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September 23, 2022

TO ALL LOCALS FROM BELL AND ITS SUBSIDIARIES

Sisters, Brothers,

Re: Bell Canada Vaccination Policy Follow-up

Since July, all of our colleagues who were put on leave without pay as a result of Bell Canada's corporate immunization policy have been offered the possibility to return to their duties. While this is certainly good news, we should keep in mind that this has been a very upsetting and painful episode for our colleagues and that it is far from over, given that numerous grievances have been filed in connection with the abusive application of this policy some of you have experienced.

The purpose of this communication is to inform you of the process and the next steps for the grievances concerned. In recent months, a number of arbitration decisions have been rendered that provide clearer guidance on the validity of these types of policies, as well as on their implementation. The rulings in the Purolator, Canada Post, Stellantis (Fiat-Chrysler) and Coca-Cola cases are the first decisions that have, to a certain extent, "paved the way" for future decisions. I say "paved the way" because, although there may be conflicting decisions, it must be recognized that these decisions carry weight and it is reasonable to expect that arbitrators who are called upon to render new decisions will refer to them.

More specifically, in the Purolator and Canada Post cases, the grievances challenging the mandatory vaccination policy were dismissed. The arbitrators found that the policy was reasonable, in part because of the work organization in place in these two work environments. The employees were required to interact with customers, the general public and each other in spaces where social distancing was not always possible. The arbitrators found that the policy was reasonable and justified and allowed the employers to comply with the health and safety restrictions in place at the time.

In the Stellantis case, in June 2022, the arbitrator found that the policy was reasonable at the time it was adopted, but that it was no longer reasonable after June 2022. Indeed, based on the scientific evidence submitted to her without an expert testimony, the arbitrator concluded that the vaccination policy was no longer justified due to the evolution of the virus and the effectiveness of the two vaccine doses at that time. Therefore, the company was no longer justified in keeping employees on forced leave in June 2022.

However, in the ruling made for Coca-Cola on September 12, 2022, the arbitrator rejected this grievance challenging the mandatory vaccination policy. During the proceedings, an expert did testify and commented the ruling of the arbitrator in the Stellantis case by saying that she had incorrectly applied the scientific proof that was put before her. Consequently, the arbitrator in the Coca-Cola case discarded the decision in Stellantis and retained the proof put forward by the Employer that the imposition of two doses of the vaccine, even after the Omicrom variant became prevalent, is reasonable because it offers a great protection to workers.

Unifor has conducted a thorough analysis and evaluation of the various grievances filed in almost all of the "Greater" Bell Canada bargaining units, from the Atlantic to the Western provinces. Our analysis, which brought together our in-house counsel, outside counsel and our health and safety specialists, revealed that there are three categories of workers challenging the application of the vaccination policy and leave without pay. It is important to distinguish between these categories since arbitrators take into account the work environment and work organization in their analysis when determining whether or not a mandatory vaccination policy is unreasonable. The three categories are as follows:

- 1st category: Full-time teleworkers (regardless of the bargaining unit). These individuals are isolated at home and pose no risk of contamination in the workplace;
- 2nd category: Workers who are primarily teleworking, but who are required by the employer to report to the workplace 1 or 2 times per month;
- 3rd category: Workers who are in the field and in contact with colleagues or clients, or who work in pairs.

Based on the above findings, it was decided to proceed as follows in the processing of the grievances.

On the one hand, it is important to specify that Unifor will proceed with the grievances from the Quebec region, for the simple reason that the health rules in place were applied uniformly across the Quebec territory. In other parts of Canada, the rules varied from one administrative region to another. For example, health restrictions in the Greater Toronto Area may have been different from those in the Ottawa area. Since these are elements that were put into evidence in the above-mentioned cases, proceeding with the grievances from the Quebec region will facilitate the taking of evidence in this regard, given the uniformity of the health rules in the province. Thus, based on the three categories of workers, the grievances from the other regions will follow on the heels of the Quebec grievances.

On the other hand, based again on the three categories of workers mentioned above, and in light of the arbitration awards rendered to date on the issue, we intend to start with the grievances in the 1st category, i.e., those concerning full-time teleworkers, across all bargaining units. Indeed, based on our analysis, we can affirm that employees other than office workers belong to this category and were teleworking. We know for a fact that employees in multiple departments and classifications across the country, including technician units, have been and are currently teleworking on a full-time basis.

It is important that you know that we must first reach an agreement with the employer on this manner of proceeding, before agreeing on an arbitrator and then on hearing dates. To this end, the law firm of Rivest Schmidt will be representing Unifor on the grievances. Exchanges between Bell's lawyers and Unifor have already taken place in this regard.

In addition to these grievances, you should know that many of you have filed grievances challenging the employer's refusal to accommodate certain employees for health or religious reasons. It is important to note that each of these grievances will be handled individually and will proceed independently of the other grievances mentioned above. In other words, they will not follow the same process as the Quebec grievances based on the three categories of workers and each region will handle its own grievances.

For more information, we invite you to contact your respective stewards.

In solidarity,

Olivier Carrière
Assistant to the Quebec Director

Roch Leblanc
Telecommunications Director

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