

**Date:** 20020821

**File:** 169-34-643

**Citation:** 2002 PSSRB 78

Public Service Staff  
Relations Act



Before the Public Service  
Staff Relations Board

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BETWEEN

**PUBLIC SERVICE ALLIANCE OF CANADA**

Bargaining Agent

and

**CANADA CUSTOMS AND REVENUE AGENCY**

Employer

**RE:** Reference under Section 99 of the  
Public Service Staff Relations Act

**Before:** [Joseph W. Potter, Vice-Chairperson](#)

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(Decision rendered without an oral hearing.)

## DECISION

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[1] This case is a reference under section 99 of the *Public Service Staff Relations Act* (PSSRA) filed by the Public Service Alliance of Canada (Alliance) on June 14, 2001. On December 12, 2001, the Public Service Staff Relations Board (Board) certified the Alliance as bargaining agent for all employees of the Canada Customs and Revenue Agency/ in the Program Delivery and Administrative Services group bargaining unit: 2001 PSSRB 127 (140-34-17 to 19). The particulars of the reference and the corrective action requested read as follows:

*The Applicant, the Public Service Alliance of Canada, brings this Reference before the Public Service Staff Relations Board pursuant to Section 99 of the Public Service Staff Relations Act.*

*The Public Service Alliance of Canada is the bargaining agent certified by the Public Service Staff Relations Board to represent the employees of the Canada Customs and Revenue Agency.*

*A document disclosed pursuant to the Privacy Act, an e-mail from Jim R. Moore of CCRA Staff Relations, states clearly that the workload of the E-File section at the St. Catharines Taxation Office "has all but disappeared". This discontinuance of a function is clearly a work force adjustment situation as defined in the collective agreement. The Employer, however, has failed to advise and consult with the Public Service Alliance of Canada regarding this work force adjustment situation as is required by the collective agreement.*

*The Employer is aware of a work force adjustment situation and has failed to adhere to the provisions of Appendix E of the collective agreement. We maintain that the obligation to comply with the collective agreement is not an option, it is an obligation. Work force adjustment situations are clearly defined in the collective agreement and all the provisions of Appendix E must be applied, including advising and consulting with the Alliance as per Article 1.1.11.*

### REQUESTED REDRESS

*We respectfully request the Board to order the Employer to:*

- comply with Appendix E of the Collective Agreement*

[2] In a letter dated July 3, 2001, signed by Mr. Jacques Cloutier, Director, Operations, Staff Relations and Compensation Directorate, the employer replied to the section 99 reference as follows:

*Thank you for your letter of June 18, 2001, in which you enclose a Reference filed by the Public Service Alliance of Canada. Said Reference relates to the Employer's obligation to apply the provision of Appendix E - Work Force Adjustment.*

*The Employer acknowledges that its Client Services Division is undergoing organizational changes that will have an impact on the future of some positions, including the E-File Co-ordinator position. However, since this organizational change has not created a situation where the employee's services are no longer required within the CCRA, the Employer states that it is not in a position to invoke the Work Force Adjustment Appendix of the Collective Agreement.*

*Please be advised that the Employer agrees to participate in the mediation process.*

[3] At issue is provision 1.1.11 of Appendix E (Work Force Adjustment of the Program Delivery and Administrative Services group collective agreement) which reads as follows:

*Departments shall advise and consult with the Alliance representatives as completely as possible regarding any work force adjustment situation as soon as possible after the decision has been made and throughout the process and will make available to the Alliance the name and work location of affected employees.*

[4] Following the decision in *Public Service Alliance of Canada v. Canada Customs and Revenue Agency*, 2002 PSSRB 23 (169-34-632), a prior, similar reference under section 99 of the *PSSRA* which was decided by the Board on February 20, 2002, the parties are now agreed that the above circumstances were a work force adjustment situation, and that the employer failed to meet its obligation under provision 1.1.11 of Appendix E. Since that time, advisement and consultation have, and continue to occur. On July 3, 2002, the employer provided the Alliance with the names and work locations of the outstanding affected employees. The employer continued to meet its obligations under Appendix E and anticipated at the time the joint request was made on August 7, 2002 that it would have done so completely by August 16, 2002. Therefore, the parties have jointly requested that the Board issue this declaratory decision in the absence of an oral hearing.

[5] Accordingly, the reference is allowed, to the extent indicated.

**Joseph W. Potter,  
Vice-Chairperson**

OTTAWA, August 21, 2002.