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Public Service Staff  
Relations Act

Before the Public Service  
Staff Relations Board

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BETWEEN

**CLAUDE PRÉVILLE**

Grievor

and

**TREASURY BOARD**  
**(Solicitor General Canada - Correctional Service)**

Employer

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

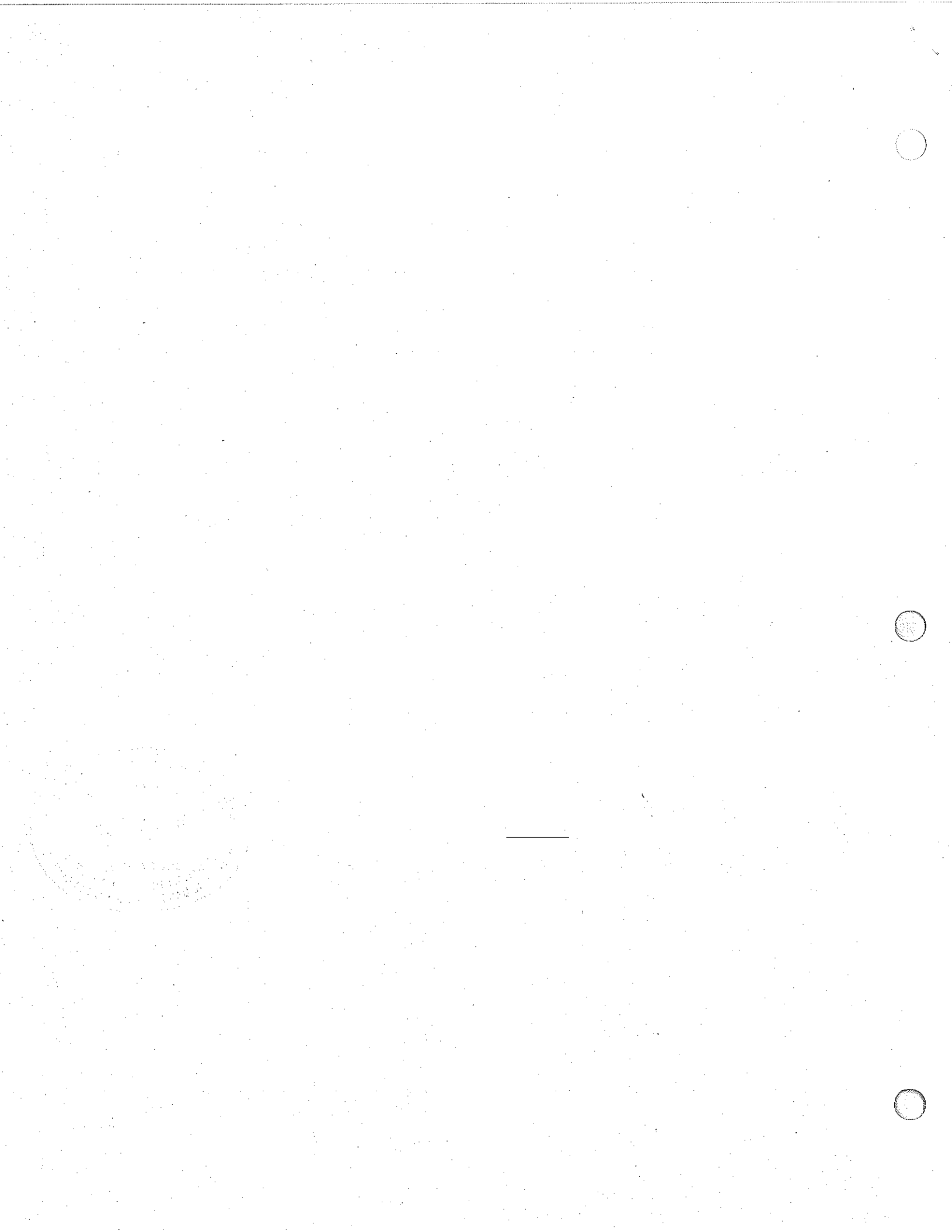
**For the Grievor:** Céline Lalande, UCCO-SACC-CSN

**For the Employer:** Renée Roy, Counsel



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(Decided without an oral hearing.)



## DECISION

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[1] Claude Prévile has been employed with the Correctional Service of Canada since 1981. In October 1997, the grievor had an altercation with an inmate that degenerated into death threats by the inmate. Mr. Prévile was apparently traumatized and had to be absent from work.

[2] Mr. Prévile had to use his sick leave because Quebec's Commission de la santé et de la sécurité du travail (CSST) initially considered that this was not a work-related injury. That decision was later modified, on March 3, 2000, by the Commission des lésions professionnelles.

[3] In the interval, on August 9, 1999, the grievor filed a grievance worded as follows:

[TRANSLATION]

*I contest my employer's decision not to comply with  
Commissioner's Directive 252 and related guidelines.*

(It should be noted that *Commissioner's Directive 252* concerns Assistance to Employees Following Acts of Violence.)

[4] The employer contests the jurisdiction of the Public Service Staff Relations Board to proceed with the grievor's challenge. After several exchanges of correspondence, the parties have agreed to make written submissions to the Board so that it could decide the case.

[5] The employer maintains that the grievor's "complaint" makes no reference to any provision of the collective agreement or any disciplinary measure imposed by the employer.

[6] The employer does not see what the grievor is accusing it of, apart from the reference to *Commissioner's Directive 252*. According to the employer, however, the adjudicator appointed by the Board has no jurisdiction to decide on the application of administrative directives that fall outside the collective agreement.

[7] The employer says that it took care of the grievor's case and, among other things, it states that

[TRANSLATION]

- The employee was paid his full salary by the Correctional Service for the period from October 3, 1997, to January 1, 1998, and his sick leave was returned to him.
- Beginning on January 2, 1998, the employee was paid by the CSST.
- Between November 1999 and March 2000, the Correctional Service prepared several Return to Work Plans so that Mr. Prévile could return to work permanently.
- The employee met with specialists in October 2000 and it was confirmed that the employee was unfit to perform his duties as a correctional officer. The employee himself no longer feels able to be a correctional officer. He wants a position to be found for him where he would not have to be in contact with inmates or a position in another department.
- On November 22, 2000, there was a meeting with the employee in the presence of his union representative, the deputy warden of the institution, the CSST adjustment counsellor and a senior staff relations advisor from the Correctional Service to discuss his future.
- Beginning on January 17, 2001, the employee was granted entitlement to an employment in priority under section 40 of the Public Service Employment Regulations until January 15, 2003. The regional administration of the CSST looked for a position for him and his curriculum vitae was sent to three different departments identified by Mr. Prévile and was also presented to interdepartmental employment network members.
- On February 4, 2002, the employee submitted his resignation in order to retire, the effective date of which was February 8, 2002.

[8] The grievor's representative submits, for her part, that, in objecting to the employer's failure to comply with *Commissioner's Directive 252*, the grievor also referred to the employer's duty to protect the employee, that is, in accordance with the provisions of the collective agreement.

[9] The grievor's representative referred to paragraph (b) of section 3 of *Commissioner's Directive 252*, which read as follows:

[TRANSLATION]

OBJECTIVES OF THE PROGRAM

3. *The objectives of the assistance program are to:*

[...]

b. *ensure that employees are protected from financial difficulties arising from serious injuries, under their collective agreement, existing provincial legislation on work-related injuries and the Government Employees Compensation Act;*

[...]

[10] In this regard, the grievor's representative believes that the employer itself referred to the collective agreement in this case since, in its response at the final grievance level, it indicated that

[TRANSLATION]

*...the employer did not contravene Commissioner's Director 252 and it duly applied the provisions of the collective agreement with regard to the injuries on duty (clause 30.18).*

[11] In conclusion, the grievor's representative submits that the employee cannot lose his right to grieve because the wording of his grievance referred to a directive rather than the collective agreement.

Reasons

[12] I have carefully read the parties' representations and related documents. It is true that in labour law the parties should not be bound by closed and rigid procedures; however, there does need to be a cause of action.

[13] Even after allowing the parties to explain their claims in writing, I still cannot determine if the grievor does or does not accuse the employer of incorrectly applying the collective agreement and, more specifically, of not complying with clause 30.18.

[14] An adjudicator's jurisdiction is restricted to dealing with grievances relating to a provision of the collective agreement, a provision of an arbitral award or a disciplinary measure resulting in termination, suspension or a financial penalty.

[15] My decision must accordingly be that I lack jurisdiction over the grievor's claim.

**Jean-Pierre Tessier,  
Board Member**

OTTAWA, October 30, 2002

P.S.S.R.B. Translation