

Date: 20021101

File: 166-2-31581
166-2-31582

Citation: 2002 PSSRB 98



Public Service Staff
Relations Act

Before the Public Service
Staff Relations Board

BETWEEN

RAYMOND GORDON CLICHE AND GRANT HEBERT

Grievors

and

TREASURY BOARD
(National Defence)

Employer

**EXPEDITED ADJUDICATION
DECISION**

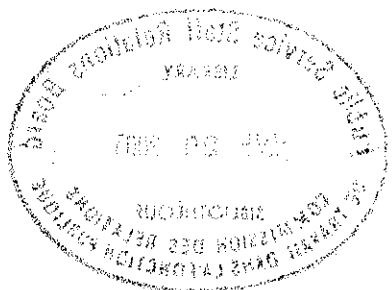
Before: Yvon Tarte, Chairperson

For the Grievors: Cécile La Bissonnière, Public Service Alliance of Canada

For the Employer: Andrew Hill, Treasury Board Secretariat



Heard at Gray Rocks, Quebec,
October 23, 2002.



REASONS FOR DECISION

[1] Both grievors work for the Department of National Defence at C.F.B. Petawawa. Their grievances deal with the right to carry-over annual leave under the provisions of the Operational Services Group collective agreement entered into between the Treasury Board and the Public Service Alliance of Canada.

[2] On November 16, 1999, the Base Commander issued a revised annual leave policy for civilian employees. The new policy discontinued the practice of allowing unlimited carry-over of unused annual leave and required that employees use up their annual leave in the year in which it was earned.

[3] The grievors believe that the provisions of their collective agreement allow unlimited carry-over. The employer argues otherwise. The collective agreement reads:

Article 35.05

(a) Employees are expected to take all their vacation leave during the vacation year in which it is earned.

(b) Subject to the following subparagraphs, the Employer reserves the right to schedule an employee's vacation leave but shall make every reasonable effort:

(i) To provide an employee's vacation leave in an amount and at such time as the employee may request;

(ii) Not to recall an employee to duty after the employee has proceeded on vacation leave;

(iii) Not to cancel nor alter a period of vacation or furlough leave which has been previously approved in writing.

The carry-over provisions of the collective agreement (Appendix "B", clause 1.04) state that:

Where in any vacation year an employee has not been granted all of the vacation leave credited to the employee, the unused portion of the employee's vacation leave shall be carried over into the following vacation year.

[4] The grievors referred to the *Bozek et al* decision (2002 PSSRB 60) whereas the employer referred to *Ladouceur* (2000 PSSRB 51), *Stoykewich* (Board file 166-2-14983), *Coram* (Board file 166-2-26681) and *Morhart* (2002 PSSRB 36).

[5] The employer has, under clause 35.05 of the collective agreement, the right to schedule annual leave provided a reasonable effort is made to accommodate the employee's wishes. The clause provides no automatic right to the carry-over of unused vacation leave credits. The carry-over provisions merely ensure that unused annual leave at the end of the year will not be lost.

[6] In this case, contrary to what seems to be the case in *Bozek (supra)* there is no estoppel issue. The grievances are denied.

**Yvon Tarte,
Chairperson**

Ottawa, November 1, 2002.