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*Public Service
Labour Relations Act*

Before the Public Service
Labour Relations Board

BETWEEN

**ROGER GROULX, ROCK PERREAULT,
ROBERT VALLÉE AND DELPHIS DUBÉ**

Complainants

and

**TREASURY BOARD
(Department of Veterans Affairs)**

Respondent

Indexed as

Groulx et al. v. Treasury Board (Department of Veterans Affairs)

In the matter of complaints made under section 23 of the *Public Service Staff Relations Act*

REASONS FOR DECISION

Before: Jean-Pierre Tessier, board member

For the Complainants: Roger Groulx

For the Respondent: Stéphane Hould, counsel

Heard at Montréal, Quebec,
March 14, 2005.
(P.S.L.R.B. Translation)

Complaints before the Board

[1] Roger Groulx, Rock Perreault, Robert Vallée and Delphis Dubé, the complainants, work for the Department of Veterans Affairs at St. Anne's Hospital in Ste-Anne-de-Bellevue, Quebec.

[2] In the fall of 2003, the employer carried out a re-evaluation of the positions occupied by Mr. Perreault, Mr. Vallée and Mr. Dubé, telling them that the group and level of their positions remained unchanged (GL-WOW-09). On December 12, 2003, Mr. Perreault, Mr. Vallée and Mr. Dubé each filed a grievance contesting the classification of their positions and designate Mr. Groulx as their representative. The employer responded directly to Mr. Perreault, Mr. Vallée and Mr. Dubé indicating that the work description for their positions had been updated and re-evaluated, but did not notify their representative.

[3] On February 3, 2004, the complainants each filed a complaint of unfair labour practice pursuant to the *Public Service Staff Relations Act*, R.S.C. 1985, c. P-35, alleging in particular that the employer ignored the representative of Mr. Perreault, Mr. Vallée and Mr. Dubé in processing their grievances.

[4] Mr. Groulx's complaint is worded as follows:

[Translation]

...

After discussion and agreement, I agreed to represent employees who filed classification grievances on December 12, 2003 concerning the evaluation of their positions. When I learned about the federal reclassification freeze, I sent an e-mail (December 18, 2003) to the Chief of Staff Relations, Mr. Jean Lajeunesse, asking him for the employer's position on the freeze and how we could come to an agreement on the procedures. To date I have still not received a response to my e-mail.

On Monday, January 17, 2004, one of the employees whom I represent brought me copies of documents dated January 14, 2004 that he had received from his Foreman, Mr. Claude Deschamps. These documents informed the employee that a new update of his work description and a re-evaluation of his position had been carried out, notwithstanding the grievance filed the previous month. The evaluator, Mr. Denis Cadotte, while acknowledging the grievances that had been filed, completely ignored my representation in this matter.

On January 22, 2004, one of the employees whom I represent received a memorandum from his Director, Mr. Jacques Morel, informing him that an update and a re-evaluation of his position had been carried out and that he could file a grievance if he disagreed with the re-evaluation.

The employer, or any person acting on its behalf, appears to want to ignore me with regard to the classification grievances filed in December 2003 and not to acknowledge the employees' choice of representative as set out in the Treasury Board Secretariat Classification Grievance Process.

I consider that these distinctions are unfair and malicious toward me and the employees whom I agreed to represent as indicated in the grievances filed, and that they harm my rights under the Act and the Process in effect.

...

[5] In his complaint, Mr. Perreault alleges as follows:

[Translation]

...

On January 22, 2004, I received from my Foreman, Mr. Claude Deschamps, a memorandum from my Director, Mr. Jacques Morel, indicating that an update and a re-evaluation of my position had been carried out and that I could file a classification grievance if I disagreed. This re-evaluation had been approved by my Chief, Mr. Daniel Boisvert, on January 7, 2004 "at my request", something I never requested or even discussed since I had filed a classification grievance the previous month.

This whole procedure was carried out without myself or my representative being notified or informed of it. The employer, or any person acting on its behalf, appears not to want to acknowledge the procedure for processing my classification grievance, despite the fact that it has to do with the evaluation of my position and not the content of my work description.

The employer, or any person acting on its behalf, appears not to want to acknowledge the person whom I chose as a representative with regard to my classification grievance.

I consider these distinctions unfair and malicious toward me and my representative with regard to the exercise of my rights under the Act and the Process...

...

[6] Mr. Vallée writes as follows in his complaint:

[Translation]

...

On January 15, 2004, I received from my Foreman, Mr. Claude Deschamps, a new work description and a memorandum indicating that an update and a re-evaluation had been carried out "... at the incumbents' request...", something I never requested or even discussed since I had filed a classification grievance the previous month. Additional wording had been added to this new work description and a re-evaluation had been approved by my Chief, Mr. Daniel Boisvert, on January 7, 2004.

In his covering note to the new work description, the evaluator, Mr. Denis Cadotte, emphasizes that "... perhaps a new grievance should be filed and the old one withdrawn..." even though he acknowledges that at present I have a classification grievance being processed.

This whole procedure was carried out without myself or my representative being notified or informed of it. The employer, or any person acting on its behalf, appears not to want to acknowledge the procedure for processing my classification grievance, despite the fact that it has to do with the evaluation of my position and not the content of my work description.

The employer, or any person acting on its behalf, appears not to want to acknowledge the person whom I chose as a representative with regard to my classification grievance.

I consider these distinctions unfair and malicious toward me and my representative with regard to the exercise of my rights under the Act and the Process...

...

[7] Lastly, Mr. Dubé alleges as follows:

[Translation]

...

On January 26, 2004, I received a notice from my Director, Mr. Jacques Morel, indicating that a new work description and a re-evaluation of my position had been carried out. To date, I have not received my new work description. This re-evaluation had been approved by my Chief, Mr. Daniel Boisvert, on January 7, 2004 "at my request", something I

never requested or even discussed since I had filed a classification grievance the previous month.

This whole procedure was carried out without myself or my representative being notified or informed of it. The employer, or any person acting on its behalf, appears not to want to acknowledge the procedure for processing my classification grievance, despite the fact that it has to do with the evaluation of my position and not the content of my work description.

The employer, or any person acting on its behalf, appears not to want to acknowledge the person whom I chose as a representative with regard to my classification grievance and is completely ignoring him.

I consider these distinctions unfair and malicious toward me and my representative with regard to the exercise of my rights under the Act and the Process...

...

[8] The complainants ask the Board to order:

- 1) that the classification grievances of Mr. Perreault, Mr. Vallée and Mr. Dubé be processed in accordance with [translation] "the procedures in effect";
- 2) that application of the new work description for the positions occupied by Mr. Perreault, Mr. Vallée and Mr. Dubé be suspended until the final settlement of their classification grievances; and
- 3) that the employer acknowledge Mr. Groulx as the representative of Mr. Perreault, Mr. Vallée and Mr. Dubé and deal seriously with him in the processing of their grievances.

[9] These complaints were heard on March 14, 2005 at Montréal, Quebec. At the beginning of the hearing, the employer objected that the complaints were inadmissible. It was then agreed that I would render a decision on this objection before proceeding further with the case.

[10] On April 1, 2005, the new *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 39 of the *Public Service Modernization Act*, the Board continues to be seized of these complaints.

Summary of the arguments

[11] The employer argues that the complainants allege no labour practice prohibited by the *Act*. The employer emphasizes that the relevant provisions of the *Act* have to do with issues of refusal to employ, intimidation, and threats of financial penalty or disciplinary action.

[12] In the present case, the complainants contest the processing of the classification grievances filed by Mr. Perreault, Mr. Vallée and Mr. Dubé and allege that the employer ignored the fact that Mr. Groulx represented them. They do not allege any specific unfair labour practice by the employer.

[13] The complainants refer to the documents appended to their complaints, particularly those appended to Mr. Groulx's complaint. Mr. Groulx claims that the employer's responses to the classification grievances of Mr. Perreault, Mr. Vallée and Mr. Dubé were not sent to him in his capacity as their representative. Mr. Groulx argues that, by failing to deal with him as the complainants' representative, the employer sought to intimidate them in the exercise of their rights, particularly their right to recourse in classification matters.

[14] In conclusion, Mr. Groulx emphasizes that the employer was aware that he represented Mr. Perreault, Mr. Vallée and Mr. Dubé in their classification grievances because they identified him as the representative on their grievance presentation forms. Mr. Groulx also represents Mr. Perreault, Mr. Vallée and Mr. Dubé in the present complaints, a fact that he confirmed to the Board on April 6, 2004.

[15] In rebuttal, the employer points out that the dispute has to do with classification and that the Board does not have jurisdiction in classification matters. Essentially, the criticisms expressed and the order sought by the complainants have to do with the classification process.

[16] According to the employer, the complainants' allegations do not have to do with any labour practice prohibited by the *Act* and cannot be the subject of a complaint.

Reasons

[17] Are the alleged unfair labour practices prohibited under the *Act*? By listing which labour practices are prohibited, Parliament limited the scope of the *Act* to that list. For example, the *Act* lists refusal to employ, discrimination, intimidation, and

threats. While these generic terms give the Board some latitude of interpretation, they also circumscribe its area of jurisdiction.

[18] There is no doubt that the employer's actions criticized by the complainants are part of the classification grievance process. The actions complained of are the following:

1. informing Mr. Perreault, Mr. Vallée and Mr. Dubé directly that the work description for their positions had been updated and re-evaluated;
2. not providing the same information to Mr. Groulx, who was acting as their representative with regard to their classification grievances;
3. in Mr. Vallée's case, indicating that perhaps a new grievance should be filed.

[19] Even if I accept that the complainants might feel intimidated by the employer's way of processing their classification grievances, the employer's actions do not suggest any kind of intimidation or threat within the meaning of the *Act*. Objectively speaking, the employer's actions cannot be considered labour practices prohibited by the *Act*. In fact, nothing suggests that the employer acted as it did in retaliation for the fact that Mr. Perreault, Mr. Vallée and Mr. Dubé filed classification grievances, or because the complainants are members of a union.

[20] The employer's actions after Mr. Perreault, Mr. Vallée and Mr. Dubé filed grievances in January 2004 appear to be part of the processing of the classification grievances. I accept the employer's argument that these actions are legitimate.

[21] Lastly, Mr. Groulx indicates that the employer ignored him. It is possible that he had difficulty making himself heard by the employer. However, when the complaints were filed, apparently the employer's only failure was not sending Mr. Groulx copies of the letters sent to the employees whom he represented. Although that omission is regrettable, it does not constitute a labour practice prohibited by the *Act*. Here again, nothing establishes that the employer acted as it did in retaliation for the fact that Mr. Perreault, Mr. Vallée and Mr. Dubé filed grievances, or because the complainants are members of a union.

[22] The complainants are bound by the allegations set out in their complaints. As worded, their complaints do not have to do with unfair labour practices within the

meaning of the *Act*. Furthermore, the order they request suggests, instead, that they are seeking reclassification of their positions. If the complainants wish to complain about the classification of their positions, they must do so by means of new classification grievances.

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

(The Order appears on the next page)

Order

[24] The complaints are dismissed.

December 6, 2005.

P.S.L.R.B. Translation

**Jean-Pierre Tessier,
Board member**