

Public Service Staff
Relations Act



Before the Public Service
Staff Relations Board

BETWEEN

RESEARCH COUNCIL EMPLOYEES' ASSOCIATION

Bargaining Agent

and

NATIONAL RESEARCH COUNCIL

Employer

RE: Determination of Designated Positions -
Purchasing and Supply

Before: [Yvon Tarte, Chairperson](#)

(Decided without a hearing.)

DETERMINATION AND NOTICE OF DESIGNATION OF POSITIONS

Pursuant to subsection 78.1(4) of the *Public Service Staff Relations Act (PSSRA)*, the parties met to review the position of each employee in the purchasing and supply group bargaining unit to determine whether any of them had safety or security duties as specified in subsection 78(1). By letter dated November 18, 1996, the employer pursuant to subsection 78.1(5), provided the Board with a statement of the positions the parties had determined do not have safety or security duties. The employer also notified the Board pursuant to subsection 78.1(6) that the parties had determined that the positions identified in Appendix 1, attached hereto, had safety or security duties.

Accordingly, pursuant to subsection 78.1(6), the Board hereby designates the positions identified in Appendix 1 as having safety or security duties.

The employer also submitted a Memorandum of Understanding between the parties dated November 18, 1996, whereby they agree to the following:

In the interests of maintaining harmonious relations the National Research Council (NRC) and the Research Council Employees' Association (RCEA) agree to the following with respect to the AD, AS, CS and PG bargaining units:

1. The RCEA agrees that NRC will deliver the Public Service Staff Relations Board (PSSRB) Notices to Employees, thereby informing them that they occupy designated positions.
2. Both parties recognize the mutual administrative advantage of issuing the Notices to employees at the time the PSSRB decides to establish a Conciliation Board (section 83 of the Act), or decides not to establish a Conciliation Board (section 77 of the Act) for that bargaining unit. With the concurrence of the PSSRB, the parties agree that delivery of Notices, at that time, shall be considered as meeting the requirements of section 60.(1) of the *PSSRB Rules and Regulations of Procedure*.

The requirement of the Board or, if authorized by the Board, the employer to inform employees who occupy designated positions is set out in section 78.5 of the *PSSRA*; that obligation arises from the designation of the positions. Subsection 78.1(6) provides that, where the parties determine that positions have safety or security duties, the employer shall notify the Board of those positions and the Board shall designate the positions as having those duties. Section 60 of the *P.S.S.R.B. Regulations and Rules of Procedure* specifies that an employee who occupies a designated position is to be informed of that fact by a notice (Form 13) within 30 days after a notice of designation has been sent to the employer by the Chairperson or within 30 days after the employee first occupies a designated position.

Notwithstanding the agreement of the parties, I do not believe it would be appropriate for me, in this case, to authorize a delay in the notification of employees occupying designated positions. Although the Board has the authority under section 6 of the *Regulations* to extend any time limits set out therein, I am of the view that this authority must be exercised with a definite time in mind and cannot be used to extend the time for an indefinite period. Furthermore, I believe that one of the main reasons for requiring the designation of positions having safety or security duties and the notification of the occupants thereof well in advance of any possible strike action is to avoid exacerbating the situation when the parties reach an impasse in a dispute. This purpose would be defeated if the Board were to authorize a delay in the notification of the employees occupying designated positions as envisaged in the Memorandum of Understanding between the parties.

As a general rule, the Board attempts to accommodate the wishes of the parties in these matters where it is possible for it to do so. Unfortunately, it is not possible for the Board to do so here as the course of action proposed by the parties in the Memorandum of Understanding runs counter to the relevant legislative framework.

Accordingly, in light of section 78.5 of the *PSSRA*, the Board hereby authorizes the employer to inform the employees occupying the positions identified in Appendix 1 (and all subsequent occupants thereof) of the designation of those positions within the time limit and pursuant to the procedure specified in section 60 of the *Regulations*. In addition, the Board draws the employer's attention to its responsibility under

subsection 60(2) of the *Regulations* to provide a copy of each such notice to the bargaining agent.

Yvon Tarte
Chairperson

OTTAWA, December 10, 1996.