

Public Service Staff  
Relations Act



Before the Public Service  
Staff Relations Board

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BETWEEN

**TREASURY BOARD**

Employer

and

**SOCIAL SCIENCE EMPLOYEES ASSOCIATION**

Bargaining Agent

**RE:** Post-Certification Managerial or Confidential Designation -  
Economics, Sociology and Statistics Group

**Before:** [Muriel Korngold Wexler, Deputy Chairperson](#)

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Decided Without an Oral Hearing

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**DECISION**

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This decision concerns the identification by the employer of the position of Coordinator, National Pharmaceutical Strategy, ES-06, Health Canada, as a Managerial or Confidential position under paragraphs 5.1.(1)(a) and 5.1.(1)(b) of the Public Service Staff Relations Act.

On January 25, 1996, the employer proposed the identification of the above position as a managerial and confidential position and notified the bargaining agent that it had twenty days to file an objection. On February 15, 1996, Ms. Catherine O'Brien, Labour Relations Officer, Social Science Employee Association, objected to the exclusion of the Health Canada position of Coordinator National Pharmaceutical Strategy, under paragraphs 5.1.(1)(a) and 5.1.(1)(b) of the Act. In addition, the bargaining agent requested an extension of the time to file this objection.

On March 27, 1996, the employer replied that the twenty-day period could not be extended. On March 29, 1996, the Board wrote to Ms. O'Brien for the bargaining agent's comments with respect to the employer's position concerning her request for the extension of time of the twenty-day period to file an objection to the employer's proposal for exclusion. The Board requested that the bargaining agent's comments be filed by April 5, 1996. On April 16, 1996, the Board wrote to both parties to indicate that it intended to render a decision on the matter without an oral hearing and that any further representations should be filed with the Board by no later than April 29, 1996. No further representations were made.

Subsection 5.2.(2) of the Act provides:

*5.2.(2) Where the employer identifies a position pursuant to subsection (1), it shall notify the Board and the bargaining agent in writing of the identification.*

And subsection 5.2.(3) indicates:

*5.2.(3) Within twenty days after receiving a notice under subsection (2), the bargaining agent may file an objection to the identification with the Board.*

Subsection 5.2.(5) stipulates:

*5.2.(5) An identification of a position pursuant to subsection (1) takes effect at the end of the period referred to in subsection (3) if no objection is filed within that period or, if an objection is so filed and the identification is confirmed on the objection, the identification takes effect on the date of the decision confirming it.*

It is clear that the identification of a position takes effect at the end of the twenty-day period. The bargaining agent filed its objection to the identification of this position after the twenty-day period had expired. Furthermore, the bargaining agent made no submissions and provided no reasons in support of its request for an extension of time to file its objection.

The Public Service Staff Relations Act is clear in its provision that the identification takes effect at the end of the twenty-day period. The twenty-day period is a statutory requirement. In the decision of the Federal Court of Appeal, Canada (Attorney General) v. P.S.A.C., [1989] 3 F.C. 585, the issue of the mandatory nature of time limits in the Act was dealt with. Although the decision dealt with the provisions of the Act concerning designations for the safety or security of the public, it does stand for the proposition that the time limits are mandatory and that relief from the provisions may only be granted in the most unusual and extraordinary circumstances. There is no evidence of such circumstances here.

For these reasons, the bargaining agent's request for an extension of time to file its objection to the identification of the position in question is hereby denied. Thus, the identification of the position of Coordinator, National Pharmaceutical Strategy, ES-06, Health Canada, as a managerial or confidential position under paragraphs 5.1.(1)(a) and 5.1.(1)(b) of the Act is found to have taken effect twenty days following the receipt of notice of identification by the employer.

**Muriel Korngold Wexler,  
Deputy Chairperson**

OTTAWA, May 15, 1996.