



Federal Government Dockyard Trades & Labour Council (West)



BULLETIN

May 9, 2019

To All Members

Federal unions approve agreement on Phoenix damages

Late last week, a subcommittee of federal public service unions and employer representatives reached a tentative agreement to provide damages to public service workers in light of the ongoing Phoenix payroll debacle. This tentative agreement was two years in the making. Today, the undersigned unions are pleased to announce they have signed on to this deal.

It's important to recognize that this agreement in no way absolves the employer of its obligations to pay out any outstanding monies owed to the hundreds of thousands of public servants who continue to face issues with their pay, nor does it remove the employer's obligation to stabilize the current payroll system and continue work to find its replacement as quickly as possible.

What this agreement does, though, is:

1. provide immediate compensation to every public servant represented by these unions; and
2. create a process by which additional costs can be reimbursed and additional compensation / damages can be awarded to those affected by payroll errors.

Specifically, this agreement:

- provides as a starting point, two (2) days of annual leave for anyone who worked in the public service in 2016-17 and additional one (1) day of annual leave for those employed in 2017-18, 2018-19 and 2019-20, for a total of five (5) days for those employed since Phoenix was deployed, regardless of if or how they were affected by Phoenix;
- establishes a process by which those who are no longer employed in the public service but were during the timeframe above can apply for reimbursement equal to that amount of leave;

- extends the existing process for claiming out-of-pocket expenses incurred as a result of Phoenix problems;
- creates a process for claiming additional costs including losses incurred as a result of having to cash in investments as a result of pay issues; losses associated with deferred RRSP contributions; costs associated with delayed severance or pension payments; or interest on loans, mortgages credit cards or other forms of debt;
- allows for the reimbursement of sick leave for members who took such leave because of Phoenix;
- allows for payment of interest on delayed severance payments and pension entitlements or missing pay;
- does not preclude additional damages being sought for claims alleging discrimination including issues related to maternity, parental or disability leave;
- allows for claims related to consequences of lost occupational capacity, lost security clearances, bankruptcy or significant impacts on credit ratings; and
- creates a process for claims related to mental anguish and trauma or other personal hardship.

***** We have also secured a commitment from the employer that should a bargaining agent secure additional compensation outside of this settlement, all signatory unions will receive the same compensation. *****

The ongoing Phoenix debacle is unprecedented in the scope and scale of harm caused to employees across the public service. While no amount of compensation could ever begin to provide full redress, it is our opinion that this agreement -- in addition to the employer's commitment to fully resolve outstanding pay issues and the steps taken previously to mitigate the impact on tax filing errors and defer collection of overpayments -- represents a significant and concrete recognition of the frustration and anguish felt by every public servant.

More details on the implementation of this agreement, including timelines, will be made available in the coming weeks.

So far, the following unions have signed on to this agreement; others are expected to sign in the coming days and weeks.

ACFO-ACAF

Association of Justice Counsel

Canadian Air Traffic Control Association

Canadian Federal Pilots Association

Canadian Military Colleges Faculty Association

Federal Government Dockyard Chargehands Association

Federal Government Dockyard Trades and Labour Council (East)

**Federal Government Dockyard Trades and Labour Council (West)
IBEW 2228
PIPSC
Professional Association of Foreign Service Officers
Research Council Employees Association**

In Solidarity,

**Des Rogers
President
FGDTLC (W)**

FAQ: Phoenix damages agreement

General questions about the agreement

1. Does this mean I won't get my money from Phoenix?

You will still receive any outstanding amounts owed to you that you may not have received due to Phoenix.

2. Does this mean I won't be eligible for other damages?

No. In fact, the agreement creates a faster, dedicated process for resolving individual claims.

3. What is being awarded?

As a start, up to five days of leave are being awarded to every employee (2 days for employees who worked at least one day in 2016-17, 1 day for 2017-18, 2018-19 and 2019-20 respectively). We have also created an expedited process for resolving more serious damages cases and expanded what is eligible for reimbursement. It's important to note that the agreement does not close off the possibility of negotiating further compensation at the bargaining table or further negotiations outside of collective bargaining

4. Why did it take two years to come to this agreement?

There were several reasons. Firstly, the process of negotiating an agreement involved multiple parties with a variety of interests. Second, the scope of the problem accelerated over the duration of these talks. Finally, these negotiations were intertwined with collective bargaining, which lengthened the process of Phoenix negotiations.

5. Which period do these damages cover?

The agreement covers damages for the following four fiscal years: 2016-17, 2017-18, 2018-19 and 2019-20.

6. What if another union negotiates a better settlement?

In the highly unlikely event that another union secures improvements to this deal, the employer has committed to making those same improvements to this deal.

Questions regarding the leave bank credits

7. How was five days of leave reached as appropriate compensation?

The five days of leave were reached as an attempt to address the immense frustration caused to employees and as a product of negotiation with the employer. Leave was chosen instead of a monetary form of compensation, as it is a tangible benefit that is both flexible and easily administered without having to further bog down the Phoenix pay system.

8. What criteria do I need to meet to qualify for the leave bank credits?

In order to qualify for each fiscal year's worth of leave, an employee needed only to be employed for one day in that fiscal year(s), whether or not they were on leave, assignment or otherwise not active. For example, if you were hired to the federal public service on September 1, 2018, and have been employed since then, you will get two days of leave credited to your leave bank (2017-18 and 2018-19 fiscal years).

9. Are the leave days prorated if I didn't work the full year?

To qualify for each year's leave, you only need to have been employed one day in that fiscal year. You will receive the compensatory leave for each of the four years in which you were employed for one day.

10. Can I cash out the leave days?

Unfortunately the Ship Repair West Collective Agreement does not have a cash out of annual leave provision at this time, despite having this as a bargaining proposal for many rounds of negotiations.

11. How long will it take for the leave days to be added to my leave bank?

The Employer has committed to fully implementing the agreement within 150 days of signing for fiscal years 16/17, 17/18, and 18/19. The final leave covered under this agreement for fiscal year 19/20 will be credited within 150 days after the end of that fiscal year.

12. What are the criteria to use the leave days? It is the same as vacation days?

All of the criteria are the same as the annual leave provisions in your collective agreement.

13. What if I am retired or recently joined the public service?

The same criteria outlined in Question 6 apply to retired or new employees to the public service, where retirees will have their additional days automatically cashed out. These days are subject to any applicable statutory deductions and are non-pensionable.

14. Can we expect more leave days in the future seeing how Phoenix issues will continue?

Further negotiations will take place later in this fiscal year if Phoenix is still affecting members. For as long as there are Phoenix issues, we will seek damages and compensation through all appropriate channels.

Questions about additional damages and compensation

The procedures for claiming additional compensation under this agreement have not yet been finalized, however we expect those details to be released in the near future.

15. I have incurred direct expenditures due to Phoenix, what should I do?

You can complete a Claim Form for Additional Financial Expenses Incurred Because of Phoenix Pay System Errors here: <https://www.canada.ca/en/treasury-board-secretariat/services/pay/claim-form-expenses-incurred-phoenix-errors.html>

You may also contact the Council Office for assistance.

16. I was severely impacted by Phoenix, do I have another recourse for more damages?

Employees will be able to file claims and the employer will engage in a detailed review of these claims. A threshold (minimum claim amount) of \$1,500 will apply. However, losses can be added together to reach the \$1,500 threshold. A complete list of eligible expenses will be made available soon.

17. How does this Phoenix damages agreement affect collective bargaining?

The collective bargaining process is not affected. This is a partial grievance settlement not a collective agreement.