

IN THE MATTER OF AN INTEREST ARBITRATION

BETWEEN

COMMUNICATONS SECURITY ESTABLISHMENT

AND

PUBLIC SERVICE ALLIANCE OF CANADA

Board of Arbitration: Richard Brown, Chair
Ron Cochrane, Union Nominee
Audrey Lizotte-Lepage, Employer Nominee

For the Union: John Sullivan

For the Employer: Stephen Bird

Hearing: April 23 and May 2, 2004

Executive Session: June 11, 2004



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The Communications Security Establishment, Canada's cryptologic agency, is a separate employer under the *Public Service Staff Relations Act*. The unionized workforce of approximately one thousand employees is represented by the Public Service Alliance of Canada. The last collective agreement expired on February 9, 2002. The employer and union agreed the next agreement would run from February 10, 2002 to February 9, 2006. A number of other issues also were resolved by the parties. We hereby award all of the terms upon which they have agreed, as set out in the letter from employer counsel dated June 10, 2004 and attached to this decision. The matters remaining in dispute are addressed below.

The union and employer reached a tentative agreement for a two-year contract in the fall of 2002, but that deal was rejected by employees in a ratification vote. The settlement was based upon the assumption that a new classification system, UNISON, would be implemented in early 2003. The rejection of the settlement led the employer to postpone the implementation of this system. In a decision dated February 2, 2004, the Public Service Staff Relations Board decided the employer had the right to determine the date of implementation for UNISON. The employer advised us it would come into effect on the date of our award. The parties agreed we would issue a decision based upon that implementation date and remain seized as to what should happen if the effective date is delayed.

VOLUNTEER AND PERSONAL NEEDS LEAVE

We award the following provision found in tentative agreement:

- (a) Subject to operational requirements as determined by the Employer and with an advance notice of at least five (5) working days, the employee shall be granted, in each fiscal year;

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- (i) one (1) day of leave with pay to work as a volunteer for a charitable or community organization or activity, other than for activities related to the Government of Canada Workplace Charitable Campaign; and,
 - (ii) one (1) day of leave with pay for reasons of a personal nature.
- (b) These leaves shall be scheduled at times convenient to both the employee and the Employer. Nevertheless, the Employer shall make every reasonable effort to grant the leaves at such times as the employee may request.
- (c) These leaves are non-cumulative, and have no cashout value if unused.

OVERTIME AT DOUBLE TIME

In keeping with the tentative agreement, we award no change.

ACTING PAY

Article 33.08 shall be amended to read as follows, to reflect the tentative agreement:

When in accordance with written instructions from his immediate supervisor, or designate, an employee is required to substantially perform the duties of a higher classified position than the one held by him for a temporary period and performs those duties for at least the required number of consecutive working days, the employee shall be entitled to receive acting pay for that temporary period calculated in the same manner as if he had been appointed to that higher position from the date on which he commenced to act. When a designated paid holiday occurs during a qualifying period such holiday shall be considered as a day worked for the purpose of determining the qualifying period and entitlement to acting pay.

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The required number of consecutive days is as follows:

(a) UNI-01 to UNI-03 one (1) day

(b) UNI-04 to UNI-11 four (4) days

ANNUAL INCREMENTS

In keeping with the tentative agreement, we award an annual increment of three percent (3%), entitlement to which is not dependent upon satisfactory performance.

MARKET ALLOWANCES

We award the following provision, found in the tentative agreement:

The Employer agrees to provide an Allowance to incumbents of positions classified at the UNI-4 to UNI-11 levels performing Computer Science Administration and/or Engineering functions in the performance of duties.

Eligible Positions

1. Positions classified on the day before the signing of this Agreement as a "CS-1 " to "CS-5" or an "EN-3" to "EN-6".
2. Positions where the primary duties require the performance of Computer Science Administration and/or Engineering functions.

In keeping with the tentative agreement, we award no change to the amount of market allowances.

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UNISON MINIMUMS AND MAXIMUMS

The parties agreed to the maximum rates set out below, on the understanding these rates would be increased by the amount of the general wage increase in each year of the collective agreement. We award the following minimums, taken from the tentative agreement, to be increased in the same fashion:

Level	Minimum	Maximum
11	81,409	95,777
10	72,306	85,067
09	64,260	75,600
08	59,905	70,476
07	56,126	66,031
06	50,563	59,486
05	43,483	51,156
04	39,191	45,263
03	35,165	40,855
02	31,680	37,271
01	27,538	32,399

SALARY PROTECTION

The past practice of the employer has been to apply the Treasury Board policy on salary protection. We incorporate that practice in our award, not the form of salary protection found in the tentative agreement.

ROUNDING UP

We decline to award the union's proposal, reflected in the tentative agreement, that an employee's salary be raised to the applicable Unison maximum if the salary would otherwise be within \$500 of that maximum.

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GENERAL WAGE INCREASE

We award the following increases:

- 3.0% effective February 10, 2002
- 2.8% effective February 10, 2003
- 2.5% effective February 10, 2004
- 2.5% effective February 10, 2005

IMPLEMENTATION

In keeping with the tentative agreement, we direct the employer to implement our award within 120 days. This period exceeds the norm, but is warranted on this occasion by the introduction of UNISON.

We remain seized to resolve any issues arising in the implementation of our award.

“Richard Brown”

Richard M. Brown, Chair

I concur.

“Ron Cochrane”

Ron Cochrane, Union Nominee

I concur.

“Audrey Lizotte-Lepage”

Audrey Lizotte-Lepage, Employer Nominee

Ottawa, Ontario
June 16, 2004

REPRESENTING MANAGEMENT IN LABOUR, EMPLOYMENT, AND WORKPLACE SAFETY & INSURANCE LAW
BIRD MCCUAIG RUSSELL
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Stephen Bird
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Caroline Richard
John C. Russell
Leslie Sanderson

Also of the Bars of the Northwest Territories and
Nunavut
*Certified by the Law Society of Upper Canada
as a Specialist in Workplace Safety & Insurance Law
*Certified by the Law Society of Upper Canada
as a Specialist in Labour Law

Via Facsimile

June 10, 2004

Richard M. Brown
5542 Carrison Drive
Manotick, Ontario
K4M 1K7

Dear Mr. Brown:

**Re: Public Service Alliance of Canada and Communication Security Establishment -
Agreed Upon Language**

Please be advised that the parties have agreed as follows:

ARTICLE 33.08 - ACTING PAY:

If the Board accepts CSE's multi-level trigger point, then the existing language in the collective agreement is acceptable, along with the Board's determination regarding the qualifying period. The language in the current collective agreement reads:

33.08 When in accordance with written instructions from his immediate supervisor, or designate, an employee is required to substantially perform the duties of a higher classified position than the one held by him for a temporary period and performs those duties for the required number of consecutive working days, the employees shall be entitled to receive acting pay for that temporary period calculated in the same manner as if he had been appointed to that higher position from the date on which he commenced to act. When a designated paid holiday occurs during a qualifying period such holiday shall be considered as a day worked for the purpose of determining the qualifying period and entitlement to acting pay.

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The parties have not agreed on the "required number of consecutive working days" for the respective UNI level, will need to be determined by the Board.

Alternatively, if PSAC's single trigger is accepted, then Article 33.08 would read:

33.08 When in accordance with written instructions from his immediate supervisor, or designate, an employee is required to substantially perform the duties of a higher classified position than the one held by him for a temporary period and performs those duties for at least one (1) full working day, the employee shall be entitled to receive acting pay for that temporary period.

ARTICLE 34 – DURATION:

34.01 This Collective Agreement shall expire 9 February 2006.

34.02 Unless otherwise expressly stipulated, the provisions of this Agreement shall become effective on the date of the arbitral award.

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APPENDIX "A" ANNUAL RATES OF PAY – PAY NOTES:

B. Incremental Increases:

- 2) The salary increment date for a full-time employee shall, upon promotion, demotion or from an external appointment, be the anniversary date of such action;
- 3) The salary increment period for a full-time employee is twelve months.
- 4) A part-time employee shall be eligible to receive an incremental increase when the employee has worked a total of the normal annual hours of a full-time employee, provided that the maximum rate for the employee's level is not exceeded. The pay increment date shall be the first working day following completion of the hours specified in this clause.

C. Promotions:

When an employee is promoted to a higher classification, the employee's salary shall be adjusted by the lesser of a four percent (4.0%) salary increase or to the maximum of the salary band for the new classification. In no case will the employee's salary be less than the minimum salary for the new position.

D. Demotions:

Where the Employer appoints an employee, due to incompetence or incapacity, to a position where the current salary falls within the salary band of the new position, the employee shall receive that same salary. In the event that the new position has a lower maximum salary level to that of the former salary level, the employee's salary will be reduced to the maximum salary of the new classification level.

E. Salary Protection Status:

- 2) The Employer will make a reasonable effort to appoint the employee to a position at the same salary band as the employee's pre-conversion salary. Such an appointment shall be considered as a transfer for the purpose of determining increment dates and rates of pay.
- 3) In the event that an employee declines an offer of transfer to a position offering the employee's pre-conversion salary without good and sufficient reason, that employee shall immediately revert to the maximum rate of pay in the salary range applicable to the new classification level.

F. Market Allowances

Where applicable, Market Allowances will be paid based on market values, in accordance with Appendix "B".

APPENDIX "B" MEMORANDUM OF UNDERSTANDING IN RESPECT OF MARKET ALLOWANCES:

Preamble:

The Employer agrees to provide an Allowance to incumbents of positions classified at the UNI-4 to UNI-11 levels performing Computer Science Administration and/or Engineering functions in the performance of duties.

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Eligibility:

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Application:

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- (b) Should an employee not be in receipt of pay for an entire qualifying period, the Allowance shall be paid in an amount proportionate to the time the employee was in receipt of pay for such period.
- (c) The Market Allowance specified above does not form part of an employee's salary.
- (d) The Allowance shall not be paid to or in respect of a person who ceased to be a member of the bargaining unit prior to [insert actual date of Arbitral award].
- (e) Subject to (f) below, the amount of the Market Allowance payable is that amount specified in (a) for the level of the employee's substantive position.
- (f) When an employee is required by the Employer to perform the duties of a position with a higher classification level in accordance with clause 33.08 for four (4) months or more, the Market Allowance payable shall be proportionate to the time at each level. Where the requirement to perform the duties of a position of a higher classification level is for less than four (4) months such employee will continue to receive the Allowance for the level of his or her substantive position.

2. The parties agree that disputes arising from the application of this Memorandum of Understanding shall be subject to consultation.

**APPENDIX "C" MEMORANDUM OF UNDERSTANDING
INTEGRATION INTO UNISON CLASSIFICATION AND PAY
BANDS:**

1. **Purpose**

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The purpose of this Memorandum of Understanding is to set out the rules of integration of all existing employees into the new classification and pay bands under the UNISON standard.

3. **Rate of Pay Under UNISON**

- (b) Subject to paragraph 5 below, if the employee's new rate of pay in (a) above is greater than the maximum salary band of the employee's new UNISON classification level, the employee will be entitled to "Salary Protection Status" in accordance with Appendix A" of this Agreement.
- (c) If the employee's new rate of pay in (a) above is less than the minimum of the salary band for the new UNISON classification, the employee's rate of pay on conversion will be the minimum salary for the new classification.

4. **Increments**

For those employees who on day before the date of conversion were at their maximum increment level for one year or more, their new anniversary date shall be one (1) year from [insert actual date of conversion, once known.]

5. **Salary Protection**

Employees who, on the day before the date of conversion, were entitled to a time limited salary protection will remain on salary protection status for the duration of the specified period, and any increases to salary occurring during this period shall be paid in accordance with the procedures governing the salary protection status. At the conclusion of such salary protection period, the employee will be integrated into the applicable UNISON salary band. In the event that the employee's salary exceeds the maximum of the UNISON salary band, the employee's salary shall be adjusted to the maximum.

If you have any questions or concerns, do not hesitate to call.

Yours truly,

Russell MacCrimmon
/th

cc *Ron Cochrane, The Professional Association of Foreign Service Officers*
Audrey Lizotte-Lepage, Employer Nominee
John Sullivan, PSAC

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