

Date: 20050805

File: 572-32-66

Citation: 2005 PSLRB 95



*Public Service
Labour Relations Act*

Before the Public Service
Labour Relations Board

BETWEEN

CANADIAN FOOD INSPECTION AGENCY

Applicant

and

PROFESSIONAL INSTITUTE OF THE PUBLIC SERVICE OF CANADA

Respondent

Indexed as

*Canadian Food Inspection 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: Stephen Black, Canadian Food Inspection Agency

For the Respondent: Lyette Babin-MacKay, Professional Institute of the Public Service of Canada

(Decided without an oral hearing)

REASONS FOR DECISION

Application before the Board

[1] This decision deals with an application by the Canadian Food Inspection Agency (the “employer”) for an order declaring that a position is managerial or confidential pursuant to section 71 of *Public Service Labour Relations Act* (the “new Act”).

[2] In *Canadian Food Inspection Agency v. Public Service Alliance of Canada et al.*, PSSRB File No. 140-32-14 (October 27, 1997), the Board certified the Professional Institute of the Public Service of Canada (the “bargaining agent”) as the bargaining agent for the following bargaining unit (the “bargaining unit”):

all the employees of the employer performing duties in positions which are or would be classified under the Veterinary Medicine (VM) Group in the classification system of the Treasury Board.

[3] On April 1, 2005, 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.

[4] On June 1, 2005, the employer applied to the Board for an order declaring that a position in the bargaining unit is managerial or confidential pursuant to section 71 of the new Act. That position is listed in the annex to this decision.

[5] On or about June 1, 2005, the employer provided the bargaining agent with a copy of the application, pursuant to section 72 of the new Act.

[6] Under subsection 34(1) of the *Public Service Labour Relations Board Regulations*, the bargaining agent had 20 days from the receipt of a copy of the application to file an objection with the Board. More than 20 days have elapsed, without the bargaining agent having filed any objection to the application.

[7] Since no objections to the employer’s application 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.

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

(The Order appears on the next page)

Order

[9] The position identified in the annex to this decision is declared to be a managerial or confidential position.

August 5, 2005.

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