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File: 542-08-05

Citation: 2007 PSLRB 117



*Public Service
Labour Relations Act*

Before the Public Service
Labour Relations Board

BETWEEN

**SYNDICAT GÉNÉRAL DU CINÉMA ET DE LA TÉLÉVISION, LOCAL 4835
(CANADIAN UNION OF PUBLIC EMPLOYEES)**

Applicant

and

NATIONAL FILM BOARD

Respondent

Indexed as

*Syndicat général du cinéma et de la télévision, Local 4835
(Canadian Union of Public Employees) v. National Film Board*

In the matter of an application for certification under section 54 of the *Public Service Labour Relations Act*

REASONS FOR DECISION

Before: Dan Butler, Board Member

For the Applicant: Réal Leboeuf, Canadian Union of Public Employees

For the Respondent: Linda Smith, National Film Board

Decided on the basis of written submissions
filed June 14 and September 10, 2007.

Application before the Board

[1] On June 14, 2007, the Syndicat général du cinéma et de la télévision, Local 4835 (Canadian Union of Public Employees) (“the applicant”) filed an application with the Public Service Labour Relations Board (“the Board”) for certification as the bargaining agent for certain employees of the National Film Board (“the respondent”). The application was filed under section 54 of the *Public Service Labour Relations Act* (“the Act”).

[2] The applicant employee organization proposed a bargaining unit composed of “all of the employees of the employer in the technical category” as appropriate for collective bargaining. It claimed that a majority of employees in the proposed bargaining unit wanted the applicant to become the certified bargaining agent and that the representative of the applicant was duly authorized to file the application in question.

[3] The Board fixed July 17, 2007, subsequently extended to August 17, 2007, and then to September 7, 2007, as the closing date for purposes of section 24 of the *Public Service Labour Relations Board Regulations* (“the Regulations”).

[4] Through subsequent correspondence between staff of the Board, the applicant and the respondent, and through the assistance of a mediator from the Board, all issues concerning the definition and composition of the proposed bargaining unit were addressed and agreed to.

[5] The Board received a request dated August 17, 2007, for an extension of the deadline to submit statements of opposition to the application from an employee on behalf of 14 employees affected by the application. The Board informed the employee of the further extension of the deadline to September 7, 2007. The Board received a second request for an extension of the deadline from the same employee in a letter dated September 7, 2007. The Board denied the request but informed the employee that his letter dated August 17, 2007, would be considered as a statement of opposition to the application.

Reasons

[6] In a certificate dated June 13, 1968 (PSSRB File No. 143-08-45), the Public Service Staff Relations Board (“the former Board”), as per its decision dated May 16, 1968, certified the Syndicat général du cinéma et de la télévision (CNTU) as the bargaining agent for a bargaining unit defined as “. . . all of the employees of the Employer in the Technical Category”

[7] As I understand the situation from the documents on file with the Board, the collective bargaining relationship established by the former Board’s original certification decision in 1968 later changed. At some point, the Syndicat général du cinéma et de la télévision ceased to claim a relationship with the Confederation of National Trade Unions (CNTU). It then began to operate, and has continued to operate, as the “Syndicat général du cinéma et de la télévision, NFB section.” The Board retains on file a collective agreement signed as early as September 1981 in which that name appears. The same name for the bargaining agent was recognized in the most recent collective agreement, signed by the parties on October 3, 2005.

[8] In practical terms, the application before me can be viewed as a request to the Board that it recognize that the existing bargaining agent, the Syndicat général du cinéma et de la télévision, NFB section, now proposes to operate, with the blessing of the majority of the employees in the bargaining unit, as the Syndicat général du cinéma et de la télévision, Local 4835 (Canadian Union of Public Employees). In technical form, nonetheless, this is a displacement application under section 54 of the *Act* and has been processed as such by the Board. It is a displacement application unopposed by the bargaining agent proposed to be displaced. The respondent has not objected to the application.

[9] I am satisfied that all affected employees were given notice of the application as required by the *Regulations* and that there was an appropriate opportunity for any employee organization that claimed to represent any of the employees affected by the application to file its own application for intervention. The Board received no such filing.

[10] In light of the submissions and the information on file, I find, first, that the applicant is an employee organization within the meaning of the *Act* and that the representative of the applicant who submitted the application was duly authorized to

do so by resolution adopted at a membership meeting held on May 2, 2007. (I note that the former Board previously recognized the Canadian Union of Public Employees as an employee organization and elsewhere certified it as a bargaining agent.)

[11] Second, I find that the applicant submitted its application after the commencement of the last two months of the term of the most recent collective agreement that expired June 30, 2007. The applicant thus complied with the requirements of section 55 of the *Act*.

[12] Third, I find that the bargaining unit that is the subject of the application is an appropriate unit for collective bargaining within the meaning of section 57 of the *Act*. It is, in essence, the same bargaining unit originally determined by the former Board. I endorse the agreement of the parties that the bargaining unit continue to be defined as it was in the former Board's decision of May 16, 1968; that is, the bargaining unit is to be composed of "... all employees of the Employer in the Technical Category"

[13] I note that the applicant and the respondent have agreed that the definition of "Technical Category" from the original 1968 accreditation decision is currently in effect:

... all employees concerned with the production of films, film strips and photographs; the processing, manufacture, maintenance and handling of motion-picture or audio-visual equipment and materials; and auxiliary services attached to the above

[14] I note as well that the applicant and the respondent have further agreed to update the definition of "Technical Category" with the following text:

All NFB employees in the technical category defined as follows:

Positions involving creation, analysis or experimentation or providing technical expertise and/or research in the arts, sciences or communications; research, design, construction, operation, inspection, evaluation and/or maintenance of equipment, processes and facilities related to audiovisual communications and/or audiovisual productions and execution of similar or related technical work. For further clarification, this definition includes directors and producers of films and/or audiovisual productions.

NB: The updated definition in no way changes the jobs covered by the 1968 definition.

[Emphasis in the original]

[15] Fourth, I find that the applicant submitted satisfactory evidence by the closing date established by the Board that it is supported by a majority of employees in the bargaining unit. The number of membership application forms submitted by the applicant represented sixty-two per cent of the uncontested number of employees in the bargaining unit.

[16] I have taken note of the statement of opposition filed by 14 employees. Given the number of signed membership application forms submitted by the applicant, the opposition filed by 14 employees did not place into doubt the majority support of employees enjoyed by the applicant. I note that the Board did not receive a submission from those employees outlining the reasons for their opposition to the application.

[17] There is no issue before me requiring a decision concerning the identification of positions to be included in the bargaining unit nor the identification of any position that is a managerial or confidential position.

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

(The Order appears on the next page)

Order

[19] Effective the date of this decision, the Syndicat général du cinéma et de la télévision, Local 4835 (Canadian Union of Public Employees), is certified as the bargaining agent for the bargaining unit composed of all employees of the employer, the National Film Board, in the Technical Category.

[20] The previous certificate issued by the former Board is hereby revoked.

[21] The Board will issue a new certificate accordingly.

December 13, 2007.

**Dan Butler,
Board Member**