

Date: 20050812

File: 572-2-68

Citation: 2005 PSLRB 99



*Public Service  
Labour Relations Act*

Before the Public Service  
Labour Relations Board

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BETWEEN

**TREASURY BOARD**

Applicant

and

**PROFESSIONAL INSTITUTE OF THE PUBLIC SERVICE OF CANADA**

Respondent

Indexed as

*Treasury Board 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 some positions are managerial or confidential positions

**REASONS FOR DECISION**

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

***For the Applicant:*** Micheline Maisonneuve, Treasury Board

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

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(Decided without an oral hearing)

## REASONS FOR DECISION

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### Application before the Board

[1] This decision deals with an application by the Treasury Board (the “employer”) for an order declaring that some positions are managerial or confidential pursuant to section 71 of *Public Service Labour Relations Act* (the “new Act”).

[2] In *Professional Institute of the Public Service of Canada v. Treasury Board*, PSSRB File No. 142-2-344 (June 1, 1999), the Board confirmed 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 employees of the Employer in the Computer Systems Group as defined in Part I of the Canada Gazette of March 27, 1999.*

[3] On March 31, 2005, the *Public Service Staff Relations Act (PSSRA)* was repealed pursuant to an Order in Council, dated March 22, 2005 (P.C. 2005-372) made under section 285 of the *Public Service Modernization Act (PSMA)*. On April 1, 2005, the new Act, enacted by section 2 of the *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 7, 2005, the employer applied to the Board for an order declaring that some positions in the bargaining unit are managerial or confidential pursuant to paragraph 5.1(1)(b) of the *PSSRA*. In light of the repeal of the *PSSRA*, as stated above, this application will be dealt with under section 71 of the new Act on the grounds listed in paragraph 59(1)(e) of the new Act. The positions referred to in the employer’s application are listed in the annex to this decision.

[5] On or about June 7, 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 positions listed in the annex to this decision to be managerial or confidential positions.

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

*(The Order appears on the next page)*

Order

[9] The positions identified in the annex to this decision are declared to be managerial or confidential positions.

August 12, 2005.

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