



School Closure and Salary

When are Substitute Teachers Entitled to be Paid?

by DEANA HATCHER

Every year NLTA Programs and Services staff receive questions regarding whether a substitute is entitled to be paid during a school closure. In order to make that determination we outline the provisions of the collective agreement and ask questions about the teacher's particular situation. Here is what we typically ask in order to provide advice on this question:

- 1) Was the teacher contracted to work on the day in which the closure occurred?
- 2) Was the school deemed to be closed?
- 3) Was the reason for the closure one of those listed under Section 32 of the *Schools Act*?

In most cases, if all three questions above are answered "yes", the substitute is entitled to be paid for the hours they were contracted to work. Relevant excerpts from the collective agreement as well as Section 32 of the *Schools Act* are listed below. What follows are some common scenarios with answers as regards to whether or not the substitute is entitled to be paid under the particular circumstances.

Clause 49.04 of the Provincial Collective Agreement (Clause 46.04 of the Labrador West Collective Agreement) states:

For salary purposes, substitute teachers shall be deemed to have kept school on any day or part thereof where:

- (a) *the school is closed pursuant to Section 32 of the Schools Act, 1997; or*
- (b) *previously contracted substitute services are not required for any other reason(s) and the substitute teacher is not notified prior to reporting for duty at the school that his or her services are not required.*

Section 32 of the *Schools Act, 1997* states:
A teacher in a school shall, for the purpose of determining payment of salary, be considered to have taught on a day or part of it when

- (a) *the teacher having charge of the school closes it because of inclement weather, under a general authority given to him or her orally or in writing by or under the*

direction of the board;

(b) *the school is closed by order of the minister responsible for health by reason of disease being or threatening to become epidemic;*

(c) *the school is closed by the board at any time after opening to enable repairs to be effected;*

(d) *the school is declared uninhabitable by the board because of fire, storm, failure of the sewage system or other cause of a similar nature;*

(e) *the teacher was unavoidably prevented from opening the school because of delay in construction of new buildings or the extension, remodelling or renovation of existing buildings and the minister is satisfied that no alternative accommodation was available;*

(f) *the school was closed because of lack of heating or for another reason, where, in the opinion of the minister, the closing of the school could not have been avoided by the teacher; or*

(g) *the teacher is required to act as a member of the board of arbitration established in accordance with the collective agreement as defined in the Teachers' Collective Bargaining Act.*

Scenario 1

A substitute teacher is contracted to work for a teacher who is scheduled to attend a professional development workshop. The day prior to the workshop, the workshop is cancelled and the regular teacher is scheduled to return to work. Is the substitute entitled to be paid?

In this scenario, school was not closed and so as long as the substitute teacher is contacted "prior to reporting for duty at the school" he/she would not be entitled to pay. However, if the substitute is not notified prior to reporting for duty, then they are entitled to receive pay for the day in question.

Scenario 2

A substitute teacher is contracted to work at a school

on a particular day or for a particular contract period and that school is subsequently closed due to inclement weather. The substitute is notified of the school closure and cancelled prior to arriving at the school. Is the substitute entitled to be paid?

The substitute is under contract and the reason for the school closure falls under those listed in Section 32 of the *Schools Act*, therefore they are entitled to be paid, regardless of being contacted prior to arriving at school.

Scenario 3

A substitute teacher is contracted a week in advance to substitute for a teacher who is going to be absent on a Friday. The school sends out a notice on Wednesday that there is going to be a scheduled power outage forcing the school to close on Friday due to lack of heating. Is the substitute teacher entitled to be paid for the day, since they were notified prior to reporting for duty at the school?

Yes, the substitute teacher will still be entitled to be paid for the day, regardless if the substitute is contacted by the school and informed that the school will be closed. The reason for the closure falls under Section 32 of the *Schools Act*. The substitute teacher, like any other regular teacher on that staff, is deemed to have kept school on that day or part thereof for the purpose of determining salary.

Scenario 4

A substitute teacher is contracted to work for a teacher on sick leave for a dental procedure. The morning of the appointment, the procedure gets cancelled and the regular teacher is scheduled to return to work. The substitute is notified prior to reporting for duty at the school that the contract is no longer required and is cancelled. Later, the school is closed due to weather. Is the substitute teacher entitled to be paid?

The substitute teacher would not be entitled to be paid since the contract was cancelled for reasons other than a school closure pursuant to Section 32 of the *Schools Act*. The regular teacher was due to return to work. At the time that the school was closed, due to weather, there was no contract in place with the substitute as it was already cancelled for other reasons. If, however, the substitute is not notified of the cancellation prior to reporting for duty, then they are entitled to receive pay for the day in question.

Scenario 5

A substitute is contracted to work for a teacher who will be out with students on a field trip. The school remains open but the field trip is cancelled due to

weather and the substitute is no longer required. Does that fall under Section 32 of the *Act* for weather-related reasons and is the substitute entitled to be paid?

In the scenario above, the school was not closed and the regular teacher assumed those duties no longer required by the substitute. As long as the substitute teacher is contacted prior to reporting for duty at the school, he/she would not be entitled to pay.

Teachers with questions regarding entitlement to be paid during school closures are encouraged to contact an Administrative Officer with the NLTA to discuss your particular circumstances.

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