

**Date:** 20051202

**File:** 166-02-33003

**Citation:** 2005 PSLRB 168



*Public Service  
Staff Relations Act*

Before an adjudicator

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BETWEEN

NATHALIE BEAULIEU

Grievor

and

TREASURY BOARD  
(Canada Border Services Agency)

Employer

***EXPEDITED ADJUDICATION DECISION***

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

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

***For the Employer:*** Benoit Riel, Canada Border Services Agency

**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.

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Heard at Ottawa, Ontario,  
November 25, 2005.  
(P.S.L.R.B. Translation)

[1] At the time of her grievance, Nathalie Beaulieu was working for the Canadian Food Inspection Agency. Ms. Beaulieu's grievance concerns the interpretation of the provisions of a collective agreement on the granting and use of paid leave for other reasons.

[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 parties agreed on the following Agreed Statement of Facts:

[Translation]

[1] *The complainant, Nathalie Beaulieu, holds a position as a point of entry imports inspector (PM-02) at Dorval Airport for the Canadian Food Inspection Agency. Ms. Beaulieu works compressed workweeks.*

[2] *Nathalie Beaulieu is covered by the collective agreement between the Canadian Food Inspection Agency and the Public Service Alliance of Canada expiring on 2002/12/31.*

[3] *On February 3, 2003, Nathalie Beaulieu submitted a form entitled "Request for Leave and Report of Absence" in which she wrote: "medical appointment scheduled for February 14, 2002".*

[4] *According to the work schedule, Nathalie Beaulieu was supposed to work on February 14, 2003 from 10:52 a.m. to 9 p.m. in the cargo area.*

[5] *On February 14, 2003, Nathalie Beaulieu was away from work between 10:52 a.m. and 3:10 p.m. because of her medical appointment at 2:00 p.m. at the Commission de la santé et de la sécurité du travail.*

[6] *On February 14, 2003, Nathalie Beaulieu did not have any sick leave credits.*

[7] *On February 21, 2003, André Lambert, inspection manager, asked Nathalie Beaulieu for the time of her appointment as well as the amount of time required for the return trip.*

[8] On February 26, 2003, André Lambert asked Nathalie Beaulieu to justify her absence between 11:10 a.m. and 2:00 p.m.

[9] On March 5, 2003, Nathalie Beaulieu submitted a form entitled "Request for Leave and Report of Absence", in which she requested approval for her absence on February 14, 2003 as follows:

- 1- leave without pay (code 999) for the period from 10:52 a.m. to 11:15 a.m.;
- 2- other paid leave (code 699) for the period from 11:15 a.m. to 3:10 p.m.

[10] On March 10, 2003, André Lambert asked Nathalie Beaulieu for documentation justifying her absence on February 14, 2003 as well as clarifications surrounding the time of her medical appointment and the time required for the return trip. Mr. Lambert informed the complainant that if the period of absence could not be justified, the time would be approved as leave without pay.

[11] On March 14, 2003, André Lambert made the following amendments to the leave application for February 14, 2003 submitted by Nathalie Beaulieu:

- 1- leave without pay (code 999) for the time between 10:52 a.m. and 1:00 p.m.;
- 2- other paid leave (code 699) for the time between 1:00 p.m. and 3:10 p.m.

The paid leave was approved under the Leave with Pay Policy of the Treasury Board of Canada, which stipulates as follows:

It is the practice of the employer to grant leave for up to half a day for medical and dental appointments without charge to the employee's leave credits. This, however, applies only in the case of routine, periodic check-ups or an appointment related to a particular complaint. Where a series of continuing appointments are necessary for treatment of a particular condition, absences are to be charged to sick leave.

[12] On March 27, 2003, Nathalie Beaulieu filed the present grievance contesting the employer's refusal to allow half a day of paid leave for her medical appointment. As corrective action, the complainant asked that the employer comply with clause 39.01 (Medical Appointment for Pregnant Employees) of the collective agreement.

[13] On May 20, 2003, the employer agreed, as part of the grievance settlement, to change the wording of the grievance

*to read clause 54.01(b) (Leave With or Without Pay for Other Reasons), which states:*

*At its discretion, the Employer may grant:*

*(a) ...*

*(b) leave with or without pay for purposes other than those specified in this Agreement.*

[4] There is no limit on the employer's discretion for approving leave under clause 54.01(b) of the collective agreement, and this discretion can only be challenged under circumstances where the exercise of discretion is tainted by discriminatory or abusive actions, which is certainly not the case here.

[5] Employees who want leave under the collective agreement must, as a rule, apply in writing ahead of time.

[6] Although Ms. Beaulieu had indicated in early February 2003 to the employer that she had a medical appointment on February 14, she did not actually apply for this leave.

[7] In light of the fact that Ms. Beaulieu's absence on February 14, 2003 had not been officially approved in advance by the employer, I cannot allow this grievance.

[8] For these reasons, I make the following order:

*(The Order appears on the next page)*

Order

[9] The grievance is dismissed.

December 2, 2005.

P.S.L.R.B. Translation

**Yvon Tarte,  
adjudicator**