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*Public Service
Labour Relations Act*

Before the Public Service
Labour Relations Board

BETWEEN

PROFESSIONAL INSTITUTE OF THE PUBLIC SERVICE OF CANADA

Applicant

and

TREASURY BOARD

Respondent

Indexed as

Professional Institute of the Public Service of Canada v. Treasury Board

In the matter of a request for the Board to exercise any of its powers under section 43
of the *Public Service Labour Relations Act*

REASONS FOR DECISION

Before: [Yvon Tarte, Chairperson](#)

(Decided without an oral hearing.)

REASONS FOR DECISION

Request before the Board

[1] On June 1, 2005, the Professional Institute of the Public Service of Canada (PIPSC) filed, with the consent of the Treasury Board (the employer), an application with the Board under section 43 of the *Public Service Labour Relations Act (PSLRA)* to amend the bargaining units determined in the Board's decision of June 3, 1999, Board file 142-2-342. In that decision, the Board had confirmed that the PIPSC is the bargaining agent for the following bargaining unit, as set out on the Applied Science and Engineering (AP) certificate:

All employees of the Employer in the Applied Science and Engineering Group as defined in Part I of the Canada Gazette of March 27, 1999.

[2] On April 1, 2005, the *PSLRA*, enacted by section 2 of the *Public Service Modernization Act (PSMA)*, S.C. 2003, c. 22, was proclaimed in force. Pursuant to subsection 48(1) of the *PSMA*, the PIPSC continues to be certified as the bargaining agent for the AP bargaining unit.

Summary of the evidence

[3] The PIPSC filed written submissions in support of its application for a review of the bargaining unit structure - the full submissions are on file at the Board. In its submissions, the PIPSC noted that the first and successive rounds of negotiations for the AP group had proved to be very difficult, in light of the differing priorities and interests of the members of this group. As a result of these difficulties, the PIPSC and the Treasury Board agreed to pursue a joint restructuring for the AP group. An agreement was eventually reached. As a result, the Treasury Board agreed to amend the occupational group definitions. The written submissions by the PIPSC noted that a letter from the Treasury Board confirming the approval by the Treasury Board Ministers of the new occupational groups and definitions would follow.

[4] On July 12, 2005, Richard Burton, Vice-President of the Public Service Human Resources Agency, wrote to Michèle Demers, President of the PIPSC, to confirm the Treasury Board's decision to reconfigure the current AP bargaining unit. A copy of this letter was received at the Board on July 15, 2005, and is on file. The letter set out that:

I am pleased to inform you that Treasury Board ministers have approved the restructuring of the Applied Science and

Engineering (AP) Group, resulting in the creation of the following two new occupational groups and sub-groups:

- *Architecture, Engineering and Land Survey (NR) Group (including legacy groups Architecture and Town Planning, and Engineering and Land Survey), and*
- *Applied Science and Patent Examination (SP) Group*
 - *Applied Science (SP-SCI) Sub-group (including legacy groups Actuarial Science, Agriculture, Biological Sciences, Chemistry, Forestry, Meteorology, Physical Sciences, and Scientific Regulation), and*
 - *Patent Examination (SP-PEB) Sub-group (including legacy group Patent Examination).*

...

[5] These new occupational group and sub-group definitions, and the accompanying Table of Concordance, were published in Part I of the *Canada Gazette* on August 13, 2005.

[6] In this application, the PIPSC sought to modify the current AP certificate by reconfiguring the AP bargaining unit to be co-extensive with the new occupational groups. The PIPSC submitted that there is strong support for the proposed bargaining units. The PIPSC further indicated that the new groups would be able to bargain effectively, as the split would reflect the true communities of interest. The Treasury Board agreed with the PIPSC that the proposed reconfiguration would be appropriate for collective bargaining.

Reasons

[7] In the instant case, the PIPSC is requesting, on consent, that the Board modify the current AP certificate to be co-extensive with the recently approved new occupational groups.

[8] Section 43 of the *PSLRA* sets out:

43. (1) Subject to subsection (2), the Board may review, rescind or amend any of its orders or decisions, or may re-hear any application before making an order in respect of the application.

(2) A right that is acquired by virtue of an order or a decision that is reviewed, rescinded or amended by the Board may not be altered or extinguished with effect from a day that is earlier than the day on which the review, rescission or amendment is made.

[9] In reviewing this application, consideration must also be given to section 70 of the *PSLRA* which provides as follows:

70. (1) If the Board reviews the structure of one or more bargaining units, it must, in determining whether a group of employees constitutes a unit appropriate for collective bargaining, have regard to the employer's classification of persons and positions, including the occupational groups or subgroups established by the employer.

(2) The Board must establish bargaining units that are co-extensive with the occupational groups or subgroups established by the employer, unless doing so would not permit satisfactory representation of the employees to be included in a particular bargaining unit and, for that reason, such a unit would not be appropriate for collective bargaining.

[10] Traditionally, the Board has been very reluctant to fragment bargaining units. However, as indicated above, the PIPSC submitted in support of its application that there is strong support for the proposed bargaining units. The PIPSC indicated that the new groups would be able to bargain effectively, as the split would reflect the true communities of interest. Furthermore, this proposal is supported by the employer. Having reviewed the documentation presented by the PIPSC, the Board is convinced that the bargaining units proposed would permit satisfactory representation of the employees. Accordingly, pursuant to section 43 of the *PSLRA*, the Board grants the instant application.

[11] The Board hereby confirms that the PIPSC is the bargaining agent for the bargaining unit described as follows:

All employees of the Employer in the Architecture, Engineering and Land Survey (NR) Group as defined in Part I of the Canada Gazette of August 13, 2005.

[12] Furthermore, the Board hereby confirms that the PIPSC is the bargaining agent for the bargaining unit described as follows:

All employees of the Employer in the Applied Science and Patent Examination (SP) Group as defined in Part I of the Canada Gazette of August 13, 2005.

[13] For all of the above reasons, the Board makes the following order:

(The Order appears on the next page)

Order

[14] The application is allowed. The certificate issued in relation to the bargaining unit referred to in paragraph 1 is revoked. New certificates will be issued.

August 23, 2005.

**Yvon Tarte,
Chairperson**