

**Canadian Union of Public Employees,  
Air Canada Component**

**Grievance Form**



**GRIEVANCE NUMBER: CHQ-19-35 (POLICY)**

**SUBJECT: Employee Privacy and Medical Information; Hair Follicle Testing**

**DEPARTMENT:** Mr. Giuseppe Morello, Director, Air Canada Labour Relations - IFS

**NATURE OF THE GRIEVANCE:**

Air Canada's "Policy on Alcohol and Drugs" provides for "Intoxicating Substance Testing" of employees in three circumstances: (1) reasonable cause testing, (2) post-incident testing, and (3) testing upon return to work after treatment for addiction. The policy does not provide for testing for employees returning to work absent treatment for addiction.

Air Canada announced on August 30, 2019, that "[a]lthough Air Canada does not use hair sampling in cases of reasonable cause testing, it will do so when conducting testing under an [Memorandum of Agreement]." The proposed hair follicle testing and test results go well beyond Air Canada's policy and normal testing protocols.

The proposed hair follicle testing does not provide adequate consideration to balancing employees' privacy interests and are therefore in breach of the collective agreement, an unreasonable exercise of management rights, and in breach of the *Personal Information Protection and Electronic Documents Act* (PIPEDA) and any other relevant legislation.

**SETTLEMENT REQUESTED:**

1. A declaration that Air Canada breached the Collective Agreement, exercised its management rights unreasonably, and that Air Canada breached *PIPEDA* and any other relevant legislation;
2. That Air Canada revise its policies, procedures, and/or guidelines regarding intoxicating substance testing for employees returning to work absent treatment for addiction to limit testing to one sample of urine and/or breathalyzer tests;
3. That Air Canada destroy all data collected pursuant to its hair follicle testing procedures to date and rescind any discipline issued in reliance on such testing or refusing to comply with such testing;
4. That Air Canada pay human rights damages to all affected members;
5. Any other relief deemed appropriate.

**We request a hearing within the contractual time limits and that the Company provide all documentation relied upon in this matter.**

Signature of Employee(s) or Union Officer

Name of Union Officer Originating Grievance: Wesley Lesosky, President, Air Canada Component of CUPE

Date: September 5, 2019