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Files: 166-2-34557 and 34558

Citation: 2005 PSLRB 162



*Public Service
Staff Relations Act*

Before an adjudicator

BETWEEN

BARRY JAMES TURNER

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 Saint-Sauveur, Quebec,
October 18, 2005.](#)

REASONS FOR DECISION

[1] These grievances are concerned with the interpretation of certain clauses of the Operational Services collective agreement dealing with shift and weekend premiums. The parties submitted the following Agreed Statement of Facts:

1. *The grievor, Barry Turner, is an indeterminate employee of the Department of National Defence.*
2. *At the time of his grievance, he was employed at the Wing Construction Engineering at 8 Wing, Trenton.*
3. *At the time of his grievance, the grievor was covered by the Operational Services group collective agreement between the Treasury Board and the Public Service Alliance of Canada that expired on August 4, 2003.*
4. *At the time of his grievance, the grievor was classified at the GL WOW 09 group and level.*
5. *The grievor's regularly scheduled hours of work were from 7:00 to 15:30, Monday to Friday. More specifically, he worked 8 hours per day with a half hour lunch break.*
6. *From August 6th to August 28th, 2003, the grievor worked twelve hours (12) per day every day, including weekends (12 hours per day on each regular workday and 12 hours per day on the weekends) and was compensated at the applicable overtime rate of pay for all hours in excess of his regular scheduled hours of work.*
7. *On October 10, 2003 the grievor filed a grievance stating that he was entitled to the shift premium as per Article 27.01 of his collective agreement for all hours worked between 16:00 and 8:00. He further stated that the Treasury Board Bulletin 001/03 and the DGER Bulletin dated March 19, 2001 contravened his rights under this article.*
8. *On October 10, 2003 the grievor filed a second grievance stating that he was entitled to the weekend premium as per Article 27.02 of his collective agreement for all hours worked, including overtime hours, on Saturday and Sunday.*

[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*, these references 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] Clauses 27.01 and 27.02 of the collective agreement read as follows:

27.01 Shift Premium

An employee working on shifts will receive a shift premium of one dollar and seventy-five cents (\$1.75) per hour for all hours worked, including overtime hours, between 4:00 p.m. and 8:00 a.m. The shift premium will not be paid for hours worked between 8:00 a.m. and 4:00 p.m.

Effective August 5, 2002

An employee working on shifts will receive a shift premium of two dollars (\$2.00) per hour for all hours worked, including overtime hours, between 4:00 p.m. and 8:00 a.m. The shift premium will not be paid for hours worked between 8:00 a.m. and 4:00 p.m.

27.02 Weekend Premium

An employee working on shifts during the weekend will receive an additional premium of one dollar and seventy-five cents (\$1.75) per hour for all hours worked, including overtime hours, on Saturday or Sunday.

Effective August 5, 2002

An employee working on shifts during the weekend will receive an additional premium of two dollars (\$2.00) per hour for all hours worked, including overtime hours, on Saturday or Sunday.

[4] The question to be decided in this case is whether the grievor was “working on shifts” from August 6 to August 28, 2003, when he was required to work 12-hour days, including on the weekends, during an assignment away from his normal place of work.

[5] The collective agreement does not define the word “shift”. The 12-hour days worked by the grievor in August 2003 are, therefore, not specifically excluded from the application of clauses 27.01 and 27.02 of the collective agreement. As mentioned in *Ilkanic v. Treasury Board (Canada Employment and Immigration Commission)*, PSSRB File No. 166-2-14259 (1984) (QL):

The word “shift” has a multitude of meanings, such as a movement, an expedient, a stratagem, a change of position, a change of gears, a woman’s chemise, each of a crop in course of rotation. The Shorter Oxford English Dictionary also includes:

the length of time during which a set of men work

Webster’s New Collegiate Dictionary includes:

a scheduled period of work or duty

Finally, Webster’s New Twentieth Century Dictionary of the English Language includes:

a certain number of hours of work.

A shift is, in my opinion, simply a regularly scheduled work period for one or more employees in an establishment (or in a department in an establishment) where work is divided into a series of work periods.

[6] The shift and weekend premiums are intended to compensate employees who are regularly required to work hours during which many, if not most, other workers are enjoying leisure (see *Barnes and Solowich v. Treasury Board*, PSSRB File Nos. 166-2-1828 and 1829 (1975)).

[7] I believe that for a period of three weeks, the grievor was regularly required to work on shifts that come within the purview of clauses 27.01 and 27.02.

Order

[8] The grievances are allowed. The employer is directed to pay the grievor a shift premium in accordance with Article 27.01 of the collective agreement for all hours worked between 16:00 and 8:00 from August 6^h to August 28, 2003. The employer is further directed to pay the grievor a shift premium in accordance with Article 27.02 of the collective agreement for all hours worked, including overtime hours, on the Saturdays and Sundays that fall between August 6 and August 28, 2003.

November 7, 2005

**Yvon Tarte,
adjudicator**