

Date: 20070518

File: 166-02-36344

Citation: 2007 PSLRB 53



*Public Service
Staff Relations Act*

Before an adjudicator

BETWEEN

SIMON CLOUTIER

Grievor

and

**TREASURY BOARD
(Department of Citizenship and Immigration)**

Employer

Indexed as

Cloutier v. Treasury Board (Department of Citizenship and Immigration)

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

REASONS FOR DECISION

Before: Jean-Pierre Tessier, adjudicator

For the Grievor: Michel Morissette, counsel

For the Employer: Raymond Piché, counsel

Heard at Montréal, Quebec,
January 23 to 26 and July 10 to 13, 2006.
(P.S.L.R.B. Translation)

Grievance referred to adjudication

[1] Simon Cloutier (“the grievor”) works for the Department of Citizenship and Immigration in a position at the PM-03 group and level. On May 7, 2003, he requested leave with pay to prepare for the hearing of a complaint he had made with the Public Service Staff Relations Board (“the Board”). The employer refused to grant the leave with pay.

[2] On June 17, 2003, the grievor filed a grievance contesting the employer’s refusal, alleging a breach of article 14 of the November 19, 2001 collective agreement between the Treasury Board and the Public Service Alliance of Canada for the Program and Administration Services bargaining unit (“the collective agreement”).

[3] The grievance was referred to adjudication on June 30, 2005. The parties were not available to attend the hearing before January 2006.

[4] 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.

Summary of the evidence

[5] On May 7, 2003, the grievor requested leave with pay to meet with his bargaining agent regarding a complaint that he had filed with the Board (Exhibit F-2). The grievor stated that the hearing for the complaint was scheduled for the last week of May 2003 and that he needed to prepare his submissions. Julie Thibodeau, his supervisor, refused to grant the leave, stating that the collective agreement does not provide for leave to prepare for a hearing before the Board (Exhibit F-2).

Summary of the arguments

[6] According to the grievor’s counsel, clause 14.01 of the collective agreement refers specifically to the making of a complaint before the Board, and the grievor must be given the time required to prepare such a complaint.

[7] The employer argued that clause 14.01 of the collective agreement does not provide for leave after a complaint has been made.

Reasons

[8] Clause 14.01 of the collective agreement reads as follows:

***14.01** When operational requirements permit, the Employer will grant leave with pay:*

a) to an employee who makes a complaint on his or her own behalf, before the Public Service Staff Relations Board,

and

b) to an employee who acts on behalf of an employee making a complaint, or who acts on behalf the Alliance making a complaint.

[9] In my opinion, the wording of the collective agreement is precise. Clause 14.01 refers to an employee who makes a complaint, not to an employee who has made a complaint. In this case, the grievor had already filed his complaint and wanted time to prepare for the hearing.

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

(The Order appears on the next page)

Order

[11] The grievance is dismissed.

May 18, 2007.

P.S.L.R.B. Translation

**Jean-Pierre Tessier,
adjudicator**