



Public Service Staff
Relations Act

Before the Public Service
Staff Relations Board

BETWEEN

STAFF OF THE NON-PUBLIC FUNDS, CANADIAN FORCES

Applicant

and

PUBLIC SERVICE ALLIANCE OF CANADA

Respondent

RE: Request for Review under Section 27
of the Public Service Staff Relations Act

Before: Yvon Tarte, Chairperson



(Decided without an oral hearing.)



DECISION

In a letter dated February 28, 1997, the Staff of the Non-Public Funds, Canadian Forces (SNPF) requested the Public Service Staff Relations Board to do the following:

The Staff of the Non-Public Funds requests the merging of the following bargaining units:

a. 3 Wing Bagotville - Administrative Support Category certified October 1984 and Operational Category certified November 1984.

...

In our view each of the categories at the above-named bases fit the definition in the Act of "bargaining units" appropriate for collective bargaining. This request is based on the following as applicable at each base:

- i) *A single classification plan is in effect, or will be implemented, covering all employees in both categories at each location; Sec35(2);*
- ii) *The past practice at each location has been to have one set of negotiations;*
- iii) *Past practice, at each base, confirms that "the capacity of the bargaining agent to conduct a viable and meaningful labour relationship with the employer in relation to the employees in the bargaining unit would not be deterred" (PSSRB Board file 142-18-316);*
- iv) *Valcartier Board File no: 142-18-314 - all employees lumped together for the vote;*
- v) *Employees at each base have substantial community of interest and concerns;*
- vi) *Identical terms and condition of employment;*
- vii) *The operations at each base are self sustaining; and*
- viii) *Simplification.*

By letter of April 7, 1997, the Public Service Alliance of Canada (PSAC) requested clarification from the Board on the appropriateness of the application:

"The present application by the Staff of the Non-Public Funds does not invoke any section of the Act which empowers the Board to exercise its authority with respect to past decisions and to make the determination requested." They suggested the application might have been better filed pursuant to section 27 of the Public Service Staff Relations Act (PSSRA).

By letter of April 14, 1997, the SNPF amended its application "...to read Section 27 instead of Section 33".

Section 27 of the PSSRA provides:

(1) Subject to subsection (2), the Board may review, rescind, amend, alter or vary any decision or order made by it, or may re-hear any application before making an order in respect thereof.

(2) Any rights acquired by virtue of any decision or order that is reviewed, rescinded, amended, altered or varied pursuant to subsection (1) shall not be altered or extinguished with effect from a day earlier than the day on which the review, rescission, amendment, alteration or variation is made.

By letter of May 23, 1997, the PSAC stated:

The union represents both the Administrative and the Operational bargaining units at the five sites identified in the application of the employer. At these sites, 3 Wing Bagotville,... both bargaining units have, as a practice, been represented at the same bargaining table and a single collective agreement has been negotiated, with specific articles dealing with the specific needs of both groups of employees. We note that the employer cites that both groups have identical terms and conditions of employment. This is not accurate in that the hours of work for both groups are different and are identified as such in the agreements.

This being said, the union does not oppose the merging of the Administrative and Operational bargaining units as requested by the employer. PSAC represents the two bargaining units at each of the sites and has consulted with the elected representatives of our members. We take this position without prejudice to any position we may take with respect to NPF bargaining units, at sites other than those identified in this application.

In a decision dated October 31, 1984, the Board determined that all employees of the SNPF "in the Administrative Support Category employed at the Canadian Forces Base, Bagotville, Quebec" constituted a unit appropriate for collective bargaining and certified the PSAC as bargaining agent for that bargaining unit: Board file 145-18-233. On November 15, 1984, the Board found that all employees of the SNPF "in the Operational Category employed at the Canadian Forces Base, Bagotville, Quebec" constituted a unit appropriate for collective bargaining and certified the PSAC as bargaining agent for that bargaining unit: Board file 146-18-232.

It should be noted that the Board duly issued certificates to the PSAC for both these afore-mentioned bargaining units. Also at the time when the Board determined the bargaining units, subsection 33(3) of the PSSRA prohibited it from determining that a unit which contained employees from more than one occupational category constituted a unit appropriate for collective bargaining. However, that restriction no longer applies as subsection 33(3) and the definition of "occupational category" contained in section 2 of the PSSRA were repealed upon the coming into force of certain provisions of the *Public Service Reform Act* on April 1, 1993. In light of this, the Board is satisfied that the amended bargaining unit proposed by the PSAC is appropriate for the purposes of collective bargaining.

Accordingly, pursuant to section 27 of the PSSRA and in light of the written submissions of the parties, the Board amends the afore-mentioned decisions insofar as they relate to the determination of the appropriate bargaining units and finds that the following bargaining unit is appropriate for collective bargaining:

all employees of the Staff of the Non-Public Funds, Canadian Forces in the Administrative Support Category and the Operational Category employed at the Canadian Forces Base, Bagotville, Quebec.

The Board hereby revokes the certificates issued to the PSAC for the bargaining units previously determined to be appropriate. The Board also certifies the PSAC as bargaining agent for the bargaining unit described above. A certificate will issue in due course.

Yvon Tarte
Chairperson

OTTAWA, June 30, 1997.