

**EXPEDITED ARBITRATION  
DECISION  
6/30/99  
GR # 14-00-990518-0036-02-11**

**PARTIES:** SEIU 1199/ODH

**HEARING DATE:** 6/16/99

**ISSUE:** Are Surveyors in the Health Department entitled to shift differential pay under Article 43.07 of the Collective Bargaining Agreement?

**BACKGROUND**

President Clinton's initiative and HCFA guidelines require Surveyors in the Ohio Department of Health (ODH) to periodically work hours outside of their normal 6:30 a.m. to 6:30 p.m. range of hours. The hours of work will vary as required by the Employer and may include overtime, when appropriate. On 5-17-99, the parties agreed upon a Memorandum of Understanding regarding the terms under which Surveyors would work, in addition to those already contained in the CBA.

The parties successfully reached agreement on several matters in an expedient fashion. However, one issue, as delineated above, remained in dispute.

**DISCUSSION**

The Employer argues that Surveyors do not work shifts. The hours worked by Surveyors after 5:00 p.m. are infrequent and Article 43.07 never was intended to apply to situations where two or more shifts exist, contends the Employer. Therefore, Surveyors do not deserve shift differential for working hours that fall within the criteria contained in Article 43.07.

The Union argues that shift differential applies to hours worked and is not dependent upon the existence of other shifts.

I find the language of Article 43.07 to be clear in its intent to pay employees a .50 per hour differential for working a shift in which the majority of the hours are after 3:00 p.m. or before 7:00 a.m., for all hours worked after 5:00 p.m. The language of Article 43.07 refers to "*An employee who works a shift...*" It does not say an employee who regularly works a shift or one who works a shift that abuts other shifts.

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