

**IN THE MATTER OF AN INTEREST ARBITRATION**

**BETWEEN:**

**JAZZ AVIATION LP**

and

**UNIFOR LOCAL 2002**

**AIR CANADA BARGAINING UNIT  
JAZZ AVIATION BARGAINING UNIT**

and

**AIR CANADA**

**SMALL BASES DISPUTE**

**ARBITRATOR:** Tom Hodges

**AIR CANADA:** Christopher D. Pigott, Counsel  
Fred Headon, Assistant General Counsel  
Michael Abbott, Managing Director Labour Relations  
John Beveridge, Director Labour Relations

**UNIFOR:** Jenny Ahn, Assistant to the National President  
Cheryl Robinson, President Local 2002  
Lucy Alesio, Local 2002  
Leslie Dias, National Representative, AC Bargaining Unit  
Frances Galambosy, AC Bargaining Chair  
Joel Fournier, National Representative, Jazz Bargaining Unit  
Denise Cochrane, Jazz Bargaining Chair

**JAZZ AVIATION:** Peter Csiszar, Counsel  
Kirk Newhook, Vice President, Employee Relations

**HEARING:** August 5, 2016

**AWARD:** August 13, 2016

## **JURISDICTION**

The parties agree that I have jurisdiction in this dispute in accordance with the Canada Labour Code and the following terms of reference.

**JAZZ AVIATION LLP  
And  
AIR CANADA  
And  
UNIFOR and its LOCAL 2002**

## **PREAMBLE**

WHEREAS in June 2015, Air Canada and Unifor concluded a Memorandum of Agreement (hereinafter "2015 MOA") which provided for the termination of the secondment of Air Canada employees in various airport locations (hereinafter Small Bases) that are operated by Jazz. These locations are Thunder Bay (YQT), Saskatoon (YXE), Regina (YQR), Quebec (YQB), Moncton (YQM), Saint John (YSJ) and Charlottetown (YYG).

WHEREAS in the spring of 2016, Air Canada employees made elections pursuant to the 2015 MOA. They could either select to relocate to an Air Canada mainline location, accept a voluntary separation package or retire from Air Canada.

WHEREAS on February 8 2016, Jazz issued a letter offering employment to all former seconded Air Canada employees working in the Small Bases who applied to be hired at Jazz.

WHEREAS on February 9, 2016 Unifor filed two (2) grievance against Jazz contesting the wages and the seniority offered to former Air Canada employees who were hired at Jazz (402-03-16 and 402-02-16).

WHEREAS on April 8 2016, Unifor filed a grievance against Air Canada contesting the enforceability of the 2015 MOA (P-ACC-04-16).

WHEREAS the three (3) grievances were heard by Arbitrator Martin Teplitsky who issued an interim decision on June 9, 2016, but was unable to issue a final decision.

WHEREAS in his decision of June 9, 2016, Mr. Teplitsky made clear that he would hold a hearing and make a further award to determine what orders should follow the June 9, 2016 decision in terms of variations from his January 2010 award and the agreement of Unifor and Air Canada.

WHEREAS in the course of a teleconference hearing held on June 29, 2016, Mr. Teplitsky advised that notwithstanding his award of June 9, 2016, the 2015 MOA could proceed with variations ordered by him.

WHEREAS Arbitrator Teplitsky passed away before a final decision was rendered on the grievances.

NOW THEREFORE the Parties agree as follows:

1. The preamble is an integral part of these terms of reference.
2. The Parties agree that Arbitrator Hodges will be appointed to conduct an interest based arbitration that is limited to the following questions:

(a)What will be the wages applicable to the former Air Canada employees who are hired at Jazz?

(b)What will be the seniority rights applicable to the former Air Canada employees who are hired at Jazz?

3. The hearing date will be convened within ten (10) days of the signing of these terms of reference.
4. Two (2) days prior to the hearing, each of the parties may submit a written brief outlining their position on the items identified in paragraph 2, above, and will not, on the topics of wages and seniority rights, be bound by any previous positions submitted before arbitrator Teplitsky.
5. The Parties request that the arbitrator issue his decision in this matter no later than three (3) days following the hearing date.
6. The Parties agree that the employment relationship with Air Canada will cease, on the day of the election or deemed election as per paragraph 8, for those employees who elect to take a voluntary separation package as well as for those who have elected to retire.
7. Air Canada commits to compensate and provide benefits until the date that Air Canada employees seconded to Jazz make their election or are deemed to have accepted their prior election pursuant to paragraph 8 below, and who have not received a work schedule at Jazz all of their respective wages and benefits as if they were properly scheduled during that period. With respect to those former Air Canada employees who apply to work at Jazz, Air Canada agrees to further compensate these employees in the same fashion until their respective start date at Jazz. With respect to Air Canada employees who have elected or elect to relocate to another Air Canada workplace, Air Canada agrees to compensate and provide all such employees their wages and benefits if their relocation causes them absence from work.
8. This compensation is contingent upon Unifor agreeing to hold in abeyance CIRB file 31722-C (suspend all timelines for the filing of a response), during the arbitration process, the implementation of the arbitrator's award, and then withdrawal when the award is fully implemented.
9. Once the decision is issued, Air Canada will grant the former employees who were seconded to the small bases an opportunity to resubmit their election under the 2015 MOA and decide to relocate to an Air Canada mainline location, to accept a voluntary separation package or to retire from Air Canada. The elections must be completed within four (4) days of the release of the arbitrator's award. If an employee fails to resubmit their election form, Air Canada will process their election based on their choice submitted in the spring of 2016
10. Jazz agrees that it will engage in active employment, subject to the terms of the arbitrator's award, all former seconded Air Canada employees who apply for such employment, forthwith after Jazz receives such an application. The award of the arbitrator will be final, binding and is not subject to further approval or ratification by any of the Parties. The Parties further agree that the award of the arbitrator will fully and finally resolve all of the issues raised in the proceeding before Arbitrator Teplitsky.

The four parties to the previous Small Base agreements, understandings and arbitration decisions have agreed to the terms of reference set out above. They have also agreed that in order to comply with the requirement

for a decision being provided within three days of the hearing as set out in paragraph five above, I will provide a decision with analysis and reasons to follow.

## **DECISION**

After review of the submissions and evidence provided I have found the following:

- The former Air Canada CSA's working at Jazz were seconded employees of Air Canada while at Jazz Aviation
- The former Air Canada CSA's seconded to positions at Jazz are bound by Air Canada's decision to cease operations at Small Bases and the provisions of June 13, 2015 related agreement
- I am without authority to stop the Air Canada decision to close the affected bases or to amend the agreement of June 13, 2015
- Jazz has recognised the value of the experience and training of the former Air Canada CSA's as set out in Jazz's offer of employment for the affected Air Canada CSA's to Unifor in Mr. Newhook's letter of February 8, 2016
- I have jurisdiction over seniority rights and wages for former Air Canada CSA's who elect to enter an employment relationship with Jazz as provided in the Terms of Reference
- I have jurisdiction to resolve any grievances filed by former Air Canada CSA's who elect to enter employment with Jazz regarding severance payments or related provisions of the Air Canada June 13, 2015 base closure agreement
- In accordance with arbitrator Teplitsky's decisions of June of June 9 & 29, 2016, the June 13, 2015 agreement is effective with the following variations

Seconded AC CSA's who elect to sever their employment with Air Canada under the terms of this award will be returned to their previous base of work and will be subject to the following conditions when they start their employment relationship with Jazz;

1. Former AC CSA's will begin to accrue Jazz seniority in accordance with the date at which they cease to be AC employees, this will result in these employees all having the same jazz seniority date but will be ranked respecting their seniority from the AC Unifor seniority list.
2. The Jazz seniority date will govern the bidding of schedules, vacation, awarding of vacancies etc.
3. Notwithstanding the forgoing seniority provisions, former AC CSA's who elect to accept employment with Jazz will be returned to their status and entitlement at their former base that they held prior to the transfer of the base to Jazz. They will maintain this status as long as they stay in that base.
4. In the event of a layoff, reduction or bumping into one of the former Air Canada "C" bases I will remain seized with respect to the application of the application layoff language as it pertains to these former AC employees and their job status.

5. For clarity a full time permanent seconded AC employee as of June 1<sup>st</sup> who elects employment with Jazz will be returned to their previous full time permanent position at their former base despite that their Jazz seniority number would otherwise not entitle them to hold that position. Similarly, a permanent part time seconded AC employee will be returned to that position at their former base and will only be entitled to the hours of work that were available to them under the part time work rules of the Air Canada agreement.
6. Part time employees eligible to work under the above rules will only select additional hours above their AC guarantee once all Jazz part time employees with a higher Jazz seniority date have selected.
7. If any of the former AC seconded employees elect to use their new Jazz seniority to bid on vacancies outside their base they will lose the rights afforded them under the paragraphs above.
8. In accordance with other terms of this award for the purposes of vacation accrual, the former AC seconded employees will be entitled to the vacation accrual date of 2005.
9. Former AC seconded employees will be placed at step 11 of the CSA Scale for New Employees.

It is recognized that this process has implications in undoing the vacancy awards that were processed by Jazz for positions that were made available by the vacant positions left from the AC seconded employees, I will remain seized, on an expedited basis, in determining an equitable way of resolving those issues once the former AC seconded employees declare their intentions. The foregoing bottom line provisions will be incorporated into the final reasoned decision.

I remain seized with respect to the application and interpretation of this award.

Dated this 13<sup>th</sup> day of August, 2016

A handwritten signature in black ink, appearing to read "Tom Hodges", with a stylized flourish at the end.

Tom Hodges  
Arbitrator