

Date: 20050803

File: 572-34-13

Citation: 2005 PSLRB 85



*Public Service
Labour Relations Act*

Before the Public Service
Labour Relations Board

BETWEEN

CANADA CUSTOMS AND REVENUE AGENCY

Applicant

and

PROFESSIONAL INSTITUTE OF THE PUBLIC SERVICE OF CANADA

Respondent

Indexed as

*Canada Customs and Revenue Agency 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: Ian R. Mackenzie, Vice-Chairperson

For the Applicant: Nathalie Sawyer, Canada Customs and Revenue Agency

(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 Canada Customs and Revenue Agency (the “employer”) pursuant to section 5.2 of the *Public Service Staff Relations Act* (the “former Act”).

[2] In *Canada Customs and Revenue Agency et al.*, 2001 PSSRB 127, the Board certified the Professional Institute of the Public Service of Canada (the “bargaining agent”) as the bargaining agent for the Audit, Financial and Scientific Group bargaining unit (the “bargaining unit”), which description was later amended to read as follows (see *Canada Customs and Revenue Agency and Professional Institute of the Public Service of Canada*, 2005 PSLRB 79):

The second unit is the Audit, Financial and Scientific Group comprising all employees who are primarily engaged in the application of a comprehensive body of knowledge in such specialized areas as accounting, auditing, economics, statistics, financial management, commerce, actuarial sciences, chemistry, engineering, education, library science, social sciences, computer sciences and physical sciences. . . . To be more specific, it includes the employees who were in occupational groups in the central administration prior to the gazetting of the above groups in March 1999 in the following abbreviated groups: AU, CO, AC, EN, CH, PS, SE, FI, ES, SI, LS, ED and CS.

[3] On March 23, 2005, the employer notified the Board and the bargaining agent of the identification of a position in the bargaining unit as managerial or confidential. That position is listed in the annex to this decision.

[4] 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. Also, pursuant to section 39 of the PSMA, the Board continues to be seized with this identification, which must be disposed of in accordance with the new Act. Accordingly, 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] The bargaining agent had 20 days from the day on which it was notified of the identification to file an objection with the Board. More than 20 days have elapsed,

without the bargaining agent having filed any objection to the employer's identification.

[6] Since no objections to the employer's identification 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 3, 2005.

**Ian R. Mackenzie,
Vice-Chairperson**