

Date: 20020719

File: 181-2-485

Citation: 2002 PSSRB 67



Public Service Staff
Relations Act

Before the Public Service
Staff Relations Board

BETWEEN

THE PROFESSIONAL ASSOCIATION OF FOREIGN SERVICE OFFICERS

Bargaining Agent

and

THE TREASURY BOARD

Employer

RE: Designated Positions -
Foreign Service Group

Before: Joseph Potter, Vice-Chairperson

(Decided without an oral hearing)

DECISION

[1] In *Professional Association of Foreign Service Officers v. Treasury Board*, 2001 PSSRB 119 (181-2-485), the Board designated positions in the Foreign Service Group bargaining unit pursuant to subsection 78.1(6) of the *Public Service Staff Relations Act* (Act). Diskettes *FS CHG.XLS*, *FS CUR.XLS*, *FS NEW.XLS*, *FS DEL.XLS* (the "old diskettes") contain the list of all of the positions which the parties agreed had safety or security duties as of that date.

[2] On July 17, 2002, the employer advised the Board that the parties agreed to amend the list in the old diskettes. Enclosed with the employer's letter was a memorandum of agreement, by which the parties agreed to amend the list in the old diskettes, together with a new diskette bearing identification *FS DESIGNATIONS* (the "new diskette"). The employer advised the Board that the bargaining agent has been provided with a true printout of the contents of the new diskette. This new 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.

[3] On the basis of the agreement of the parties, the Board hereby revokes the designation of any positions that appeared on the old diskettes and that do not appear on the new diskette. The Board also revokes the Forms 13 issued for those positions. The Board directs the employer to return forthwith any Forms 13 still in its possession and that have not been distributed to employees in those positions. Furthermore, the employer is to make every reasonable effort to obtain any Forms 13 that may have been distributed to employees in those positions. The bargaining agent is to cooperate in this regard. The Board will destroy those Forms 13 when returned by the employer.

[4] Also, on the agreement of the parties and pursuant to subsection 78.1(6) of the Act, the Board hereby designates any positions that appear on the new diskette and that did not appear on the old diskettes.

[5] 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.

[6] On May 17, 2000, the parties applied for an extension of the time limit set out in section 60 of the *P.S.S.R.B. Regulations and Rules of Procedure, 1993* (Regulations), to a period of 30 days from the date of a request for conciliation pursuant to section 76 of the Act. Pursuant to section 6 of the Regulations, this request was granted by the Board on May 18, 2000: Board file 181-2. It is understood that the extension granted by the Board will continue until such time as one or both parties rescind the application.

[7] On October 22, 2001, the bargaining agent requested conciliation pursuant to section 76 of the Act in relation to the Foreign Service Group bargaining unit. Since the Board did not receive the amended list of designated positions contained in the new diskette until July 17, 2002, the above timeline cannot apply in the instant case. In these circumstances, the persons who occupy the positions designated above are to be so informed within 30 days from the date of this decision. Thereafter, future occupants of a designated position during this round of bargaining shall be notified within 30 days of the date on which they first occupy the position.

[8] 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.

Joseph Potter
Vice-Chairperson

OTTAWA, July 19, 2002.