

IN THE MATTER OF AN INTEREST ARBITRATION UNDER SECTION 79 OF THE
CANADA LABOUR CODE, R.S.C. 1985, c L-2

ALLIED UNIVERSAL SECURITY SERVICES

(the "Employer")

-and-

INTERNATIONAL ASSOCIATION OF MACHINISTS AND
AEROSPACE WORKERS DISTRICT 140

(the "Union")

(INTEREST ARBITRATION)

ARBITRATOR: Ken Saunders

APPEARANCES: Chris Wates, for the Employer

Tania Canniff, for the Union

DATE OF HEARING:: September 8, 2022

DATE of AWARD: September 28, 2022

AWARD

I. INTRODUCTION

- 1 The parties agreed to refer to me as interest arbitrator, all outstanding items in negotiations to renew a master Collective Agreement covering pre-board security screeners at 11 airports in the Pacific Region (the “Airports”).
- 2 The parties resolved most outstanding items at mediated negotiation on September 1, 2022. The five proposals submitted for determination are as follows:
 - 1) Article 21.01(a) – Employee Parking – Employer proposal
 - 2) Article 21.03(b) – Benefit Coverage – Union proposal
 - 3) Article 26.01 – Training Postings – Employer proposal
 - 4) Article 27 – Term – Union and Employer proposal(s)
 - 5) Appendix A – Rates of Pay – Union and Employer proposal(s)
- 3 The Employer subsequently withdrew its proposal regarding Article 26.01 (Training Postings), saying it is content to manage based on its existing rights under the Collective Agreement.
- 4 This award will incorporate the new terms determined for the four outstanding items, the newly agreed-to items from the current round, and the remaining provisions of the expired Collective Agreement. The newly agreed-upon items from the current round appear in Appendix A.
- 5 This award is based on the parties’ oral and written submissions and documents provided by the parties. The written submissions are part of the record of this proceeding. I have reviewed all the material but have only referred to those aspects necessary to convey my decision.

II. BACKGROUND AND POSITIONS OF THE PARTIES

A. Nature of the Employer’s Business

- 6 The Employer is in the business of providing security screening services at the Airports and other non-bargaining unit airports. It does so under contract with the Canadian Air Transport Security Authority (“CATSA”). The Employer’s business

model and its development were described in a previous interest arbitration award between the Employer's predecessor and the Union. In *G4S Secure Solutions (Canada) Ltd. and International Association of Machinists and Aerospace Workers – Transportation District 140, Lodge 114* (Lanyon Q.C.) August 21, 2015, unreported, Arbitrator Lanyon Q.C. wrote as follows:

G4S is a security solution provider operating throughout Canada. It is headquartered in Mississauga Ontario but also retains regional offices throughout the country including British Columbia. It provides security services in different sectors of the economy, such as government, financial institutions, retailers and landlords.

The Canadian Air Transportation Security Authority ("CATSA") is a Crown Corporation created in 2002. It was established in direct response to the events of September 11, 2001. CATSA is responsible for all key aviation security services at airports across Canada. One of CATSA's mandates is to oversee all screening contractors. G4S employs screening officers who are engaged in the screening of passengers, baggage, airport employees, non-passengers, vehicle and cargoes in airports in Canada.

Prior to the creation of CATSA individual airlines were responsible for pre-board screening under the oversight of Transport Canada. However, beginning in 2002 CATSA took over pre-existing contracts with 15 private sector firms to provide pre-screening services at 89 airports across Canada. CATSA's oversight of screening services is carried out through its contracting with third-party screening services.

In January 2011, CATSA issued a request for proposals (RFP), inviting private sector security contractors to bid on contracts to provide screening services at four consolidated Canadian airport regions. This was the first time that CATSA had decided to award contracts on a regional basis. The four regions are: Pacific (British Columbia and the Yukon); Prairies (Alberta, Saskatchewan, Manitoba and Northwest Territories); Central (Ontario); and Eastern (Québec, New Brunswick, Nova Scotia, Prince Edward Island, Newfoundland and Labrador and Nunavit).

On August 8, 2011, CATSA announced that G4S had been awarded the CATSA a contract for 21 of the airports and the Pacific region for the period November 1, 2001 – March 31, 2017. There is an option to extend this contract up to an additional five years. G4S has inherited employees from prior service providers. These screening companies are certified to a number of different unions: IAM, Steelworkers, Teamsters and CLAC. In the transition, G4S as the employer, made offers of employment to all Screening Officers, pursuant to section 47.3 of the Canada Labour Code ("Code"). The

terms and conditions of remuneration of these Screening Officers continued with G4S following the commencement of its CATSA contract.

On February 13, 2012, the IAM was certified by the Canada Industrial relations Board to represent G4S Screening Officers at 11 Airports in British Columbia ...

- 7 A notable contextual point is the current round of negotiations occurred during a period of economic recovery in the wake of the COVID-19 pandemic. The pandemic resulted in a steep drop in air transportation followed by staffing challenges associated with a resumption in business, albeit short of pre-pandemic levels.
- 8 Another notable point is that bargaining has occurred against an increased inflation rate to a historical high point. The level of unemployment is at a relatively low point. The Employer's efforts to meet hiring demands coincided with recruitment initiatives such as financial rewards for referring new hires and bonuses tied to attendance. One of the Union's key objectives is to offset the impact of inflation on its members' buying power.

III. GOVERNING PRINCIPLES

- 9 The principles governing an interest determination are not in contention. The applicable analytical framework was set out in previous awards between the Employer's predecessor and the Union in *G4S Secure Solutions (Canada) Ltd. and International Association of Machinists and Aerospace Workers – Transportation District 140, Lodge 114* (Lanyon Q.C.) August 21, 2015, unreported (and cases cited therein); and in *G4S Secure Solutions (Canada) Ltd. and International Association of Machinists and Aerospace Workers – Transportation District 140, Lodge 16* (Bell Q.C.), August 12, 2019, unreported.
- 10 In summary, my task is to attempt to replicate, as best possible, what the parties would have freely bargained, assuming access to the pressure of job action and given what is fair and reasonable. This judgement is guided by comparators. Relevant considerations include patterns in the parties' freely bargained settlements, comparable industry settlements, the parties' respective bargaining positions, the significance of an issue to a particular party, trade-offs that likely would have been made in free negotiations, prevailing economic and market conditions in the sector or industry (including inflation), and an assessment of the disputed item alongside the global package. A guiding assumption is that the parties would have settled upon an agreement comparable to others in the same industry for employees performing similar work. I note parenthetically that the Employer did not claim an inability to pay in the present case. Further, arbitrators generally follow established trends and avoid awarding breakthrough results to encourage free collective bargaining as the preferred resolution method.

IV. ITEMS IN DISPUTE AND RULINGS

1. Article 21.01(a) – Employee Parking

- 11 The Employer seeks to eliminate the parking benefit for future employees. It proposes the following change to Article 21.01(a):

~~21.01 (a) Parking provided and paid one hundred percent (100%) by the Company. Employees that do not require a parking pass will be compensated the amount of the pass to be used for public transportation.~~

Effective the first day of the month following the ratification of this agreement, all employees hired after the date of ratification will be subject to i) or ii):

i. If the employee elects to have a parking pass, the Company will cover fifty percent (50%) of the monthly cost. The employee will cover the remaining (50%) of the monthly cost by payroll deductions made on each pay period; or

ii. The employee may elect to be reimbursed by the Company for an amount equal to fifty percent (50%) of the cost of a monthly parking pass, to be used for public transportation.

- 12 The Employer submits that its parking costs have increased by 50% and expects that cost to increase in the future. The Employer adds that airports in Calgary, Winnipeg and Edmonton are governed by similar language to its proposal. Accordingly, its position should be adopted in keeping with the principle of comparability.
- 13 The Employer submits that the Union's concerns about recruitment should the parking benefit be eliminated are misplaced. There has been no difficulty hiring sufficient employees at airports where this benefit is not offered. The Employer submits that its recruitment challenges stem from restrictive scheduling provisions. It adds that many employees use public transit and can access the reimbursement benefit.
- 14 The Union resists the Employer's parking proposal given its financial impact on new hires. It says the principles of replication and the avoidance of breakthrough concessions serve to bar this proposal. The Union adds that employees in

Vancouver often reside far from the airport given high living costs and must contend with the absence of public transportation during all their scheduled work hours.

- Ruling

- 15 I accept the Union's submission that the Employer's proposal represents a breakthrough concession. This is an important issue for the Union given the impact of transportation costs on future members. The Employer raises a fair point in that this benefit is not included under other collective agreements. The Employer draws upon that fact to invoke the principle of comparability and increased cost to support its position. However, I find the gap in this benefit to be a feature of settlements established over time. It is unlikely that the Union would agree to "level down" this benefit for new hires without a corresponding trade-off of equal or better value. Hence, based on the submissions at hand, I am not satisfied that the principle of comparability dictates a material financial concession to the Employer's benefit. In my view, the parties would not have freely negotiated the language sought by the Employer.

2. Article 21.03(b) – Benefit Coverage – Union proposal

- 16 The Union seeks to increase the number of days an employee must be ill before providing a doctor's note from three to five days. It also asks to increase health and welfare benefits. Its proposal reads as follows:

Article 21.03 (b) – Benefit Coverage

21.03(b) Benefit Coverage

Effective January 1, 2023, the Health and Welfare Benefit Plan will be changed as follows:

1. Reimbursement for corrective eyewear for employees will increase from \$250.00 to \$500.00 every twenty-four (24) months.
2. Reimbursement for corrective eyewear for the spouse and eligible dependents of the employee will increase from \$250 to \$300 every twenty-four (24) months.

Effective January 1, 2020, the Health and Welfare Benefit Plan will be changed as follows:

1. The annual Dental Plan maximum will increase from \$1500.00 to \$2000.00.

17 The Union submits that extended health benefits have not been improved since 2011. Hence, the Plan no longer provides employees with adequate dental coverage and adequate coverage for corrective eyewear necessary to do the job.

18 I conclude that the Union's position in support of the proposed increases does not adequately account for the fact that the current benefits package is better than that provided to employees at the Toronto airport, which is the historical comparator regarding compensation increases. Thus, the Union's proposal would serve to widen the gap, contrary to the principle of comparability and would represent a significant monetary breakthrough in favour of the Union (approximately \$270,000 a year based on last year's experience). In reaching this conclusion, I acknowledge the Union's point that benefits under the Collective Agreement originated under a Union-administered plan. In my judgment, that fact does not render comparability with the Toronto collective agreement an irrelevant consideration. Nor does this point overcome the weight accorded to this factor. Instead, I see the relative gap in benefits between the Collective Agreement and the Toronto collective agreement as a feature of settlements established over time—much like the parking benefit discussed above. In my view, the parties would not likely have expanded that gap had they freely negotiated the Collective Agreement in the current round.

3. Article 27 – Term – Union and Company proposal(s) Term

19 It is common ground that the term of the new Collective Agreement is to be three years, effective April 1, 2021, to March 31, 2024.

4. Appendix A - Rates of Pay

a) The Proposals

20 The current Appendix A – Rates of Pay provision is as follows (excluding Volume, Risk, Stress and Consequences (VRSC), Cost of Living Adjustment (COLA), and the Ft St John - Local Employment Adjustment Plan (LEAP) bonuses:

APPENDIX "A" - RATES OF PAY

IMPLEMENTATION DATE	LEVEL	APRIL 1 2018* 2.25%	APRIL 1 2019 2.25%	APRIL 1 2020 2.50%
JOB TITLE(S)				
SCREENING OFFICER	F1	18.06	18.46	18.93
	3.1	20.53	20.99	21.52
	3.2	20.96	21.43	21.97
	3.3	21.39	21.87	22.42
	3.4	21.82	22.31	22.87
POINT LEAD	PL	24.55	25.10	25.73

* Included for identification purposes only.

*Level 3.1: 0 - 2080 hours

*Level 3.2: 2081 - 4160 hours

*Level 3.3: 4161 - 6240 hours

*Level 3.4: 6241 + hours

***Asterisk references are for information purposes only.**

Point Leads will be paid twelve and one-half percent (12.5%) above Level 3.4 The Acting Point Lead rate will be equal to the Point Lead rate.

21 The Union proposes rate increases and amendments to Appendix A, as follows:

APPENDIX "A" - RATES OF PAY

IMPLEMENTATION DATE		<u>APR. 1 2021</u>		<u>APR. 1 2022</u>		<u>APR. 1 2023</u>	
JOB TITLE(S)							
SCREENING OFFICER	F1	<u>3.00%</u>	<u>19.50</u>	<u>4.0%</u>	<u>20.28</u>	<u>4.0%</u>	<u>21.09</u>
	3.1	<u>3.00%</u>	<u>22.17</u>	<u>4.5%</u>	<u>23.16</u>	<u>4.5%</u>	<u>24.21</u>
	3.2	<u>3.00%</u>	<u>22.63</u>	<u>5.5%</u>	<u>23.87</u>	<u>5.5%</u>	<u>25.19</u>
	3.3	<u>3.00%</u>	<u>23.09</u>	<u>6.5%</u>	<u>24.59</u>	<u>6.5%</u>	<u>26.19</u>
	3.4	<u>3.00%</u>	<u>23.56</u>	<u>7.5%</u>	<u>25.32</u>	<u>7.5%</u>	<u>27.22</u>
	<u>3.5</u>			<u>4.0%</u>	<u>26.33</u>	<u>4.0%</u>	<u>28.31</u>

POINT LEAD	PL		<u>26.51</u>		<u>28.49</u>		<u>30.62</u>

Note: Screening Officers who have completed ten (10) years shall receive the 3.5 rate above effective April 1, 2022. Otherwise the normal progression of hours shall apply, as outlined below

* Included for identification purposes only.

*Level 3.1: 0 - 2080 hours

*Level 3.2: 2081 - 4160 hours

*Level 3.3: 4161 - 6240 hours

*Level 3.4: 6241 - 8320 hours

*Level 3.5: Ten years of completed service

***Asterisk references are for information purposes only.**

Point Leads will be paid twelve and one-half percent (12.5%) above Level 3.4 The Acting Point Lead rate will be equal to the Point Lead rate.

- 22 The Union's proposal adds a step to the wage scale of level 3.5. It says this provision is to recognize the length of service, skills and experience of employees with ten or more years of service.
- 23 I further note that the Union seeks full retroactivity of increases to the beginning of the Collective Agreement to address the financial prejudice due to protracted negotiations.
- 24 The Employer's wage proposal is as follows:

Base rate increases:

April 1, 2021 – 0%

April 1, 2022 – 2.25%

April 1, 2023 – 2.25%

In lieu of a wage increase in 2021, upon ratification the Company will provide a one time signing bonus of \$1400 for employees hired on or before September 30, 2021 who have been paid an average of 30 or more hours per week from the period March 28, 2021 to March

26, 2022 (or from their date of hire to March 26, 2022). All other employees who have been paid an average of 8 or more hours in the same period will receive a one time signing bonus of \$700. The signing bonus will be paid within 30 days after ratification.

- 25 I observe that the Employer's proposed signing bonus in the first year is not payable to all employees and is subject to a threshold tied to average hours paid.

b) Positions of the Parties

- 26 The Union embarks from the proposition that the parties' agreement (in the present round) to roll the COLA, VRSC and LEAP bonuses into wages rates saves the Employer money.

- 27 The Union observes that a prerequisite for these payments is that employees attend or receive payment for the majority of scheduled shifts each month. Accordingly, the value of these bonuses as a percentage of the hourly wage rate depends on weekly scheduled hours and whether an employee works a majority of scheduled hours. The Union calculates—based on rates in effect April 1, 2020—that the value of these bonuses for a full-time employee as a percentage of the hourly rate ranges from \$2.96 per hour to \$5.68 per hour, depending on the number of hours worked. The Union further submits that employees who work fewer hours obtain a substantially greater benefit per hour of work from these bonuses than others who work more hours.

- 28 The Union proceeds to argue that the agreement to roll these bonuses into the base wage rates based on a 40-hour work week—as opposed to a shorter workweek—resulted in savings for the Employer. Accordingly, employees deserve a substantial lift in the base rate for the first year of the Collective Agreement. The Union submits that the Employer's proposed 0% wage increase in the first year would negatively impact the calculation of the amount to be rolled into the hourly rate. Therefore, it says that the amount to be rolled in should be calculated based on the wage scales set by this award for 2022. The Union adds that this approach ensures that a retroactive increase accounts for the payment of these bonuses based on the hourly rate. It further contends that the application of the retroactive increase should extend to the end of the scheduled VRSC/COLA/LEAP qualifying period immediately after this award. That date is October 23, 2022.

- 29 Turning to the question of wage increases, the Union submits that arbitrators have long recognized that inflation is a relevant consideration. It submits that arbitrator Keller's August 2021 interest award for screeners at the Toronto airport recognizes the legitimacy of this consideration: *Garda World Security Screening and International Association of Machinists and Aerospace Workers, District 140*, August 26, 2021, unreported ("Keller Award"). The Union notes that arbitrator Keller awarded that employer's initial lump sum and 2.25 percent increases in years 2 and

3. That award was issued more than a year ago, assuming inflation would return to the Bank of Canada's target 2 percent range in 2022. It submits that result would have been different had arbitrator Keller had accurately forecasted the future risk of inflation.

30 The Union further submits that Arbitrator Keller rested his analysis on an overly optimistic forecast of declining inflation issued by the Governor of the Bank of Canada. That forecast proved to be wrong. The Union submits that the Keller Award can be distinguished from the present case on that factual basis. The Union also points to subsequent arbitration awards issued in 2022 that have addressed persistently high inflation as a secular feature of the economy, not a temporary phenomenon. The Union submits that the July 2022 Statistics Canada Labour Force Survey discloses continued low unemployment, a year-over-year Consumer Price Index (CPI) of 8.1 percent, alongside freely negotiated average hourly wage increases (on a year-over-year basis) of 5.2 percent. The Union points to recent settlements in the public sector have 10.75 to 14% over three years. The Union that these settlements stand in stark contrast to the Screeners, who have not received a wage increase since April 1, 2020, while their purchasing power has been eroded by inflation.

31 The Union also points to the following settlements in the Employer's sector as instructive comparators:

- (a) Securitas Transport Aviation Security and USW collective agreement covering Screening Officers employed in Atlantic Canada and Halifax - 2021 to 2022 increase of 2%. (Tab 14C, Appendix A – Page 37)
- (b) Garda Security Screening Inc. and USW collective agreement covering Screening Officers employed in Ottawa – 2021 to 2022 increase of 2.5%. (Tab 14B, Appendix A – Page 42)
- (c) Garda Security Screening Inc. and CLAC collective agreement covering Screening Officers employed in Calgary – 2021 – 2022 increase of 2.5% (Tab14A, Article 24 – Page 35).
- (d) Garda Security Screening Inc. settled post-Keller Award with the Teamsters for screening officers at the Edmonton airport Garda Security Screening Inc. and Teamster settlement in reached in August 2022 covering Screening Officers employed in Edmonton, which gave a 12% raise over the term of the agreement alongside a signing bonus of \$1500 for full-time workers and \$750 for part-time workers.

32 The Union argues that settlements which predate the recent inflation spiral are not instructive as they do not reflect the current reality. The Union also submits that the

Employer's reliance on the "living wage" does not assist as the bargaining unit has not been compensated by reference to this comparator, and Collective Agreement compensation has consistently exceeded the living wage. The Union says this differential should be maintained.

- 33 The Employer submits that the agreement to roll in the COLA/VRSC/LEAP benefits into the base wages is consistent with practice in Toronto and at other airports. It projects this change will be cost neutral. Despite the consequent increase to overtime premiums, vacation, pension and payroll taxes, the Employer submits that it agreed to the roll-in with the expectation that employees will regularly work a greater percentage of their bid schedule. The Employer submits this outcome will yield additional revenue and hopefully offset higher compensation outlays.
- 34 The Employer observes that it cannot pass on increased compensation to CATSA.
- 35 The Employer submits that the best comparator is the Toronto agreement. In this round of bargaining, it seeks to sustain the additional relationship between wage rate increases between the two agreements. The Employer provided data demonstrating a close relationship between pay rates since 2013 at the Toronto and Vancouver airports (factoring in the VRSC and COLA). The Employer observes that the Vancouver Collective Agreement provides a relatively better health and dental plan, an additional paid statutory holiday and additional vacation pay. The Employer provided data to support its claim that the same general result is obtained when Vancouver rates (factoring in COLA and VRSC) are compared to rates at other class one airports in Calgary, Edmonton, Ottawa, Winnipeg, Montréal and Halifax.
- 36 The Employer adds that, unlike Toronto, the Vancouver agreement covers additional smaller airports that are less financially viable. Employees at those smaller airports benefited from bargaining in tandem with Vancouver. Accordingly, taking a Vancouver-centric approach to the Collective Agreement is misleading for comparison purposes.
- 37 The Employer submits that the recent agreement to roll in benefits to the base rate puts the Vancouver screeners above the sustainable wage rate advocated by *Living Wage for Families*. The Living Wage does not include the value of the existing benefits package.
- 38 The Employer contends that the Toronto wage increases should be the dominant comparator, not the recently announced Edmonton wage increases. The Employer submits that although the Edmonton agreement includes compounded wage increases worth 12.5% over a three-year agreement, those increases were delayed to October rather than April. That delay moved the burden of that cost to 2024, when that Employer will be able to recover those increases (or walk away) when it renegotiates its contract with CATSA. Thus, the employer in Edmonton can manage the downside risk that it will be unable to fund the negotiated increases. Moreover,

the Employer observes that the Edmonton agreement freezes the rates of employees at the F1 and L3 levels to fund increases. The Employer submits that, on balance, employees are better off in absolute terms under the Employer's wage proposal than the Edmonton terms. The Employer submits in part:

Summary

On March 31, 2024, L3.4 Screening Officers at Edmonton will earn \$27.89 vs. \$26.90 at Vancouver, representing a 3.7% difference. They will then earn an additional 4% in October of that year, outside both the Allied-IAM CBA and CATSA contract timelines; AUS' [the Employer] contract with CATSA expires March 31, 2024.

AUS is not disputing this variance, but it is highlighting both the timing of the increases, which significantly delays the increases impact and pushes much of the burden into a new CATSA contract, and how these increases are being funded by cuts to other pay bands. An Edmonton F1/L1 SO will still only earn \$21.89 at the beginning of 2025, the same as what they were being paid in 2021. A L3.1 SO will be earning \$23.18 in early 2025, which is less than what they were earning in 2018. This illustrates that the cost of the agreement at Edmonton is not materially different to Toronto or Vancouver on average and is most likely less over the lifetime of the IAM Allied CBA. AUS does not feel such a weighting on pay scales is necessary or sustainable.

- 39 The Employer argues that its signing bonus addresses uncertainty over whether inflation will continue at its current rate or decrease in the next year. It notes its contract with CATSA and will be eligible for renewal in 2024. This is the earliest point at which the Employer may raise prices to recoup the impact of inflation on its business inputs.
- 40 The Employer adds that CPI does not directly reflect an individual's cost of living, particularly given individual access to government subsidies for family services. The Employer acknowledges that its proposal does not keep pace with CPI but argues it cannot do so, given pricing constraints under its contractual relationship with CATSA. The Employer adds that it is a mistake to understand the inflation risk by referencing extreme short-term peaks that may be influenced by episodic increases to singular components of the CPI, such as fuel prices. Rather, the Employer urges reference to the broader trend, understanding that inflation projections are not certainties and recognizing that inflation projections balance both upside and downside risks. Moreover, the Employer argues that wage increases under the Collective Agreement have outpaced inflation. Therefore, CPI was not a factor when determining wages.

- 41 The Employer rejects the Union's proposal to add a level 3.5 wage rate on the ground that it is targeted at the correct cohort to address retention and would break through the established pattern of industry settlements, none of which contain an equivalent provision.

- Ruling

- 42 I begin by addressing the Living Wage as an appropriate comparator. I accept the Union's submission that compensation levels have exceeded the Living Wage and have not been tied to this criterion. I find that the parties would not have freely negotiated an agreement by reference to the Living Wage. Accordingly, I see the Living Wage as a neutral factor.
- 43 The arbitral consensus favours an approach that examines comparable collective agreements for the relevant labour market. The relevant labour market in the present case concerns agreements covering the work of airport security screeners, not airline employees or public-sector employees.
- 44 I accept the Union's submission that any wage increase would likely have been retroactive to the effective date of the Collective Agreement for those employed as of this award, particularly given the erosion of those employees' buying power in the interim period. Denying retroactivity would rest the consequences of bargaining delays onto the shoulders of existing employees.
- 45 I further accept the Union's submission that the calculation of the VRSC/COLA/LEAP roll-in should be calculated based on the wage scale set by this award for 2022. The established method for calculating the retroactive increases to these payments should prevail to the end of the next scheduled qualifying period on October 22, 2022. This ensures that a retroactive increase accounts for the payment of these bonuses based on the applicable hourly rate. In my view, the parties would unlikely have freely negotiated a departure from the established method of calculating retroactive increases.
- 46 I now consider inflation. I find that the uptick in the rate of inflation would have been a dominant consideration in this round of bargaining. That is particularly the case given that arbitrator Keller considered that factor for a direct comparator group (in terms of similarity of work). That award accounted for an uptick in the inflation rate as of August 2021 and the forecast rate. I note that the parties traditionally considered the Toronto agreement a relevant comparator.
- 47 Both parties rely on the Keller Award in support of their respective positions. The Employer has mounted resourceful arguments in favour of using the Keller Award as a comparator to support its proposed wage increases.

- 48 The difficulty with a rigid adoption of the Keller Award is it is premised on what proved to be an optimistic inflation forecast. A key assumption was that the uptick in the CPI was temporary and would return to historical levels in 2022. Hence, it stands to reason that had arbitrator Keller forecast current rates of inflation, his wage rate award would have been different.
- 49 In my view, the wholesale adoption of the Keller award based on comparability requires sufficient similarity in the factors driving that award. So, my taking a realistic view of inflation in the present case is hardly a breakthrough, particularly given that arbitrator Keller specifically grounded his award on a forecast of that same market condition. For these reasons, I conclude that wage rates under a freely negotiated agreement would account for the Keller award, recognizing that award undershot inflation as a significant feature of present-day market conditions.
- 50 I find the Employer is correct in observing that increases to the headline rate of inflation do not necessarily reflect an increase in an individual's cost of living. The July 2022 Statistics Canada Labour Force Survey discloses continued low unemployment, a year-over-year Consumer Price Index (CPI) of 8.1 percent, alongside freely negotiated average hourly wage increases (on a year-over-year basis) of 5.2 percent. Thus, inflation has persisted at a high level, so employee buying power has eroded over time. While recruitment has not been an insurmountable challenge to date, I find it fair to infer that this experience will not continue if the effects of inflation are not factored into future wage increases. Further, the impact of inflation on the buying power of those presently employed is to be considered, as is the fact that employees have not received a wage increase since April 1, 2020. Thus, it is fair to infer that a freely negotiated agreement would factor in the retention of existing employees as another driver for additional increases in the second and third years. The ascending increases I awarded in the second and third years reflect that finding.
- 51 The parties differ about how to cost the recent Edmonton settlement and other settlements in the sector. I find these comparisons are fraught with difficulty, given that wage increases are only one component of total compensation, and the staging of increases within wage scales can significantly affect total compensation over the life of an agreement. Despite these infirmities, I find, on balance, that comparable settlements tend to cluster in a range considerably lower than the full CPI.
- 52 The Union reasonably observes it has agreed to initiatives under the current package that carried a real potential to save the Employer money—for example, by expanding the use of auxiliary shift schedules and rolling in the VRSC/COLA/LEAP based on an Employer-favorable 40-hour week formula. The Employer is correct in asserting that consequential savings, if any, are presently indeterminate. However, it is difficult to conceive that the Employer would seek these changes unless they had the potential to increase efficiencies. I have also considered that the Employer cannot “pass on” increases to CATSA (although it is not pleading an inability to pay).

In my view, this is a relevant but not a controlling consideration. Otherwise, the inability to pass on increases would dictate static wage rates for the term of the Employer's contract with CATSA. In my view, this factor would serve to attenuate but not govern wage increases in free collective bargaining.

53 I reject the Union's proposal to add an additional step to the wage scale at level 3.5 as it would represent a significant breakthrough.

54 Given the above-referenced considerations and the parties' submissions, I conclude that a fair and reasonable result lies between the parties' respective positions but is weighted more toward the Union's proposal. I order base rate increases of 2.5 percent effective April 1, 2021 (a lower percentage accounting for lower inflation and lower settlements for that period—see, for example, the above-referenced Ottawa and Calgary settlements) and 3.75 percent effective April 1, 2022, and 3.75 percent effective April 1, 2023. These increases fairly address inflation's immediate and reasonably foreseeable impact on the employees' cost of living, which I find would have been a dominant consideration driving a freely bargained settlement. I have not applied the Union's proposal for higher staggered increases at the year two and year three wage rate levels. It does not appear the parties adopted this approach in the past, and the percentage increase will be applied to a higher hourly rate at each successive level in any event. This award also tracks the parties' proposals seeking identical increases in years 2 and 3. I note that this award results in a double-digit percentage increase when compounded over the life of the agreement.

55 I remain seized regarding the implementation of this award.

A handwritten signature in dark ink, appearing to read "Ken Saunders". The signature is fluid and cursive, with a large initial "K" and "S".

Ken Saunders, Arbitrator