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File: 181-02-499

Citation: 2005 PSLRB 104



Public Service Staff Relations Act

Before the Public Service
Labour Relations Board

BETWEEN

TREASURY BOARD

Applicant

and

**UNION OF CANADIAN CORRECTIONAL OFFICERS - SYNDICAT DES AGENTS
CORRECTIONNELS DU CANADA - CSN**

Respondent

Indexed as

*Treasury Board v. UNION OF CANADIAN CORRECTIONAL OFFICERS - SYNDICAT DES
AGENTS CORRECTIONNELS DU CANADA - CSN*

In the matter of a determination that positions have safety or security duties under
sections 78.1 to 78.5 of the *Public Service Staff Relations Act*

REASONS FOR DECISION

Before: Ian R. Mackenzie, Vice-Chairperson

For the Applicant: Micheline Maisonneuve, Treasury Board

For the Respondent: Michel Gauthier, UNION OF CANADIAN CORRECTIONAL OFFICERS
- SYNDICAT DES AGENTS CORRECTIONNELS DU CANADA - CSN

(Decided without an oral hearing)

[1] In *Treasury Board v. UNION OF CANADIAN CORRECTIONAL OFFICERS - SYNDICAT DES AGENTS CORRECTIONNELS DU CANADA - CSN*, 2005 PSLRB 47, the Board designated positions in the bargaining unit, which bargaining unit consists of all employees of the Employer in the Correctional Services Group, pursuant to subsection 78.1(6) of the *Public Service Staff Relations Act* (the “former Act”). Diskette CX *Designations*, dated May 27, 2005 (the “old diskette”), contains a list of positions which the parties agreed had safety or security duties as of that date.

[2] On April 1, 2005, the *Public Service Labour Relations Act*, enacted by section 2 of the *Public Service Modernization Act*, S.C. 2003, c. 22, was proclaimed in force. Pursuant to sections 39 and 58 of the *Public Service Modernization Act* and section 107 of the *Public Service Labour Relations Board Regulations*, the Board must dispose of this referral in accordance with section 76 to 90.1 of the former Act and the *P.S.S.R.B. Regulations and Rules of Procedure, 1993* (the “former Regulations”).

[3] On August 10, 2005, the employer advised the Board that, as per the procedure set out in the Memorandum of Agreement dated March 26, 2004, the parties agreed to amend the list in the old diskette. Enclosed with the employer’s letter was a new diskette bearing identification CX *designations* and dated August 9, 2005 (the “new diskette”). The employer advised the Board that the bargaining agent had been provided with a true printout of the contents of the new diskette. The new diskette is accepted by the Board as containing the list of all of the positions which the parties now agree have safety or security duties.

[4] On the basis of the agreement of the parties, the Board hereby revokes the designation of any positions that the parties now agree no longer have safety or security duties, as the case may be. The Board also revokes the Forms 13 issued for those positions. The Board directs the employer to return forthwith any Forms 13 still in its possession and that have not been distributed to employees in those positions. Furthermore, the employer is to make every reasonable effort to obtain any Forms 13 that may have been so distributed to employees in those positions. The bargaining agent is to cooperate in this regard. The Board will destroy the Forms 13 when returned by the employer.

[5] On the agreement of the parties and pursuant to subsection 78.1(6) of the former Act, the Board hereby designates any positions that appear on the new diskette and which the parties now agree have safety or security duties.

[6] Pursuant to section 78.5 of the former *Act*, the Board hereby authorizes the employer to inform the employees occupying the positions designated above. For this purpose, the Board will provide the employer with a Form 13 for each of those positions, containing all the information required, with the exception of the name of the employee occupying the designated position and the "Dated at..." portion of the Form, which is to be completed by the employer prior to notification.

[7] Furthermore, the persons who occupy the positions designated above are to be so informed within the time limit and pursuant to the procedure specified in subsection 60(1) of the former *Regulations*. Thereafter, future occupants of a designated position shall be notified within 30 days of the date on which they first occupy the position.

[8] Finally, the Board draws the employer's attention to its responsibility under subsection 60(2) of the former *Regulations* that, on the notification of an employee who occupies a designated position, it is to provide forthwith a copy of the notice referred to in subsection 60(1) to the bargaining agent.

August 17, 2005.

**Ian R. Mackenzie,
Vice-Chairperson**