

**Date:** 20060322

**File:** 181-02-502

**Citation:** 2006 PSLRB 33

*Public Service Staff 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 a determination that positions have safety or security duties under sections 78.1 to 78.5 of the *Public Service Staff Relations Act*

**REASONS FOR DECISION**

***Before:*** Yvon Tarte, Chairperson

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

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(Decided without an oral hearing)

## REASONS FOR DECISION

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[1] In *Treasury Board v. Professional Institute of the Public Service of Canada*, 2006 PSLRB 6, the Board designated positions in the Computer Systems Group bargaining unit pursuant to subsection 78.1(6) of the *Public Service Staff Relations Act* (the “former Act”). Diskettes *January 12, 2006 CS Designations “CHG” = 664 records, “CUR” = 285 records, “DEL” = 916 records and “NEW” = 1474 records* (the “old diskettes”) contain a list of positions which the parties agreed had safety or security duties as of that date.

[2] On April 1, 2005, the *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 sections 39 and 58 of the *Public Service Modernization Act* and section 107 of the *Public Service Labour Relations Board Regulations*, the Board must dispose of this matter in accordance with section 76 to 90.1 of the former *Act* and the *P.S.S.R.B. Regulations and Rules of Procedure, 1993* (the “former *Regulations*”).

[3] On February 21, 2006, the employer advised the Board that the parties had agreed to amend the list on the old diskettes. Enclosed with the employer’s letter were Memoranda of Agreement, by which the parties agreed to amend the list on the old diskettes, together with three (3) new diskettes bearing identification *Feb 17/06 CS ‘CHG’ 1<sup>st</sup> update, DEL 1<sup>st</sup> update, and ‘NEW’, 1<sup>st</sup> update* (the “new diskettes”). On March 22, 2006, the employer advised the Board that the bargaining agent had been provided with a true copy of the new diskettes. The new diskettes are accepted by the Board as containing the list of all of the positions which the parties now agree have safety or security duties.

[4] On the basis of the agreement of the parties, the Board hereby revokes the designation of any positions that the parties now agree no longer have safety or security duties, as the case may be. The Board also revokes the Forms 13 issued for those positions. The Board directs the employer to return forthwith any Forms 13 still in its possession and that have not been distributed to employees in those positions. Furthermore, the employer is to make every reasonable effort to obtain any Forms 13 that may have been so distributed to employees in those positions. The bargaining agent is to cooperate in this regard. The Board will destroy the Forms 13 when returned by the employer.

[5] On the agreement of the parties and pursuant to subsection 78.1(6) of the former *Act*, the Board hereby designates any positions that appear on the new diskettes and which the parties now agree have safety or security duties.

[6] Pursuant to section 78.5 of the former *Act*, the Board hereby authorizes the employer to inform the employees occupying the positions designated above. For this purpose, the Board will provide the employer with a Form 13 for each of those positions, containing all the information required, with the exception of the name of the employee occupying the designated position and the "Dated at..." portion of the Form, which is to be completed by the employer prior to notification.

[7] On July 8, 1997, the parties applied for an extension of the time limit set out in section 60 of the former *Regulations*, to a period of 30 days from the date of a request for conciliation pursuant to section 76 of the former *Act*. Pursuant to section 6 of the former *Regulations*, this request was granted by the Board, on July 10, 1997: Board file 181-2.

[8] Since the extension of time granted in this file has already expired, the above timeline cannot apply in the instant case. In these circumstances, the persons who occupy the positions designated above are to be so informed within 30 days from the date of this decision. Thereafter, future occupants of a designated position during this round of bargaining shall be notified within 30 days of the date on which they first occupy the position.

[9] Finally, the Board draws the employer's attention to its responsibility under subsection 60(2) of the former *Regulations* that, on the notification of an employee who occupies a designated position, it is to provide forthwith a copy of the notice referred to in subsection 60(1) to the bargaining agent.

March 22, 2006.

**Yvon Tarte,  
Chairperson**