

## **Arbitration Award Summary**

### **05-616 - Medical Travel - Article 20.09 (c)**

#### **Case outline:**

The grievance falls under the Collective Agreement expiring March 31, 2009.

A member's dependant had been medivac'd to Edmonton. The member accompanied the dependent on the plane whereas her husband drove down. The treating physician provided a letter indicating that it was imperative that both parents go to Edmonton. The Employer denied reimbursement to the husband.

#### **Employer's argument:**

The Employer argued that Article 20.09 (c) restricted paid accompaniment to one person through its use of the singular in reference to "this person". Had the parties contemplated that more than one person could be reimbursed, they could have used language that clearly referred to "this person or persons". Because they did not do so, the Employer submitted that the provision should be interpreted to mean, in this case, that only one of the parents was eligible for reimbursement.

#### **Union's argument:**

Under the provision of Article 20.09 (c), a physician certified in writing on two occasions that both parents were required to accompany the Grievor's dependant to Edmonton. Nothing in the Article restricts the paid accompaniment to only one person. The doctor specified two persons in his letter and each person so specified was entitled to reimbursement of expenses. If a restriction was intended, such a restriction needed to be set out expressly.

#### **Arbitrator's decision:**

The arbitrator found that the Employer violated the Collective Agreement and sustained the grievance.

He ruled that the words "this person" is linked to the first part of Article 20.09 (c) (i) which contains the words "some other person". The first part of the provision triggers eligibility for reimbursement when a medical practitioner certifies that an employee or dependant in need of medical treatment should be accompanied "by some other person". In that event, the Employer is obligated to reimburse "this person", namely the "some other person" named by the medical practitioner. The use of the singular "this person", is simply correct grammar linked to the phrase "some other person". The use of "some other person" does not limit reimbursement to only one person. If the parties had intended that reimbursement be limited to one person only, they could have placed this express restriction in the contract.

The arbitrator also made note that the fact that the Employer's own human resource manual says otherwise cannot be determinative. Where there is a conflict between the collective agreement, a jointly negotiated document, and a human resources manual unilaterally developed by the Employer, the collective agreement must prevail.

