

**Date:** 20050907

**File:** 166-2-33009

**Citation:** 2005 PSLRB 132



*Public Service  
Staff Relations Act*

Before an adjudicator

---

BETWEEN

**MIKE J. KERRIGAN**

Grievor

and

**TREASURY BOARD  
(Department of National Defence)**

Employer

***EXPEDITED ADJUDICATION DECISION***

***Before:***      [Yvon Tarte, adjudicator](#)

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

***For the Employer:***      [Daniel Cyr, Department of National Defence](#)

**Note:**      The parties have agreed to deal with the grievance by way of expedited adjudication. The decision is final and binding on the parties and cannot constitute a precedent or be referred for judicial review to the Federal Court.

---

[Heard at Ottawa, Ontario,  
August 26, 2005.](#)

## REASONS FOR DECISION

---

[1] This grievance concerns the interpretation of subclause 2.08(a) and clause 2.09 of the Operational Services collective agreement which read as follows:

*2.08(a) Except as provided in paragraph 2.08(b) and subject to clause 2.10, an employee is entitled to time and one-half compensation for each hour of overtime worked by the employee. When an employee is required to work overtime immediately following their scheduled shift, or on a day of rest, or designated paid holiday, which extends into his or her next scheduled shift, the employee will continue to be compensated at the applicable overtime rate until he or she has had a break of at least eight hours."*

*2.09 "Subject to clause 2.10, an employee is entitled to double time compensation for each hour of overtime worked by the employee on the employee's second or subsequent day of rest, provided the days of rest are consecutive and contiguous."*

[2] 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*, this reference to adjudication 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").

[3] The facts as agreed upon by the parties show that Mr. Kerrigan is an indeterminate firefighter (FR-01) employed by the Department of National Defence at CFB Suffield.

[4] On January 29, 2003, Mr. Kerrigan was on his third day of rest. He was called in to work overtime from 18:00 hours on January 29 to 08:00 hours on January 30, 2003.

[5] The grievor's regularly scheduled shift on January 30, 2003, started at 18:00 hours. Mr. Kerrigan was paid at double time for the hours from 18:00 to 24:00 hours on January 29, 2003, and at time and one half for the hours worked from 01:00 to 08:00 hours on January 30, 2003.

[6] Mr. Kerrigan believes he should have been paid at double time for the whole overtime shift.

[7] The collective agreement does not provide a definition of the word “day” for the provisions applicable to the FR group.

[8] There is, however, a definition of the word “day” as a twenty-four hour period commencing at 00:00 hour in the hours-of-work provisions of the collective agreement dealing with other groups.

[9] The bargaining agent, therefore, argues that a day for the FR group should be found to commence and end with a shift. The employer, on the other hand, believes that a day should be given its ordinary meaning.

[10] A day is normally defined as “a twenty-four hour period as a unit of time, reckoned from one midnight to the next and corresponding to a rotation of the earth on its axis” (Oxford dictionary, tenth edition, revised). There is nothing in the collective agreement that suggests we derogate from the standard definition of “day” in the interpretation of 2.08(a) and 2.09 of the collective agreement.

[11] Work performed on January 30, 2003, was therefore not done on a day of rest. Mr. Kerrigan was properly compensated for his overtime work on January 30, 2003.

Order

[12] The grievance is denied.

September 7, 2005.

**Yvon Tarte,  
adjudicator**