

Date: 20071011

File: 166-02-35194

Citation: 2007 PSLRB 106



*Public Service
Staff Relations Act*

Before an adjudicator

BETWEEN

JACQUES BROSSEAU

Grievor

and

**TREASURY BOARD
(Department of Human Resources and Skills Development)**

Employer

Indexed as

Brosseau v. Treasury Board (Department of Human Resources and Skills Development)

In the matter of a grievance referred to adjudication pursuant to section 92 of the
Public Service Staff Relations Act

REASONS FOR DECISION

Before: Michele A. Pineau, adjudicator

For the Grievor: Himself

For the Employer: Jeff Laviolette, Senior Employer Representation Officer, Treasury Board

(Decided without an oral hearing)
(P.S.L.R.B. Translation)

Grievance referred to adjudication

[1] Jacques Brosseau (“the grievor”) is a client services officer for the Department of Human Resources and Skills Development. On August 28, 2002, he filed a grievance contesting a two-day suspension imposed on him because of a number of breaches of the *Conflict of Interest and Post-Employment Code* governing federal public servants. The grievance was dismissed at the first two levels of the grievance process.

[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 (“the former Act”).

[3] On October 4, 2004, the Public Service Alliance of Canada (“the bargaining agent”) referred the grievance to adjudication under subsection 96(1) of the former Act, using form 14. On March 11, 2005, the Public Service Labour Relations Board (“the Board”) acknowledged receipt of the notice of reference to adjudication and sent a copy to Mr. Brosseau in which it noted that the employee is responsible for informing the Board of any change of address or telephone number.

[4] On March 14, 2005, the bargaining agent requested that this case be dealt with by expedited adjudication.

[5] On March 24, 2005, the Board’s Registry Officer placed a note in the file indicating that Canada Post had returned the case-opening letters sent to Mr. Brosseau because the addressee had moved. The letters were then sent to the bargaining agent to be forwarded to Mr. Brosseau along with a request for the grievor's new contact information.

[6] On April 5, 2005, the bargaining agent provided the Board with Mr. Brosseau's new contact information.

[7] The hearing for this case was first scheduled for June 23, 2006 and was then rescheduled to November 24, 2006. According to the file, the hearing dates were postponed for administrative reasons.

[8] On June 7, 2007, the bargaining agent notified the Board that it had repeatedly attempted to contact Mr. Brosseau to discuss his case, to no avail, and was withdrawing from the case.

[9] On June 13, 2007, the Board wrote to Mr. Brosseau by registered mail at the most recent address provided by the bargaining agent, informing him that the bargaining agent no longer represented him. The letter was returned to the Board.

[10] On June 21, 2007, the Registry Clerk contacted the bargaining agent by email to obtain Mr. Brosseau's newest contact information. On June 25, 2007, in a return email, the bargaining agent informed the Board that it had no valid address or telephone number for contacting Mr. Brosseau and that there had been no response to a number of attempts to reach him by telephone.

[11] On June 26, 2007, the Board contacted the employer to obtain up-to-date contact information for Mr. Brosseau. The employer provided the address held in its electronic database.

[12] On June 26, 2007, the Board sent a letter to Mr. Brosseau at the address provided by the employer, asking him to contact the Board no later than July 10, 2007, to ascertain how he wished to proceed with the referral to adjudication now that he was no longer represented by the bargaining agent. The letter was returned bearing a handwritten notation indicating “[translation] wrong address” and a sticker indicating “[translation] moved/unknown.”

[13] On July 13, 2007, the Board sent a second letter to Mr. Brosseau at the same address, again asking him to contact the Board no later than July 27, 2007, to ascertain how he wished to proceed with the referral to adjudication now that he was no longer represented by the bargaining agent. The letter was returned bearing a handwritten notation indicating “[translation] wrong address” and a checked-off box indicating “[translation] moved with no forwarding address.”

[14] The Registry Clerk then attempted to contact Mr. Brosseau by telephone. At the work number indicated in the file, a person answered but did not know the grievor. Two calls to his home were made at two different numbers, neither of which was in service. The Registry Clerk also performed research using the electronic government directories and the online “Canada 411” search engine but to no avail.

[15] In the following letter sent on August 1, 2007 the Board, one last time, summoned Mr. Brosseau to reply:

[Translation]

...

Dear Sir:

After the Board was informed on June 7, 2007 that the Public Service Alliance of Canada would no longer represent you in the above-mentioned case, we repeatedly attempted to contact you, to no avail, to determine how you would like to proceed with your referral to adjudication.

We used the following methods in attempting to contact you:

- registered mail to your addresses provided on the grievance presentation form and on form 14;*
- registered mail to the address provided by the bargaining agent (the same address as on the grievance presentation form);*
- registered and regular mail to the address provided by the Treasury Board;*
- telephone calls to the work and home numbers provided on the grievance presentation form, on form 14 and by the employer; and*
- research using the Canada 411 search engine and the Web 500 electronic government directories.*

*We are making one last attempt to reach you. If you wish to continue this process and intend to be represented by another person, please provide the Board with that person's name, address and telephone and facsimile numbers **no later than August 17, 2007** so that all of the relevant documentation can duly be forwarded to that person.*

If we have not received a response from you by the above-noted deadline, the Board reserves the right to close your file.

...

[16] The letter was sent by registered mail to three addresses indicated in the file; all of the letters were returned to the Board.

[17] The circumstances described above have satisfied me that Mr. Brosseau has lost interest in pursuing his referral to adjudication.

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

(The Order appears on the next page)

Order

[19] The reference to adjudication process is hereby terminated and the case is now closed.

October 11, 2007

P.S.L.R.B. Translation

**Michele A. Pineau,
adjudicator**