

**Date:** 20050816

**File:** 166-2-35242

**Citation:** 2005 PSLRB 101



*Public Service  
Staff Relations Act*

Before an adjudicator

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BETWEEN

**ARTHUR SMITH**

Grievor

and

**PRINCE GEORGE AIRPORT AUTHORITY**

Employer

and

**TREASURY BOARD  
(Department of Transport)**

Third Party

Indexed as

*Smith v. Prince George Airport Authority*

In the matter of a grievance referred to adjudication pursuant to section 92 of the  
*Public Service Staff Relations Act*

**REASONS FOR DECISION**

***Before:*** Yvon Tarte, adjudicator

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(Decided without an oral hearing)

## REASONS FOR DECISION

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### Grievance referred to adjudication

[1] On June 24, 2004, the grievor, Arthur Smith, grieved his termination of employment by the Prince George Airport Authority. The matter was referred to adjudication on December 15, 2004.

[2] On February 2, 2005, the Treasury Board wrote to the Public Service Staff Relations Board to advise that the “reference to adjudication is not a Transport Canada file and the Prince George Airport Authority is not listed under Part I, Schedule I. The Prince George Airport Authority’ was transferred from Transport Canada to a locally run Airport Authority on March 31, 2003”. The bargaining agent, however, asserted that the Treasury Board continued to have commitments as a result of the collective agreement that continued in force when Transport Canada transferred the grievor’s work location to the Prince George Airport Authority.

[3] The Public Service Staff Relations Board determined that this question of jurisdiction would be decided by way of written representations.

[4] On April 1, 2005, the *Public Service Labour Relations Act*, enacted by section 2 of the *Public Service Modernization Act*, S.C. 2003, c. 22, was proclaimed in force. Pursuant to section 61 of the *Public Service Modernization Act*, I continue to be seized with this reference to adjudication, which must be dealt with in accordance with the provisions of the *Public Service Staff Relations Act*, R.S.C., 1985, c. P-35 (the “former Act”).

### Summary of the evidence

[5] On June 1, 2005, the Public Service Labour Relations Board (the Board) wrote to the bargaining agent, the Treasury Board and the Prince George Airport Authority asking for written submissions on the following question:

*Since the Prince George Airport Authority was transferred from Transport Canada to a locally run Airport Authority effective March 31, 2003, is this grievance one that may be referred to adjudication pursuant to section 92 of the Public Service Staff Relations Act?*

[6] The complete submissions of the parties are on file at the Board. Both the Treasury Board and the Prince George Airport Authority objected to the Board’s

jurisdiction to deal with this matter. In reply, the bargaining agent wrote to the Board on July 22, 2005, stating:

*...on a without precedent basis and without prejudice to any position the Union may choose to take on similar or same matters in the future, the Union hereby wishes to amend its position on the above matter and withdraws its opposition to the Employer's position that the PSLRB does not have jurisdiction in this matter.*

*Therefore, the Union respectfully requests that the Board confirm that this matter is subject to the arbitration process established under the Canada Labour Code and the applicable collective agreement.*

### Reasons

[7] There is no dispute that I, an adjudicator appointed under the *Public Service Staff Relations Act*, do not have the jurisdiction to hear this grievance. However, it is not within my jurisdiction to make any pronouncement with respect to whether this matter falls under the *Canada Labour Code*. Accordingly, I make the following order:

*(The Order appears on the next page)*

Order

[8] The grievance is dismissed for lack of jurisdiction.

August 16, 2005.

**Yvon Tarte,  
adjudicator**