

**Date:** 20060615

**File:** 166-34-31238

**Citation:** 2006 PSLRB 74



*Public Service  
Staff Relations Act*

Before an adjudicator

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BETWEEN

**RHONDA BRAIN**

Grievor

and

**CANADA REVENUE AGENCY**

Employer

***EXPEDITED ADJUDICATION DECISION***

***Before:***        [Ian R. Mackenzie, adjudicator](#)

***For the Grievor:***        [Lynn Whittaker, Public Service Alliance of Canada](#)

***For the Employer:***        [Lisa Martin, Canada Revenue Agency](#)

**Note:**        The parties have agreed to deal with the grievance by way of expedited adjudication. The decision is final and binding on the parties and cannot constitute a precedent or be referred for judicial review to the Federal Court.

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[Heard at Ottawa, Ontario,  
June 9, 2006.](#)

## REASONS FOR DECISION

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[1] This grievance concerns the interpretation of a leave with pay provision for the preparation of a grievance contained in the collective agreement signed by the Canada Customs and Revenue Agency and the Public Service Alliance of Canada on June 23, 2000, for the Program and Administration Services Group, Operational Services Group, Technical Services Group and Education and Library Services Group. When the grievance was filed, the grievor was employed at the Canada Customs and Revenue Agency, now known as the Canada Revenue Agency (CRA). The grievance was referred to adjudication on April 11, 2002.

[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 section 61 of the *Public Service Modernization Act*, this reference to adjudication must be dealt with in accordance with the provisions of the *Public Service Staff Relations Act*, R.S.C., 1985, c. P-35.

[3] The parties submitted a book of documents, including an *Agreed Statement of Facts* that reads as follows:

...

2. *The parties hereby agree and respectfully submit the following statement of facts:*

- a. *At the time of the filing of this grievance, the grievor was employed as a CR-02, Assessing Services Clerk at the Surrey Taxation Centre of CCRA and was a member of the Program Delivery and Administrative Services Collective Agreement between the CCRA and the Public Service Alliance of Canada (PSAC) with an expiry date of October 31, 2003.*
- b. *On June 23, 2000, Canada Customs and Revenue Agency and the Public Service Alliance of Canada signed the collective agreement in which Article 14.07 provides for leave with or without pay for meetings with the Alliance during the grievance process.*

*Section 14.07 reads:*

Where an employee representative wishes to discuss a grievance with an employee who has asked or is obliged to be represented by the Alliance in relation to the presentation of his or her grievance, the Employer will, where

operational requirements permit, give them reasonable leave with pay for this purpose when the discussion takes place in their headquarters area, and reasonable leave without pay when it takes place outside the headquarters area.

- c. *On November 7, 2000, Ms. Brain grieved the denial by CCRA to grant her 3.0 hours of paid leave pursuant to Article 14.07 of the CCRA/PSAC Collective Agreement. The grievor divided the hours into two different dates on her grievance presentation form: 2.5 hours for October 16, 2000 and 0.5 hours for October 31, 2000.*
- d. *The outcome of the meeting between the grievor and her union representative on October 16, 2000 did not result in the filing of a grievance, but a CHRC complaint.*
- e. *The first level reply was issued on December 12, 2000 granting the 0.5 hours of leave requested for October 31, 2000, as it was determined that it was in relation to filing a grievance concerning the denial of 2.5 hours of paid leave used to meet with a union representative on October 16, 2000.*
- f. *The grievance was denied at the final level on March 11, 2000.*

...

[4] The grievor submitted that she was requesting assistance from her bargaining agent with regards to a potential claim under the “no discrimination” clause of her collective agreement. She felt aggrieved, and had a discussion with her bargaining agent’s representative on the best way to deal with a legitimate concern. In the end, it was determined that a human rights complaint was the preferred approach. There was a discussion as to whether a grievance would be filed. The grievor submitted that the language of the collective agreement should be given a broad interpretation, and that the CRA’s refusal to grant leave with pay violated the spirit of the collective agreement. She referred me to *Tisdelle v. Treasury Board (Employment and Immigration Canada)*, PSSRB File Nos. 166-02-15169 and 15170 (1987) (QL).

[5] The CRA submitted that the intent of clause 14.07 was clear - there was no provision for the grievor to obtain paid leave for anything other than to discuss the

filing of a grievance. In *Tisdelle*, there was a review of an investigation report in relation to a grievance. Such was not the case here. The CRA also referred me to *Achakji v. Treasury Board (Transport Canada)*, PSSRB File No. 166-02-25895 (1995) (QL), where leave was denied for the preparation of an appeal pursuant to the *Public Service Employment Act*.

[6] I conclude, based on a plain reading of clause 14.07 of the collective agreement, that leave for anything other than the preparation of a grievance is not contemplated. The express purpose set out in that clause is to “discuss a grievance”. On the facts as set out above, I cannot conclude that this was the purpose of the discussion. My role is to interpret the words as written in the collective agreement, not the spirit of that language. I agree with the grievor that the CRA did not act within the broad spirit of clause 14.07. The broad spirit of that provision is to assist in the timely resolution of disputes in the workplace, and such discussions should generally be encouraged. However, the language of clause 14.07 is clear: only matters that result in the filing of grievances are governed by that clause.

[7] For all of the above reasons, I make the following order:

*(The Order appears on the next page)*

Order

[8] The grievance is dismissed.

June 15, 2006.

**Ian R. Mackenzie,  
adjudicator**