

Date: 20061205

File: 585-32-5

Citation: 2006 PSLRB 132



*Public Service
Labour Relations Act*

Before the Chairperson
Public Service Labour Relations Board

IN THE MATTER OF
THE *PUBLIC SERVICE LABOUR RELATIONS ACT*
and a dispute affecting
the Professional Institute of the Public Service of Canada, as bargaining agent,
and the Canadian Food Inspection Agency, as employer,
in respect of the employees in the Informatics Group

Indexed as
*Professional Institute of the Public Service of Canada v. Canadian Food Inspection
Agency*

TERMS OF REFERENCE OF THE ARBITRATION BOARD

To: Philip Chodos, chairperson of the arbitration board;
Luc Grenier and Gray Gillespie, arbitration board members

For the Bargaining Agent: Michel Gingras, Professional Institute of the Public
Service of Canada

For the Employer: Tom McShane, Canadian Food Inspection Agency

(Decided without an oral hearing)

TERMS OF REFERENCE OF THE ARBITRATION BOARD

[1] By letter of September 12, 2006, the Professional Institute of the Public Service of Canada (the “bargaining agent”) requested that the Chairperson of the Public Service Labour Relations Board (the “Chairperson of the PSLRB”) establish an arbitration board for the arbitration of matters in dispute in relation to all the employees of the employer performing duties in positions that are or would be classified in the Informatics (IN) (formerly the Computer Systems Administration (CS)) Group bargaining unit (the “bargaining unit”). Although its letter was in French, the bargaining agent requested that the proceedings be held in English.

[2] Included with its request, the bargaining agent provided a list of the terms and conditions of employment that it wished to have referred to the arbitration board, and its proposals concerning the award to be made in respect of those terms and conditions of employment. Those terms and conditions of employment and supporting material are attached hereto as SCHEDULE I.

[3] The Canadian Food Inspection Agency (the “employer”) having omitted to respond to the bargaining agent’s request within the statutory time frame, the bargaining agent requested, by letter of October 12, 2006, that the Chairperson of the PSLRB make an arbitral award incorporating the proposals filed by the bargaining agent into a new collective agreement for the bargaining unit.

[4] By letter of October 19, 2006, the employer responded to the bargaining agent’s letter of October 12, 2006. However, the employer did not address any of the terms and conditions of employment that the bargaining agent wished to have referred to the arbitration board, or the proposals concerning the award to be made in respect of those terms and conditions of employment. The employer did not request arbitration in respect of additional terms or conditions of employment.

[5] By letter of October 27, 2006, the bargaining agent reiterated its request of October 12, 2006, that the Chairperson of the PSLRB make an arbitral award incorporating the proposals filed by the bargaining agent into a new collective agreement for the bargaining unit.

[6] On October 31, 2006, the parties were informed that the Chairperson of the PSLRB intended to establish an arbitration board for arbitration of the matters in dispute.

[7] The *Public Service Labour Relations Act* (the “*PSLRA*”) does not vest the Chairperson of the PSLRB with the powers that the bargaining agent asked him to exercise. Under the *PSLRA*, the Chairperson of the PSLRB, on receiving a request for arbitration, can either establish an arbitration board or delay establishing an arbitration board if he is not satisfied that the parties have bargained sufficiently (section 137). The *PSLRA* does not authorize him to make an arbitral award, even if the employer omits to respond to the request for arbitration; that power is given to an arbitration board only.

[8] Accordingly, pursuant to section 144 of the *PSLRA*, the matters in respect of which the arbitration board shall make an arbitral award in this dispute are those set out as outstanding in SCHEDULE I attached hereto.

[9] Should any jurisdictional question arise during the course of the hearing as to the inclusion of a matter in these terms of reference, that question must be submitted forthwith to the Chairperson of the PSLRB, because he is, according to the provisions of subsection 144(1) of the *PSLRA*, the only person authorized to make such a determination.

December 5, 2006.

**Ian Mackenzie,
Acting Chairperson
Public Service Labour Relations Board**