

Date: 20050824

File: 572-2-77

Citation: 2005 PSLRB 120



*Public Service
Labour Relations Act*

Before the Public Service
Labour Relations Board

BETWEEN

TREASURY BOARD

Applicant

and

PROFESSIONAL INSTITUTE OF THE PUBLIC SERVICE OF CANADA

Respondent

Indexed as

Treasury Board 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 a position is a managerial or confidential position

REASONS FOR DECISION

Before: Yvon Tarte, Chairperson

For the Applicant: Micheline Maisonneuve, Treasury Board

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 a position that has been identified as managerial or confidential by the Treasury Board (the “employer”) pursuant to section 5.2 of the *Public Service Staff Relations Act* (the “former Act”).

[2] In *Professional Institute of the Public Service of Canada v. Treasury Board*, PSSRB File No. 142-2-345 (June 10, 1999), the Board confirmed the Professional Institute of the Public Service of Canada (the “bargaining agent”) as the bargaining agent for the following bargaining unit (the “bargaining unit”):

*All employees of the Employer in the Health Services Group
as defined in Part I of the Canada Gazette of March 27, 1999.*

[3] On April 1, 2005, the *Public Service Labour Relations Act* (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 13, 2005, the employer notified the Board and the bargaining agent of the identification of a position in the bargaining unit as managerial or confidential pursuant to the former *Act*. That position is listed in the annex to this decision. This matter will be dealt with as if it were an application under section 71 of the new *Act*, on the grounds listed in the annex to this decision.

[5] 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. More than 20 days have elapsed, without the bargaining agent having filed any objection to the application.

[6] Since no objections to the employer’s application have been filed, the Board must make, pursuant to section 75 of the new *Act*, an order declaring the position listed in the annex to this decision to be a managerial or confidential position.

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

(The Order appears on the next page)

Order

[8] The position identified in the annex to this decision is declared to be a managerial or confidential position.

August 24, 2005.

**Yvon Tarte,
Chairperson**