IN THE MATTER OF:

A POLICY GRIEVANCE DATED JULY 10, 2024; AND

AN ARBITRATION OF THE SAID GRIEVANCE;

BETWEEN:

Retail, Wholesale and Department Store Union, Local 544,

UNION,

- and -

Discovery Co-operative Ltd.,

EMPLOYER

AWARD

APPEARANCES:

For the Union:	Gary L. Bainbridge, KC
For the Employer:	Robert Frost-Hinz

BEFORE:

Chair:	T. F. (Ted) Koskie, B.Sc., J.D.
Union Nominee:	Hugh Wagner
Employer Nominee:	Glen Gantefoer

AWARD DATE:

June 2, 2025

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I. INTRODUCTION

[1] This policy grievance (the "Grievance") was filed by the Retail, Wholesale and Department Store Union ("the Union") on behalf of its bargaining unit members employed by Discovery Co-operative Ltd. ("the Employer"). The Union alleges that the Employer has adopted and implemented a systematic practice of reducing recorded clock-in and clock-out times to match scheduled shifts, without regard for whether employees performed compensable work during the adjusted periods. According to the Union, this practice has resulted in the Employer failing to pay employees for all time actually worked, in violation of several provisions of the collective bargaining agreement (CBA).

[2] The Grievance is not confined to a single employee, but challenges a broader policy or operational practice affecting numerous employees across departments. The Employer does not dispute that adjustments are made to time clock entries, but maintains that these changes are based on legitimate assessments by supervisors and managers to ensure that only actual work time is paid. It further asserts that its actions fall within its rights under the CBA, including Article 4 (Management Rights), and that any instances of unpaid time were either inadvertent or the result of employees remaining on the premises outside of their scheduled hours without authorization or without performing compensable work.

[3] The Union seeks a declaration that the Employer's practice is in breach of the CBA, full compensation for affected employees, and disclosure of time records necessary to determine the amounts owing. The Employer denies any breach and opposes the requested remedy.

[4] The matter proceeded to arbitration with *viva voce* evidence from both parties, the submission of documentary exhibits, and detailed arguments presented both orally and in writing. The panel's jurisdiction was not contested, and no preliminary objections were raised to the scope or arbitrability of the grievance.

II. BACKGROUND

[5] The Employer operates a range of retail and service departments under its banner, including a home centre, hardware division, and garden centre. The bargaining unit includes full-time, part-time, casual, and student employees. Timekeeping for these employees is managed through an electronic system referred to as Kronos (or a successor platform), which replaced manual scheduling and time-tracking processes. Employees access their schedules and submit time-off requests through an online portal or mobile app, and they clock in and out using this electronic system.

[6] On or about August 2019, the Employer implemented the first iteration of this digital timekeeping system. In November 2023, the system was upgraded to include enhanced self-service features. Employees were trained to use the platform to view their schedules, request leaves, and track hours worked.

[7] The scheduling process requires department managers to post work schedules in advance, as required under Article 11 of the CBA. Employees' scheduled hours, start and end times, and days off are set out accordingly. However, disputes have arisen as to what happens when employees clock in before or after their scheduled shift times.

[8] The grievance arises from a pattern observed in timecard records where clocked time exceeding scheduled shift lengths has been systematically adjusted downward to align with the scheduled hours---often without prior discussion with the employee or any notation that the employee was not working during the "extra" time.

[9] The Union's concern first crystallized following a June 2023 inquiry raised by Union Representative Trevor Miller ("Miller") after reviewing time records for Peggy McCaw ("McCaw"), a long-time casual employee in the garden centre. It appeared that clocked entries–particularly for time worked after her scheduled shift end–had been reduced without evidence that she had not been

working. This prompted a broader concern about whether similar reductions had been applied to other employees and whether such adjustments breached the CBA.

[10] The Union subsequently filed the subject Grievance asserting that the Employer had adopted a practice of unlawfully reducing time worked. It seeks a declaration that this practice violates the CBA, an order for affected employees to be made whole, and a direction that relevant timekeeping records be disclosed.

[11] The Employer responded that it pays employees for actual work performed and that time records are reviewed by managers to ensure accuracy. It asserted that adjustments are made only when employees remain on the premises for non-work purposes—such as socializing or lingering after their duties have ended. The Employer also maintained that it has not violated the CBA and that any errors in specific cases were corrected or could have been addressed through normal internal procedures.

[12] The arbitration proceeded over the course of a full day. Evidence was presented by Union witness Trevor Miller and employee Peggy McCaw, and by Employer representatives Mandy Fruson, VP, Human Resources (Fruson") and Dean Dejan, Hardware Manager, ("Dejan"). Documentary exhibits included timecard records, schedules, correspondence, and the relevant provisions of the collective agreement. Both parties filed detailed written submissions and made oral arguments.

III. ISSUES

[13] This grievance raises both factual and legal questions arising from the Employer's handling of employee time records in relation to actual hours worked. Based on the evidence and arguments presented, the Board must determine the following:

a) Has the Employer adopted a practice of adjusting or reducing employees' recorded clock-in

and clock-out times to conform with scheduled hours of work, regardless of whether the employee continued to perform work before or after their scheduled shift?

b) If so, does this practice constitute a breach of the CBA, including but not limited to the wage, overtime, and hours of work provisions?

c) Is the Employer's conduct inconsistent with the principle that employees must be paid for all time worked, and does it amount to a unilateral alteration of wage entitlements or working conditions contrary to the CBA?

d) Does the Employer's adjustment of recorded hours, without employee consent or a formal determination that no work was performed, amount to a violation of the CBA or result in unjust enrichment?

e) Has the Union established that this practice affected employees beyond Peggy McCaw, and is the grievance properly advanced as a policy grievance on behalf of the bargaining unit?

f) What is the appropriate remedy, if any, including whether the Board should order compensation for affected employees, direct disclosure of relevant records, or retain jurisdiction to address implementation issues?

[14] These questions must be evaluated in light of the evidence, the text and purpose of the CBA, and the applicable arbitral and legal principles raised by the parties.

IV. DECISION

[15] The Board finds that the Employer's practice of adjusting employee clock-in and clock-out times to conform to scheduled hours, without verifying whether work was performed during that

time, constitutes a breach of the CBA.

[16] The Grievance is allowed.

[17] The Board declares that the Employer has contravened the CBA by failing to pay employees for all hours worked, in violation of Articles 11, 12, and 13, and in a manner inconsistent with the agreed-upon wage entitlements and overtime rules.

[18] The Employer's adjustments, made without consultation, consent, or documented findings that no work occurred, effectively altered employees' compensation and deprived them of wages and benefits to which they were entitled. This conduct also undermines the requirement that employees be paid in accordance with their actual work and the established wage rates under the CBA.

[19] As a remedy, the Board issues the following orders:

a) The Employer shall immediately cease the practice of unilaterally reducing recorded time worked without prior verification and employee consent or documented managerial determination that no work was performed during the time in question.

b) The Employer shall make all affected employees whole in all respects, including lost wages, vacation accruals, pension or benefit contributions, and any other entitlements tied to hours worked, for time recorded but not paid, resulting from improper adjustments.

c) This remedy shall apply retroactively to August 2019, when the Employer implemented its first version of the electronic timekeeping system. The Board finds this to be a reasonable point of retroactivity, as all relevant records are stored electronically and should be readily accessible, thereby imposing no undue hardship on the Employer.

d) Within 30 days of the issuance of this award, the Employer shall disclose to the Union:

i) all timekeeping records and adjustment data related to recorded and paid hours for bargaining unit employees from August 2019 to the present;

ii) in a format sufficient to allow the Union to compare clocked time with paid time and to calculate hours removed or adjusted;

iii) including, at minimum, employee name, date, scheduled shift time, clock-in and clock-out times, and actual paid hours per shift.

e) The Employer and the Union are directed to meet within 45 days of this award to attempt to resolve the calculation and payment of any compensation owing to affected employees. If agreement is not reached by 90 days from the date of this award, the matter may be referred back to this Board for final determination.

[20] The Board remains seized to address any issues arising from the interpretation, implementation, or enforcement of this award.

V. REASONS

A. THE CBA

[21] The following provisions of the CBA are relevant to this grievance:

> . . .
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> ARTICLE 4 - MANAGEMENT RIGHTS
>
> 1. The Management of the Co-operative and the direction of the working force, including the right to plan, direct and control operations; to maintain the discipline and efficiency of the

employees and to require employees to observe Co-operative rules and regulations; to hire, lay off or relieve employees from duties; to suspend, demote, transfer, promote and discipline and discharge employees for cause, are to be the sole right and function of the Co-operative.

. . .

3. The Parties agree that the enumeration of Management's rights set out in Clauses 1 and 2 shall not exclude other functions not specifically set forth. The Co-operative, therefore, retains all rights not otherwise specifically covered in this Agreement.

4. In exercising the foregoing rights, the Co-operative shall act in good faith and shall not evade or alter any of the specific provisions of this Agreement. The Co-operative will not exercise its rights under this Article or any other provisions of the Agreement to discriminate against any employee because of their activity in or for the Union.

. . .

ARTICLE 11 - HOURS OF WORK

1. The basic work week for full-time employees shall be forty (40) hours, five (5) days per week, not exceeding eight (8) hours per day. The basic work week for part-time employees shall be up to forty (40) hours, up to five (5) days per week, up to but not exceeding eight (8) hours per day.

2. (a) The Co-operative shall post a weekly work schedule showing daily starting and quitting times and days off for all regular part-time and full-time employees not later than Friday noon of each week for the second following week. If a new schedule is not posted by Friday noon then the schedule already posted shall apply for the second following week.

. . .

3. (a) When any department remains open for business or night stocking after 6:00 p.m., all employees who work twenty-four (24) or more hours in that week shall be paid a premium of seventy-five cents ($.75) per hour in addition to their regular rate for all hours worked after 6:00 p.m.

(b) Premium pay will not be added to employee's hourly rates for purposes of computing overtime pay.

. . .

6. The Parties agree that no employee shall be scheduled to work a shift which commences less than ten (10) hours after their last shift ends. Therefore, in the event any employee who accepts work offered on a shift which commences less than ten (10) hours after the end of their last shift shall be paid double (2x) their regular rate for all hours worked on that shift.

. . .

ARTICLE 12 - OVERTIME PAY

1. All hours worked, either before or after regular hours of work, arrived at pursuant to Article 11, shall be considered as overtime hours and shall be paid for at the rate of time-and-a-half (1½x) for the first three (3) hours' overtime worked in any one (1) day, and double (2x) the regular rate for hours worked in excess of three (3) hours' overtime in any one (1) day.

2. Double (2x) the regular rate shall be paid for all hours worked on an employee's days or part-days of rest. If an employee is called back to work on their regular days or part-days of rest, they shall receive not less than four (4) hours' pay at double (2x) their regular rate of pay.

. . .

7. In computing overtime pay, all calculations shall be made to the nearest fifteen (15) minutes.

ARTICLE 13 - WAGE RATE AND CLASSIFICATIONS

1. Position, job titles and wage rates for such positions and job titles shall be as set out in Appendix "A" annexed to and forming part of this Agreement.

. . .

3. (a) An employee required to temporarily fill a position in the Scope of this Agreement paying a higher rate of pay shall receive the next highest step in the range of the temporary position or ten dollars ($10.00) per day, whichever is the greater, provided that such period is for more than three (3) days. An employee's rate will not be reduced if temporarily filling a position paying a lower rate of pay. Seniority will be considered in assigning relief work while balancing scheduled hours amongst trained employees to maintain their skills set. It is agreed that the three (3) days must be consecutive but an employee will not be disqualified because of a day off during their relief assignment.

. . .

5. In the event of any increase to the Saskatchewan Minimum Wage, all rates shall be a minimum of twenty-five ($0.25) cents above the minimum wage.

B. ANALYSIS

1. Union's Arguments

[22] The Union argues that the Employer has violated the CBA and legal principles of fairness and equity by unilaterally reducing employees' recorded time worked to match scheduled hours, irrespective of whether the employees were in fact working. The Union frames its Grievance as a policy grievance, not merely an individual complaint on behalf of Ms. McCaw, and emphasizes that

the issue affects multiple employees across various departments. It asserts that the Employer's practice constitutes a breach of the CBA, an unauthorized alteration of wage entitlements, and an unjust enrichment.

[23] At the core of the Union's position is the contention that the CBA guarantees employees payment for time worked–not simply time scheduled. Article 13.1 of the CBA stipulates that wage rates for employees "shall be as set out in Appendix A." There is no language in the CBA permitting a pro-rated or modified wage where an employee has worked additional minutes outside their scheduled hours. The Union emphasizes that Article 13.1 is mandatory: it uses the word "shall," which conveys a binding obligation.

[24] The Union also relies on Article 12.1, which requires that "all hours worked" beyond scheduled hours be paid at overtime rates. Although the current Grievance concerns regular (not overtime) hours, the Union argues that the structure of the CBA reflects a fundamental principle: time worked, whether scheduled or not, must be compensated. The fact that overtime is subject to a rounding rule (Article 12.7), while regular time is not, demonstrates that the parties intended regular time to be paid minute-for-minute.

[25] The Union argues that the Employer has no express contractual basis for adjusting recorded work time unless there is clear evidence that the employee was not working. In their view, the time clock records–created and maintained by the Employer–are the best available evidence of time worked, and absent specific evidence to the contrary, they should be accepted as accurate.

[26] The Union argues that the Employer was unjustly enriched by systematically reducing employees' clocked time, thereby avoiding payment for work actually performed. The Union maintains that employees clocked in early or remained after their scheduled shifts to perform necessary tasks–such as assisting customers or securing the premises–and that this time constituted compensable work. Rather than addressing such conduct through scheduling changes, direction, or

discipline, the Employer chose instead to reduce recorded time to match the schedule, thereby benefiting from the work without paying for it. The Union submits that this practice is both unfair and contrary to the CBA. It urges the Board to direct restitution for all such unpaid time, as a matter of both contractual compliance and basic fairness.

[27] The Union advances the principle that an employer is not entitled to benefit from an employee's labour without providing appropriate compensation, even if the work was not expressly authorized in advance. It argues that where an employer knows or ought to know that work is being performed, the obligation to pay arises. The appropriate remedy for unauthorized work, in the Union's submission, is through direction, discipline, or scheduling enforcement–not the withholding of earned wages. The Union contends that the Employer had the ability to manage hours through supervision or time clock configuration but chose instead to retroactively reduce paid time. In doing so, it asserts, the Employer unjustly retained the benefit of work performed while denying compensation.

[28] In support of this submission, the Union refers to the arbitration award in *Insurance Corporation of British Columbia* v *Canadian Office and Professional Employees Union, Local 378*,[1] where the arbitrator held that an employer is obligated to pay for all time worked where it knew or ought to have known that work was being performed–even if not pre-authorized. The arbitrator found that where an employer passively accepts the benefit of such work, it cannot later deny compensation on the basis that formal authorization was lacking. The Union draws a direct parallel, arguing that the Employer had access to real-time timekeeping data, and its failure to intervene or discipline employees for early or late work renders its subsequent denial of pay unjustified.

[29] In both cases, the boards emphasized that if an employer wishes to prevent employees from working outside scheduled hours, it must take proactive measures to enforce scheduling rules. Failure to do so–particularly where the employer derives a benefit from the work–results in unjust

[1] 2012 CarswellBC 2585 (Taylor)

enrichment. The Union argues the same principle applies here. The Employer cannot ignore actual time worked and later adjust payroll to fit schedules it imposed, especially when those schedules were not always adhered to operationally.

[30] The Union argues that the Employer's failure to consult with or advise employees when modifying their recorded time amounts to a unilateral breach of contract and violates the principle of good faith in labour relations. Moreover, no policy explicitly limiting employees' ability to clock in early or out late was shown to have been communicated to the affected staff.

[31] The Union contends that the Employer has mischaracterized the time clock as unreliable. They emphasize that the Employer installed and relies on the Kronos system, updated it in 2023, and encourages employees to access their schedules and time cards through it. It is inconsistent, they argue, for the Employer to rely on the time clock as a scheduling tool, but then disregard its records when processing payroll.

[32] The Union also addresses the Employer's suggestion that rounding of time is a legitimate management practice. It notes that Article 12.7 explicitly authorizes rounding for the purpose of computing overtime pay, but no such clause exists for straight time. Citing the interpretive principle of *expressio unius est exclusio alterius*, the Union submits that by expressly permitting rounding for overtime, the parties must be presumed to have excluded such a practice for straight time. The Employer's extrapolation of a rounding practice to regular hours is therefore unsupported and improper.

[33] With respect to the Employer's references to management rights under Article 4, the Union acknowledges that the Employer retains broad discretion to plan and direct operations. However, it argues that Article 4.4 limits that discretion, requiring the Employer to act in good faith and not to evade or alter other provisions of the CBA. A policy or practice of reducing pay for work performed—even if well-intentioned—constitutes an evasion of Articles 11–13 and undermines the binding wage

structure in Appendix A.

[34] The Union refutes the Employer's assertion that the Grievance should fail because no additional employees came forward. It argues that this reflects a systemic information imbalance: only the Employer has access to the records necessary to identify the full scope of the problem. Many employees, especially part-time or casual workers, would not notice small payroll discrepancies or feel empowered to complain. Therefore, the Union submits that the Employer must bear the onus of producing the data, and that the absence of additional complaints cannot be interpreted as absence of harm.

[35] As a remedy, the Union seeks a declaration that the Employer violated the CBA, a direction that it cease adjusting recorded time unilaterally, and an order that affected employees be made whole in respect of lost wages and benefits. It also asks for disclosure of timekeeping and payroll records from the date of the initial implementation of the electronic time clock system, on the basis that such records are computer-stored and readily accessible.

[36] The Union asks the Board to retain jurisdiction to resolve any disputes arising from the implementation of its award and to ensure that the Employer complies fully with its obligations.

2. Employer's Arguments

[37] The Employer submitted that the Grievance should be dismissed. It argued that its practices did not violate the CBA, and that it consistently pays employees for all time actually worked. The Employer contended that the Union had misconstrued both the applicable legal principles and the nature of its attendance and payroll system. In its view, there was no policy or consistent practice of denying pay for hours actually worked, but rather isolated misunderstandings or errors that had either been corrected or were open to correction when brought to management's attention.

[38] The Employer emphasized the language of Article 4 (Management Rights), which grants it the exclusive authority to direct its operations and manage staffing, subject only to the explicit restrictions elsewhere in the CBA. It argued that no provision in the CBA guarantees that an employee will be paid according solely to their time-clock entries. Instead, the Employer maintained that time-clocks are one of several tools used to determine time worked and that managerial oversight, including verifying whether employees were actually performing work during the time clocked, was both necessary and contemplated by the CBA.

[39] The Employer relied heavily on the evidence of Fruson and Dejan, who testified that the Employer's policy is to pay employees for time worked–not necessarily for all time recorded on the time clock. Fruson stated that managers were expected to verify timecards, and any adjustments to clocked entries were made in good faith, typically where employees arrived early or stayed late but were not working. Dejan testified that he had initially misunderstood how overtime rounding rules applied to straight-time work, but had corrected this after receiving clarification from Human Resources. The Employer argued that this isolated misapplication did not establish a broad or intentional policy of wage denial.

[40] The Employer distinguished the cases relied upon by the Union. It argued that those cases involved explicit findings that employers benefited from, and knowingly permitted, unauthorized overtime or uncompensated work, whereas here, there was no evidence that the Employer directed or knowingly allowed employees to work beyond their schedules without pay. The Employer noted that managers, like Dejan, were expected to authorize and approve any unscheduled work, and if employees worked without permission, corrective coaching or discipline–not retroactive pay–might be warranted.

[41] On the issue of unjust enrichment and *quantum meruit*, the Employer argued that these doctrines do not apply where a valid collective agreement governs compensation. It argued arbitral authority established the principle that arbitrators should not substitute equitable remedies for

collectively bargained terms. In its view, Article 13 of the CBA sets out mandatory hourly wage rates, but those rates only apply to time actually worked–not time merely clocked in.

[42] The Employer further argued that the Union's grievance amounted to an improper attempt to rewrite the CBA. In particular, it objected to what it described as the Union's attempt to elevate time-clock data to dispositive proof of work performed, absent any express language in the CBA to that effect. The Employer emphasized that Article 11 sets out scheduling obligations, not pay entitlements, and nothing in Articles 11, 12, or 13 mandates payment based solely on punch-clock data.

[43] The Employer attempted to distinguish the *ICBC* arbitration award, noting that in that case, the employer had actual knowledge that unauthorized overtime was being performed and failed to act. Here, it maintained, there was no such knowledge or acquiescence. Dejan's occasional adjustments were not made in bad faith, but reflected his understanding that employees were not working past scheduled times. The Employer contended that to impose retroactive compensation in such cases would reward employees for disregarding instructions and create operational and financial uncertainty.

[44] In addressing the Union's reliance on *ICBC*, the Employer argues that the case is distinguishable. In *ICBC*, the arbitrator found that the employer was aware that employees were regularly working overtime beyond their scheduled shifts and took no steps to prevent it–thereby knowingly accepting the benefit of that labour. The Employer asserts that this is not the situation here. It claims that any time worked outside scheduled hours was neither known nor implicitly permitted. Moreover, it submits that managers were not turning a blind eye to unauthorized work, but rather making good-faith determinations that such time was not compensable. As such, the factual foundation of *ICBC*–employer acquiescence to known work–is absent here.

[45] Finally, the Employer took issue with the scope of the remedy sought. It submitted that the

Union had provided only one confirmed instance of underpayment–McCaw–and that even she acknowledged being paid correctly in most instances. It argued that the broad retrospective remedy requested by the Union was disproportionate, speculative, and not supported by the evidence. Further, it stated that the Union had not demonstrated any widespread or systemic problem that would justify requiring a full audit of time records dating backward.

3. Evaluation of Competing Interpretations

[46] The core dispute in this matter centres on whether the Employer's practice of reducing recorded time to align with scheduled hours violates the CBA. The parties advanced significantly different interpretations of the relevant CBA provisions, supported by both factual and legal arguments. The Board must assess the credibility and coherence of those interpretations in light of the evidence and authorities cited.

[47] The Union argued that the language of the CBA–particularly Articles 12 and 13–requires payment for "all hours worked," and that nothing in the CBA authorizes the Employer to reduce clocked hours based on scheduling expectations or managerial assumptions about whether the employee was actually working. The Union emphasized that the CBA provides a specific rounding rule for overtime (Article 12.7), but no such provision exists for regular time, invoking the principle of *expressio unius est exclusio alterius*. According to the Union, this omission was deliberate and should be interpreted as a prohibition against any rounding or reduction of regular hours. The Union further submitted that by shaving time from time clock entries without investigation or consent, the Employer has unilaterally altered wage entitlements, contrary to Article 13.1 and the mandatory wage rates in Appendix A.

[48] The Employer did not deny that some managers reduced time clock entries, but contended this was done to reflect what they believed to be actual working time. The Employer maintained that Article 4 (Management Rights) confers the right to control operations and determine when work is

authorized. In their submission, employees are paid for time worked–not necessarily time clocked–and the time clock is simply a tool, not a definitive record of compensable time. The Employer submitted that it has the right to expect employees to work only their scheduled hours unless otherwise authorized and argued that any early or late clock-ins must be verified before being paid. It relied on the general proposition that work must be performed at the direction of the Employer to attract compensation and that employees cannot unilaterally expand their workday.

[49] We find merit in the Union's position. First, the evidence demonstrates that the Employer's managers–particularly in the Home Centre–applied a consistent practice of reducing recorded time, not on the basis of real-time investigation into whether work was being performed, but according to a presumption that time beyond the posted schedule was not compensable unless pre-approved. While this may be understandable as an operational approach, it is not supported by any language in the CBA. There is no provision that allows the Employer to adjust time records unilaterally or condition compensation on prior authorization except in the context of overtime, where rounding is specifically addressed.

[50] The Employer's reliance on Article 4 (Management Rights) does not override the express obligations contained elsewhere in the CBA. Article 4.4 explicitly states that management rights must be exercised in good faith and in a manner consistent with the specific provisions of the CBA. It is a well-established principle in labour relations that residual management rights exist only to the extent they do not conflict with negotiated rights. In this case, there is no language in the CBA that authorizes the Employer to reduce or disregard time actually worked simply to match the posted schedule. Where hours have been worked and recorded, the entitlement to pay arises from the CBA itself and cannot be unilaterally curtailed by managerial discretion.

[51] We are also persuaded by the Union's submission that time clock data–while not infallible–provides a presumptive record of work unless the Employer can establish otherwise through specific inquiry. The evidence from Dejan revealed that time reductions were often made

without confirming whether work had ceased. The Employer's position requires the Board to accept that employees are regularly clocking in and out without performing duties, yet the only evidence supporting that theory is managerial assumption. We do not accept that as sufficient to justify unilaterally altering time entries.

[52] We accept the Union's submission that the Employer is obligated to compensate employees for all work performed, whether or not it was expressly authorized in advance. Where an employer receives the benefit of an employee's labour, equity and fundamental employment principles require payment for that work. Even if the Employer did not authorize work beyond scheduled hours, it cannot retain the benefit of that work without compensation. If it wishes to prevent such situations, the appropriate recourse is through enforcement—by providing clear direction, establishing expectations, using progressive discipline where warranted, or configuring systems (such as time clocks) to prevent early or late clock-ins. What the Employer cannot do is unilaterally adjust time records after the fact to avoid paying wages for time actually worked.

[53] This reasoning is consistent with the approach taken by Arbitrator Taylor in *ICBC*. In that case, the employer refused to pay for overtime that had not been pre-approved, despite knowing that employees were routinely staying late to complete their work. The arbitrator held that employers who knowingly permit or benefit from work performed beyond scheduled hours cannot escape liability for that time, even in the absence of express authorization. We find that principle applicable here. The Employer's knowledge–actual or constructive–of time recorded outside the scheduled shift, coupled with its failure to investigate or intervene, supports the conclusion that it received the benefit of work performed and must pay accordingly.

[54] We also note that the Employer did not produce any internal policies or express written communications advising employees that time beyond scheduled hours would not be paid. The lack of such policy documents weakens its claim that there was an understood rule or standard limiting compensable time to scheduled hours. To the contrary, the evidence suggests that even managers

were unsure of the applicable standards until recent payroll training sessions were held.

[55] Finally, the Board finds that while the CBA provides a clear rounding rule for overtime (to the nearest 15 minutes), it is silent as to any similar rule for regular time. The Union is correct in asserting that this silence must be read as an intentional exclusion, especially where the CBA elsewhere contains precise rules about scheduling, overtime, and rest periods. The Employer's attempt to imply a discretionary rounding authority for straight time is inconsistent with established arbitral interpretive principles.

[56] Accordingly, we conclude that the Employer's practice of reducing time clock entries to conform to scheduled hours, without verifying whether work was performed and without employee consent or express contractual authority, constitutes a breach of the CBA.

VI. CONCLUSION

[57] For the reasons set out above, the Board finds that the Employer's practice of adjusting employee time clock entries to conform to scheduled hours, without specific inquiry or consent and absent any contractual authority, violates the CBA.

[58] We conclude that the Employer has failed to pay employees for all hours worked, contrary to Article 13 and Appendix A of the CBA. The Employer's use of a rounding approach or assumption-based time reductions for straight time hours is unsupported by the agreement's language and is inconsistent with both the text and the structure of the CBA. The only rounding rule negotiated by the parties applies to overtime under Article 12.7. By applying similar practices to regular time, the Employer has exceeded its authority and failed in its obligation to compensate employees as required.

[59] The Employer's managers, particularly in the Home Centre, routinely altered time records

without making individual determinations about whether work had been performed. While we accept that these adjustments may have been made in good faith or out of operational habit, the failure to assess the actual circumstances of each instance–combined with the absence of a clear written policy or notice to employees–renders the practice unreasonable and contrary to the CBA.

[60] We recognize that this Grievance was advanced as a policy grievance. The Union seeks not merely individual redress for McCaw, but a remedy of broader application. The evidence establishes that the Employer's practice affected not only McCaw but also other employees. The Employer's own witness, Dejan, acknowledged that he routinely reduced clocked time for all staff under his supervision based on scheduled hours. This was not an isolated instance but a systemic practice, likely extending to other departments.

[61] The Board finds it reasonable and necessary to order a make-whole remedy for all affected employees retroactive to the implementation of the Employer's electronic time clock system in August 2019. The Employer maintains digital records of time entries and payroll data, and there is no evidence before us that producing and analyzing these records would create undue hardship. Accordingly, the scope of the remedy is practical, proportionate, and consistent with the systemic nature of the violation.

[62] We further order that the Employer disclose to the Union the relevant time records and any records of adjustments necessary to determine amounts owing. Such records shall be provided in an accessible electronic format (e.g., Excel), organized by employee and pay period, and shall include:

a) original clock-in and clock-out times;
b) scheduled shift times;
c) adjusted payroll times; and
d) any notations explaining the reason for adjustments, where available.

[63] The Employer shall disclose these records no later than sixty (60) calendar days from the date of this Award. Within thirty (30) days thereafter, the Employer and Union are directed to meet to review the records and attempt to agree on the amounts owing and the method of payment. If agreement cannot be reached within that period, the matter may be referred back to this Board for further direction or determination.

[64] The Board remains seized to address any disputes arising from the interpretation, implementation, or application of this Award.

[65] The Board wishes to thank counsel for their able presentation of this case. Both counsel provided well-prepared and thoughtful written submissions, and their oral arguments were articulate, focused, and helpful to the Board's deliberations. We also acknowledge and appreciate the professionalism, courtesy, and respect they demonstrated toward one another and toward the Board throughout the hearing process.

The arbitration board has met and reviewed the above written award. I, together with Hugh Wagner, the Union Nominee, agree and concur with this award. Glen Gantefoer, the Employer Nominee, disagrees and dissents from this decision. This majority award is therefore the official ruling of the arbitration board, and I issue it at Saskatoon, Saskatchewan, on June 2, 2025.

T. F. (Ted) Koskie, B.Sc., J.D., Chair