IN THE MATTER OF AN ARBITRATION

BETWEEN:

Air Canada

And

CUPE, Air Canada Component

(Failure to Consult)

Before:	William Kaplan Chief Arbitrator
Appearances	
For Air Canada:	Irene Chrisanthopoulos Legal Counsel Air Canada
For CUPE:	Adrienne Lei Dewart Gleason Barristers & Solicitors

This matter proceeded by way of written submissions.

Award

This matter concerns the establishment of meal allowances. The Collective

Agreement provides:

The meal allowances for all other locations shall be established by the Company following consultation with the Union, to cover the reasonable cost of meals at those locations. Meal allowances at these locations will be adjusted when there is a five (5) percent change on the basis of six (6) month running average plus or minus. However, such meal allowances shall not be less than those provided under Article 7.02.02 Canada/United States meal allowances.

On March 23, 2018, I issued an award:

Air Canada directed to consult with union re: meal allowance in accordance with the collective agreement, i.e., prior to the implementation of any decision.

On May 16, 2018, the union alleged that the employer was continuing to breach the collective agreement along with the March award and, furthermore, was refusing to comply with the union's "reasonable requests for information concerning the company's establishment of meal allowances." That matter proceeded by written submissions. On June 6, 2018, I issued a second award:

The collective agreement (and my award) requires the company to consult prior to establishing meal allowances. The company has acknowledged its responsibility to do so and it is not likely that compliance will be an issue in the future. The collective agreement also provides for the formula-driven adjustment of those meal allowances, presumably because of currency fluctuations and changes in local conditions. While the collective agreement does not specifically require consultation prior to adjustments it is a best practice and, at the very least, the union is entitled to the information supporting any adjustments.

Accordingly, the company is directed to consult with the union as required by the collective agreement and my award when establishing meal allowances and to also provide the union, in a timely and regular way, with the information it relies on when making adjustments to established meal allowances. At the request of the parties, I continue to remain seized with the implementation of this award.

On August 20, 2018, the union alleged that the employer continued to be in breach of both the collective agreement and the March and June awards. At the request of the parties, this dispute proceeded by written submissions.

Submissions

In brief, the union takes the position that the employer continues to breach the collective agreement and the March and June awards. In particular, the union asserted that the employer was not providing it with the information that it relied on in establishing and adjusting meal allowances, notwithstanding repeated union requests for this information. The union sought on going production of the identified information including "adjustment spreadsheets and expense formulas" along an order directing compliance with the collective agreement and the March and June awards.

For its part, the employer asserts that there has been no breach of the collective agreement or either award. In its submissions, it documented the meetings that took place between company and union representatives, and detailed the information that was provided at those meetings. It further takes the position that some of the union requests, for example, for "adjustment spreadsheets and formulas" goes well beyond that contemplated by either the collective agreement or the awards, and is also not provided to any other Air Canada union. The employer also noted that three

new grievances have been filed alleging other specific breaches. In all of the circumstances, the employer asked that the union requests be dismissed.

Decision

It is appropriate to begin with the February 1, 2018 grievance that led to the first award (and subsequent proceedings). It sought, among other things, a declaration that Air Canada violated the collective agreement by failing to consult with the union when establishing meal allowance. In March and then June 2018, the employer was directed to consult with and to provide the union with the information it relied on. While there were some initial implementation problems, they were quickly addressed. For example, on July 16, 2018, the union wrote the employer: "I wanted to thank you again for coming to meet with us and go over the company's methods for determining and maintaining the meal allowances for the cabin crew." There was an extensive presentation: "Meal Allowance Overview" that included information on the process and the data/methodology that was relied upon to make the calculations.

This is not to say, however, that the union was entirely satisfied with the information that was provided. Indeed, further information is now being sought. The employer objects to the disclosure of additional information.

The June award directed as follows:

> ...the company is directed to consult with the union as required by the collective agreement and my award when establishing meal allowances and to also

provide the union, in a timely and regular way, with the information it relies on when making adjustments to established meal allowances.

Quite clearly, the employer has been directed to provide the union with "the information it relies on." This is the information that must be disclosed. So, for example, if Air Canada makes an adjustment reducing meal allowances at a particular location, it must provide the union with the information that informed that decision: not some of the information, but *all* of the information that was considered in making the adjustment. This is what the March and June awards require. Whatever information is relied upon is to be disclosed. The union's further requests for historical and other information is best addressed in the context of the new and particular subject-specific grievances it has filed pursuant to an "arguably relevant" test should those cases proceed and should the parties not come to an agreement.

I continue to remain seized with respect to the implementation of my awards.

DATED at Toronto this 17th day of September 2018.

"William Kaplan"

William Kaplan, Chief Arbitrator