

BULLETIN

Bumping rights after Bill 29

April 1, 2002

The Report: April / May 2002 vol.23 num.2

by JEANNE MEYERS



How does Bill 29 affect my rights to [bump] when faced with a lay-off?



An HSA member facing lay-off is able to [bump] a more junior employee. Articles 10.01 and 10.05 of the Paramedical Professional Collective Agreement have been found by arbitrators to extend [bumping] rights to HSA employees.

Bill 29 places some restrictions on the bumping rights of HSA members. Although the Bill is the subject of a legal challenge, it is presently in force and effect.

Bill 29 narrows the number of positions into which the laid-off member may bump. Employees with more than five years' seniority can only bump employees with fewer than five years' seniority. And employees with fewer than five years' seniority must bump the most junior employee with a comparable job. In addition, the time frame for exercising bumping rights is greatly restricted.

If an employee wishes to bump into a higher-rated position, the employee must satisfy the test in Article 10.01. More specifically, Article 10.01 contains a competition clause. Internal candidates must compete with each other on the basis of capability, performance and qualifications. When these are relatively equal between the two candidates, then seniority will be the determining factor. In the context of [bumping] rights, the employee seeking to bump to a higher-rated position must be able to demonstrate that she or he is at least relatively equal to the incumbent in terms of qualifications, capability and performance.

Where an employee wishes to bump into a lower-rated position or a position rated at the same level currently held, then the test is different. Arbitrator Munroe concluded that Article 10.01 applies to upward bumps but that Article 10.05 applies to lateral and downward bumps. Article 10.05 does not contain a competition clause; it contains a [sufficient ability] clause. Provided that the employee seeking to displace an employee with less seniority has the sufficient ability to perform the job held by the junior employee. 

Jeanne Meyers is Executive Director [Legal Services for HSA.

Type:

[The Report](#)

- [Print](#)
- [PDF](#)

180 East Columbia
New Westminster, BC V3L 0G7

Website
www.hsabc.org

Telephone 604-517-0994
1-800-663-2017