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Citation: 2005 PSLRB 128



*Public Service
Labour Relations Act*

Before the Public Service
Labour Relations Board

BETWEEN

CANADA CUSTOMS AND REVENUE AGENCY

Applicant

and

PROFESSIONAL INSTITUTE OF THE PUBLIC SERVICE OF CANADA

Respondent

Indexed as

*Canada Customs and Revenue Agency v. Professional Institute of the Public Service of
Canada*

In the matter of an application, under subsection 71(1) the *Public Service Labour Relations Act*, for a declaration that some positions are managerial or confidential positions

REASONS FOR DECISION

Before: Yvon Tarte, Chairperson

For the Applicant: Nathalie Sawyer, Canada Customs and Revenue Agency

For the Respondent: Lyette Babin-MacKay, Professional Institute of the Public Service of Canada

(Decided without an oral hearing)

REASONS FOR DECISION

Application before the Board

[1] This decision deals with an application by the Canada Customs and Revenue Agency (the “employer”) for an order declaring that some positions are managerial or confidential pursuant to section 71 of *Public Service Labour Relations Act* (the “new Act”).

[2] In *Canada Customs and Revenue Agency et al.*, 2001 PSSRB 127, the Board certified the Professional Institute of the Public Service of Canada (the “bargaining agent”) as the bargaining agent for the Audit, Financial and Scientific Group bargaining unit (the “bargaining unit”), which description was later amended to read as follows (see *Canada Customs and Revenue Agency and Professional Institute of the Public Service of Canada*, 2005 PSLRB 79):

The second unit is the Audit, Financial and Scientific Group comprising all employees who are primarily engaged in the application of a comprehensive body of knowledge in such specialized areas as accounting, auditing, economics, statistics, financial management, commerce, actuarial sciences, chemistry, engineering, education, library science, social sciences, computer sciences and physical sciences. . . . To be more specific, it includes the employees who were in occupational groups in the central administration prior to the gazetting of the above groups in March 1999 in the following abbreviated groups: AU, CO, AC, EN, CH, PS, SE, FI, ES, SI, LS, ED and CS.

[3] On April 1, 2005, the new Act, 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 bargaining agent continues to be certified as the bargaining agent for the bargaining unit.

[4] On June 20, 2005, the employer applied to the Board for an order declaring that some positions in the bargaining unit are managerial or confidential pursuant to section 71 of the new Act. Those positions are listed in the annex to this decision.

[5] On or about June 20, 2005, the employer provided the bargaining agent with a copy of the application, pursuant to section 72 of the new Act.

[6] Under subsection 34(1) of the *Public Service Labour Relations Board Regulations*, the bargaining agent had 20 days from the receipt of a copy of the application to file an objection with the Board. The bargaining agent filed objections to the employer’s

application within that time limit. However, on August 22, 2005, the bargaining agent withdrew, in writing, its objections.

[7] Since no objections to the employer's application remain on file, the Board must make, pursuant to section 75 of the new *Act*, an order declaring the positions listed in the annex to this decision to be managerial or confidential positions.

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

(The Order appears on the next page)

Order

[9] The positions identified in the annex to this decision are declared to be managerial or confidential positions.

September 2, 2005.

**Yvon Tarte,
Chairperson**