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File: 181-2-483

Citation: 2001 PSSRB 74



Public Service Staff
Relations Act

Before the Public Service
Staff Relations Board

BETWEEN

**FEDERAL GOVERNMENT DOCKYARDS, TRADES AND LABOUR COUNCIL
(ESQUIMALT, B.C.)**

Bargaining Agent

and

TREASURY BOARD

Employer

RE: Designated Positions -
Ship Repair-West Group

Before: Yvon Tarte, Chairperson

(Decided without an oral hearing)

DECISION

[1] In *Federal Government Dockyards, Trades and Labour Council (Esquimalt, B.C.) v. Treasury Board* (Board File 146-2-162, August 20, 1976; Board File 125-2-19, January 22, 1981; and Board Files 125-2-19 and 146-2-162, March 3, 1981), the Board certified the Federal Government Dockyards, Trades and Labour Council (Esquimalt, B.C.) (FGDTLC (Esquimalt)) as the bargaining agent for a bargaining unit comprised of “all employees of the Employer in the Ship Repair Group in the Operational Category located on the west coast”.

[2] In *Federal Government Dockyards, Trades and Labour Council (Esquimalt, B.C.) v. Treasury Board* (Board File 142-2-331) the Board amended the description of the bargaining unit to refer to “All employees of the Employer in the Ship Repair-West Group as defined in Part I of the *Canada Gazette* of March 27, 1999”, and confirmed the FGDTLC (Esquimalt) as its bargaining agent.

[3] Pursuant to subsection 78.1(4) of the *Public Service Staff Relations Act* the (Act), the parties met to review the position of each employee in the bargaining unit, to determine whether any of them have safety or security duties as specified in subsection 78.1. By letter dated April 30, 1998, 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 provided the Board, pursuant to subsection 78.1(6), with a statement of the positions the parties had determined do have safety or security duties. The employer also notified the Board, pursuant to subsection 78.1(7), that the parties were unable to agree on whether a number of positions have safety or security duties and that it was referring those positions that remained in dispute to a designation review panel.

[4] A designation review panel was duly established, which made its recommendations to the parties as to whether the positions in dispute have safety or security duties. By letter dated December 10, 1998, the employer notified the Board, pursuant to subsection 78.2(1) of the Act, that the parties were continuing to disagree on whether a number of positions have safety or security duties and that it was referring those positions that remained in dispute to the Board. On January 9, 1999 the FGDTLC (Esquimalt) requested an indefinite postponement of the matter, to which the employer consented. The Board postponed the matter accordingly.

[5] However, by letter dated July 12, 2001, the employer advised the Board that an agreement had been reached by the parties as to which positions have safety or security duties. Enclosed with the employer's letter were Memoranda of Agreement, confirming the agreement of the parties, together with a diskette bearing identification *SR (West)*. The employer advised the Board that the bargaining agent has been provided with a true printout of this diskette. This 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.

[6] On the agreement of the parties and pursuant to subsection 78.1(6) of the Act, the Board hereby designates all positions that appear on this diskette.

[7] Pursuant to section 78.5 of the 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.

[8] 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 *P.S.S.R.B. Regulations and Rules of Procedure, 1993* (Regulations). Thereafter, future occupants of a designated position shall be notified within 30 days of the date on which they first occupy the position.

[9] Finally, the Board draws the employer's attention to its responsibility under subsection 60(2) of the 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.

**Yvon Tarte
Chairperson**

OTTAWA, July 18, 2001.