

Date: 20021220

File: 166-2-31109

Citation: 2002 PSSRB 106



Public Service Staff  
Relations Act

Before the Public Service  
Staff Relations Board

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BETWEEN

**SYLVIE GOYETTE**

Grievor

and

**TREASURY BOARD**

**(Solicitor General of Canada - Correctional Service of Canada)**

Employer

**Before:** Jean-Pierre Tessier, Board Member

**For the Grievor:** Céline Lalande, Union of Canadian Correctional Officers - CSN

**For the Employer:** Jennifer Champagne, Counsel

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Heard at Montréal, Quebec,  
October 7 to 11, 2002.



## DECISION

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[1] Sylvie Goyette has been employed by the Correctional Service of Canada since 1983. At the time of the events referred to in this decision, she occupied a position as a Correctional Officer at the Martineau Community Correctional Centre (CCC). This position is classified at the CX-II group and level.

[2] On June 22, 1998, the employer imposed on Ms Goyette a financial penalty equivalent to one month's salary, because it considered that she had been absent without authorization since April 14, 1998, and because she had still not reported to work on June 22, 1998.

[3] On July 23, Ms Goyette lodged a grievance against this disciplinary measure.

[4] This grievance was referred to adjudication in February 2002 and heard during the week of October 7 to 11, 2002. The late referral of this grievance to adjudication can be explained by the series of events that occurred from 1997 to 2000.

[5] In fact, 10 grievances have been referred to adjudication. With the consent of the parties, four grievances were argued at hearings held from May 6 to 10, 2002, and four others have been heard at hearings held from October 7 to 11, 2002. The two remaining grievances have been postponed.

[6] Although separate evidence has been adduced in each grievance, the parties have agreed that evidence adduced in one grievance (such as description of duties, workplace, and client group) may be considered in another grievance.

### Evidence

[7] Ms Goyette has worked at the Martineau CCC since 1989. This CCC is a small correctional institution that housed approximately 50 inmates in 1989. Since 1990, however, it has housed an average of between 30 and 35 offenders on day or weekend parole.

[8] Ms Goyette is responsible for community activities for the resident offenders and for technical duties related to the CCC's program and operations.

[9] All the documents and testimony applicable to Board file N° 166-2-31108 apply to this file.

Arguments

[10] The grievor has stated that she complied with the employer's review requirements and never abandoned her position.

[11] The employer has stated that it had difficulty contacting Ms Goyette and argues that her refusal to return to work constitutes abandonment of her position.

Decision

[12] As was the case in the decision in Board file N° 166-2-31108, I conclude that the employer should consider Ms Goyette's absence from March 14 to April 29, 1998, valid.

[13] It is true that Ms Goyette's ambivalent attitude was not conducive to better relations between the parties or to a clear understanding of the events.

[14] Mr. Thibault, Director, Greater Montréal District, testified that, aside from the issue of the medical certificates, the difficulties in contacting Ms Goyette and her absence from work on June 22 constituted quasi-abandonment of her position.

[15] I cannot accept the employer's arguments concerning "desertion" or abandonment of Ms Goyette's position. It is true that contact was difficult, but the parties continued to be in contact until the June 22, 1998 meeting with Dr. Guérin.

[16] Both the physicians authorized by the employer, Dr. Giasson and Dr. Guérin, recommended that the file be "de-medicalized", and that a meeting be held with the employee to resolve the situation.

[17] In the documents sent to Ms Goyette, the employer always referred to a return to work, not to a discussion meeting prior to a return to work that would lower Ms Goyette's anxiety level.

[18] I must also take into consideration the fact that Ms Goyette was late in returning the employer's calls and was difficult to contact. Her attitude obliged the employer to reschedule appointments. Ms Goyette is not altogether blameless, but her lack of co-operation cannot be considered to constitute quasi-abandonment of her position.

[19] Therefore, in light of all the documentary and testimonial evidence, I alter the penalty imposed by the employer and replace it with a penalty of one day without pay.

[20] I allow this grievance in part, and order the employer to repay to Ms Goyette the penalty it imposed on her, less one day.

**Jean-Pierre Tessier,  
Board Member**

OTTAWA, December 20, 2002

PSSRB translation

