7. All clauses and words in a collective agreement should be given meaning, if possible.
8. Where an agreement uses different words one presumes that the parties intended different meanings.
9. Ordinarily words in a collective agreement should be given their plain meaning.
10. Parties are presumed to know about relevant jurisprudence.

21. The principles articulated above address the objective of an arbitrator in interpreting the language bargained in a Collective Agreement, including the role of extrinsic evidence. Here, we have sophisticated parties that negotiated GHOs for a specific purpose during the 2011 round of bargaining and the GHO was negotiated with separate and apart than vacation entitlements.

22. I find the unrefuted evidence of Mr. Prinz is that GHO comes with distinct conditions and application from regular vacation in the Collective Agreement. Those differences support the conclusion that the parties intended vacation and GHO to be distinct.

23. I accept that there is no dispute between the parties that “vacation” and “GHO” are different collective agreement terms. The Company argues that for the purposes of vacation reconciliation, the two periods of time off are properly combined. It relies on its practice to support this interpretation and argues that the Union is estopped from asserting that GHO should not be considered vacation.

24. I cannot agree with the Company's interpretation in this case. The practice of conflating vacation and GHO for the purposes of vacation reconciliation was not discussed at the bargaining table. The memo from Mr. Boucher does not identify that GHOs are used for vacation reconciliation. Rather, it is my view that the memo highlights that GHOs are administered differently than vacation entitlements.

25. The Union's argument is persuasive that in 2019, in response to the changes in the *Canada Labour Code*, the Company provided enhanced vacation to all employees in the 10-14 years of service. At that time, it did not rely on the GHOs for the purposes of calculating vacation entitlements thereby lending support to the assertion that vacation and GHO are indeed different. Given the differences then, it would be difficult for the Company now to simply assert that it was assumed or known that vacation and GHOs would be treated the same for vacation reconciliation purposes.

26. The relevant changes to the *Canada Labour Code* occurred in 2019 and I accept the Union's position that the airline industry was significantly impacted in the pandemic years which, in turn, likely negatively impacted employee vacation entitlements and reduced the cases where employees would be questioning vacation entitlement calculations.

27. I do not find that an estoppel exists in this case. While I accept Air Canada's position that it has applied GHOs as vacation for the purpose of vacation reconciliation, I cannot agree that the practice was known by the Union or employees, especially in the years following the 2019 changes to the *Canada Labour Code*. This is supported by the fact that the LSAs in this case had to reach out to the Human Resources Centre of Excellence Team to understand how the vacation pay adjustment works and it was at that time that it was explained by Air Canada to them that the GHO entitlements were included in the calculations.

28. Given that I do not find that a clear and unequivocal representation is present here nor reliance of such, the company's estoppel argument cannot succeed. I do not find that the Union has acquiesced to a representation (express or implied) that vacation and GHOs are treated the same pursuant to the Collective Agreement.

29. For the above reasons, the grievance succeeds. The Union asks that the Company discontinue its practice of combining vacation and GHO for the purpose of vacation reconciliation. That remedy is so ordered.

30. The Union further requests that all impacted employees be made whole since the changes to the *Canada Labour Code* were introduced in 2019. That request is denied. The policy grievance was filed on May 17, 2024. By way of remedy, I order the Company to reconcile the vacation pay calculations for all affected employees from the date of the grievance forward.

It is so ordered.

DATED at Kamloops, BC this 10th day of July, 2025.

Corinn M. Bell, K.C.