



Public Service
Staffing Tribunal

Tribunal de la dotation
de la fonction publique

FILE: 2006-0096

OTTAWA, MAY 31, 2007

RICK VISCA

COMPLAINANT

AND

THE DEPUTY MINISTER OF JUSTICE

RESPONDENT

AND

OTHER PARTIES

MATTER	Complaint of abuse of authority pursuant to paragraph 77(1)(a) of the <i>Public Service Employment Act</i>
DECISION	The complaint is dismissed
DECISION RENDERED BY	Guy Giguère, Chairperson
LANGUAGE OF DECISION	English
INDEXED	<i>Visca v. Deputy Minister of Justice et al.</i>
NEUTRAL CITATION	2007 PSST 0024

REASONS FOR DECISION

INTRODUCTION

[1] The complainant, Rick Visca, is complaining that he was not appointed to the position of Senior Practitioner, Drug Prosecutions at the Department of Justice (the DOJ) by reason of abuse of authority in the application of the merit criteria for the position.

BACKGROUND

[2] The complainant participated in an advertised selection process (No. 06-Jus-Tor-CC-29431) for a position of Senior Practitioner, Drug Prosecutions, at the LA-2B group and level in the DOJ, Federal Prosecution Service (the FPS) in Toronto. Twenty applications were received. Seventeen candidates, including Mr. Visca, were screened in, assessed in an interview and found to be qualified.

[3] In the assessment process, the DOJ chose to rank the essential qualifications in order of importance. There were questions for each of the essential qualifications and the candidates' answers were rated. In order to select for appointment from the pool of qualified candidates, a cut-off rating of honours was established and applied against the essential qualifications in descending order of importance. The three candidates to be appointed were identified in this manner, after considering the first two essential qualifications.

[4] Mr. Visca was not appointed to a position of senior practitioner as a result of this process. On August 22, 2006 Mr. Visca filed a complaint with the Public Service Staffing Tribunal (the Tribunal) under paragraph 77(1)(a) of the *Public Service Employment Act*, S.C. 2003, c. 22, ss. 12, 13 (the *PSEA*).

[5] Mr. Visca has raised four allegations pertaining to his complaint. First, he alleges that the selection board altered arbitrarily and unfairly the advertised criterion of extensive and recent experience, giving greater effect to the term

“recent experience”. Secondly, he submits that the merit criteria were improperly assessed as only candidates receiving the highest rating for the criterion of experience were further assessed for the other essential qualifications and assets. Thirdly, he complains that the selection board assessed him incorrectly with respect to the judgment criterion. Finally, he claims that it was unfair for the selection board to use multiple selection panels to conduct interviews.

SUMMARY OF RELEVANT EVIDENCE

[6] The complainant started his career at the DOJ in November 1994 with the FPS Ontario Regional Office in Toronto. He worked in a pilot project at Old City Hall from 1994 to 1997 where, through full immersion in court work, he acquired legal knowledge and honed his advocacy skills. As he became more experienced, he tackled more involved and complex litigation. During the period 1997 to 2003, he conducted jury and non-jury Superior Court trial matters. In the latter part of this period, he became a member of the Anti-Organized Crime team of the DOJ.

[7] He participated in a staffing process in 2001 for a position of Senior Counsel, FPS and he was put on an eligibility list for a LA-2B position in February 2002. The eligibility list was extended to February 2004, but he was not appointed as Senior Counsel.

[8] He applied in 2002 for a secondment opportunity at the Competition Bureau office in Toronto. He talked about it with Mr. Leising, then Director of the FPS, who indicated that he did not believe that a secondment would hurt Mr. Visca’s career opportunities as it would provide him with a wider range of experience.

[9] The complainant was seconded to the Competition Bureau for two years between 2003 and 2005, where he was lead counsel on cases involving telemarketing fraud.

[10] Mr. Visca has had carriage of about 40 appeals since he joined the Anti-Organized Crime team. During his secondment to the Competition Bureau, he maintained carriage of some Anti-Organized Crime team appeals.

[11] When the complainant returned to the FPS, in May 2005, he met with Morris Pistyner, the FPS Director, to inform him that he would like to be assigned to do extradition cases on the International Assistance team, and, if not, major drug prosecution cases on the Anti-Organized Crime team. Mr. Pistyner asked him instead to join the Revenue team, where Mr. Pistyner had been the team leader. Mr. Visca agreed.

[12] In early 2006, Kevin Wilson, Deputy Director, Strategic Initiatives at the FPS, Ontario Regional Office was involved in the preparation of the selection processes for some positions of Senior Practitioner Drug Prosecutions. Mr. Wilson testified that the statement of merit criteria and ranking of criteria in order of importance were prepared at an early stage in the appointment process before candidates were known.

[13] The ranking of the criteria reflected the work requirement for the position of Senior Practitioner, Drug Prosecutions, which involves fairly complex wiretap law and the need for a person that could “hit the ground running.” The person appointed would need to conduct complex wiretap prosecutions and mentoring from the outset. Accordingly, the number one ranked criterion was “extensive and recent experience in conducting complex prosecutions under the *Controlled Drugs and Substances Act*, including prosecutions involving intercepted communications.”

[14] It was decided that four counsel of the FPS, Ontario Regional Office would be sitting on the selection board. Because of their limited availability and the number of candidates to interview, it was decided to constitute several selection panels. Kevin Wilson would be a member on all of them; Mr. Wilson and two out of the three remaining counsel would constitute a selection panel. A Human

Resources advisor would also be present for all selection panels. At the end of the interviews, all members of panels met as the selection board to review the assessments and choose the appointed candidates.

[15] Mr. Wilson explained that there was no significance to attach to the inversion of the words *extensive and recent* in the statement of merit to *recent and extensive* in the rating guide. It was a typographical error and he did not see it until the complaint was filed. No priority was given to either, as they were looking for a combination of both. According to Mr. Wilson, a person's experience 15 years ago might be extensive, but would be stale. Conversely, a person with recent, but not extensive, wiretap experience would not be able to conduct complex cases.

[16] Mr. Wilson also indicated that judgment was ranked as the second most important criterion as this position involved regular significant judgment calls. Some of these judgment calls are: is there a reasonable chance to get a conviction; and, is it in the public interest to prosecute?

[17] In late February 2006, advertisements were posted for the positions of Senior Practitioner International Assistance/Senior Practitioner Revenue Unit, and Senior Practitioner Drug Prosecutions all at the FPS, Ontario Regional Office. Mr. Visca applied on the latter two selection processes.

[18] Mr. Visca was screened out of the Senior Practitioner Revenue Unit selection process. Extensive and recent experience in conducting complex prosecutions under the *Income Tax Act*, *Excise Tax Act* or section 380 of the *Criminal Code* was assessed at the screening stage. Mr. Visca had recently arrived in the Revenue Unit and it was found that he did not meet this essential qualification of extensive and recent experience.

[19] Mr. Visca was screened in for the Senior Practitioner Drug Prosecutions selection process and was interviewed on May 24, 2007. The selection panel that interviewed the complainant was comprised of Kevin Wilson, Bob Hubbard,

Senior General Counsel at the time, and Kelly Gorman, then team leader. Theresa Herreria was also in attendance as the Human Resources advisor.

[20] Each selection panel member would complete the same rating guide for each candidate would assess each answer. The marking scheme was the following: Fail (F); Pass (P); Honours (H); and Exceptional (E). As the rating guide explained: "Fail" was for an applicant who did not satisfy the criteria; "Pass" indicated that the applicant satisfied the criterion; an applicant who abundantly satisfies the criteria received "Honours"; and, "Exceptional" was reserved for a uniquely gifted applicant. In some cases, the panels decided to further qualify the assessment by assigning a plus (+) or minus (-).

[21] Mr. Wilson explained that the selection panels applied the merit criteria following training received on the new legislation. While there is more discretion in staffing now, it is incumbent on managers to document and justify reasons for their choices. Mr. Wilson testified that if you are going to qualify many candidates and choose the appointee from that pool of candidates, you have to first figure out the most important criteria.

[22] Mr. Visca received a "P" rating for experience as he had reasonably extensive experience in wiretap cases, mostly as a junior counsel, and, later as lead counsel in a significant case in 2002-2003. However, other candidates had extensive and more recent experience.

[23] For the judgment criterion, the candidates were asked to give two examples of situations where they demonstrated judgment. The selection panel felt that Mr. Visca's first example showed sound judgment, but not the second. For his second example, Mr. Visca told the panel that he prepared a memorandum recommending appeal as instructed, but not with strong support since he did not agree with the recommendation. Mr. Hubbard, a member of the selection panel, expressed his view on the judgment criterion as he had worked with Mr. Visca and had knowledge regarding this second example. Mr. Hubbard

felt that Mr. Visca had a tendency to “overcomplicate straight legal issues.” Mr. Wilson explained that the selection panel attributed a “P” rating on judgment to Mr. Visca because it did not believe “that he had poor judgment but that it did not reach the “Honours” level.”

[24] Mr. Wilson was cross-examined on this last point. He explained that Mr. Hubbard participated in about 12 out of 17 interviews. The job opportunity advertisement indicated that essential qualifications would be assessed by various means. Some methods of assessment were mentioned, but not used, such as a role play. It was also decided not to use, as originally planned, the Performance Review and Evaluation Appraisal (PREA). Mr. Visca’s PREA indicated that he received an outstanding performance appraisal while a member of the Revenue Prosecutions team.

[25] The complainant provided the selection board with two people as references. They were asked questions related to the merit criteria. Both people providing references indicated that Mr. Visca had excellent judgment and one provided examples where he had prosecuted drug trials with Mr. Visca. These references were circulated among the selection board.

[26] All the panel members met as the selection board in July 2006 to select the candidates to be appointed. They started with the most important criterion of extensive and recent experience. Everyone who received an H or E rating would be retained for consideration for appointment. Since the complainant received a P rating for that criterion, he was not retained and considered against the second criterion, namely, judgment. The selection board was able to identify the three candidates to be appointed after considering the second criterion.

[27] Mr. Wilson testified that if the complainant had received “Honours” instead of “Pass” for the top two criteria it would not have made a difference “because each of the successful candidates received one E or an H+ in areas where the complainant received an H.”

[28] Mr. Wilson testified that he appreciates today that in the complainant's case he looked at only one criterion and disregarded the other criteria. He indicated that in future processes, he would be inclined to look at all the criteria. However, even if he had done so in the present case, it would not have made a difference as the complainant "was behind three successful candidates in the top two criteria and did not rise above them in others."

ISSUES

[29] The Tribunal must answer the following questions:

(i) Did the selection board place more importance on recent experience than extensive experience in assessing the candidates and, if so, does this constitute an abuse of authority?

(ii) Did the selection board's decision not to further assess the complainant constitute an abuse of authority?

(iii) Was there an abuse of authority in the manner in which the criterion of judgment was assessed?

(iv) Is it an abuse of authority that multiple panels were used to assess the candidates?

Issue I: Did the selection board place more importance on recent experience than extensive experience in assessing the candidates and, if so, does this constitute an abuse of authority?

SUBMISSIONS

[30] The complainant submits that it was an abuse of authority for the selection board to have altered the order in which extensive and recent experience was assessed. The notes on the rating guides of Mr. Hubbard and Ms. Herreira show that more importance was given to the word "recent" than "extensive" experience. By placing more importance on assessing recent over extensive, the selection

board favoured some candidates over others. It was a serious error to interchange the words “extensive” and “recent” and it was not reasonable.

[31] The respondent submits that, contrary to the complainant’s allegations, recent experience did not overshadow extensive experience in the selection process. Candidates were assessed in both the extensiveness and recentness of their experience. The change in the order of the wording for the experience criterion from the notice to the rating guide was made in the formatting of the rating guide.

[32] The PSC submits that, given the system of accountability found in the *PSEA*, the Tribunal should adopt a narrow definition of abuse of authority, as deputy heads are accountable to the PSC, which is accountable to Parliament. The PSC further submits that the five categories of abuse of discretion enumerated by David Philip Jones & Anne S. de Villars, *Principles of Administrative Law* (Toronto: Thomson Carswell, 2004) do not apply to a complaint of abuse authority. However, if the Tribunal does choose to utilize these five categories in its analysis, some element of improper intention would be required. Thus, in complaints where there is evidence of serious recklessness or carelessness, the Tribunal could impute bad faith.

ANALYSIS

[33] This complaint was filed under paragraph 77(1)(a) of the *PSEA* which refers to subsection 30(2) of the *PSEA*. These provisions read as follows:

77. (1) When the Commission has made or proposed an appointment in an internal appointment process, a person in the area of recourse referred to in subsection (2) may — in the manner and within the period provided by the Tribunal’s regulations — make a complaint to the Tribunal that he or she was not appointed or proposed for appointment by reason of

(a) an abuse of authority by the Commission or the deputy head in the exercise of its or his or her authority under subsection 30(2);

(...)

30. (...)

(2) An appointment is made on the basis of merit when

(a) the Commission is satisfied that the person to be appointed meets the essential qualifications for the work to be performed, as established by the deputy head, including official language proficiency; and

(b) the Commission has regard to

(i) any additional qualifications that the deputy head may consider to be an asset for the work to be performed, or for the organization, currently or in the future,

(ii) any current or future operational requirements of the organization that may be identified by the deputy head, and

(iii) any current or future needs of the organization that may be identified by the deputy head.

[34] A key legislative purpose found in the preamble of the *PSEA* is that managers should have considerable discretion when it comes to staffing matters. To ensure the necessary flexibility, Parliament has chosen to move away from the previous staffing regime with its rules-based focus under the former *PSEA*. There is no set of strict rules in the *PSEA* on how qualifications should be established, what method of assessment should be used, or how a candidate who meets the essential and asset qualifications is chosen for appointment. Rather, Parliament has provided those with staffing authority with the means to exercise the discretionary aspects of their authority, according to their judgment. However, as the Tribunal has stated in *Tibbs v. Deputy Minister of National Defence*, [2006] PSST 0008, there is no such thing as absolute discretion where any action can be taken by managers in staffing matters for any reason and on any ground, however abusive, where the exercise of discretion is contrary to the nature, purpose and intent of the *PSEA*.

[35] The complainant alleges that the selection board placed more importance on recent than extensive experience in wiretap cases and this constitutes abuse of authority in the assessment of the merit criteria. The complainant is not alleging that this was done for reasons of personal favouritism or bad faith.

[36] Under the narrow definition of abuse of authority argued by the PSC, the Tribunal would stop its analysis of the complaint of abuse of authority here as there is no allegation of improper intent, or that bad faith could be imputed because of carelessness or recklessness. This definition would be overly restrictive and would lead to situations that clearly run contrary to the legislative purpose and intent of the *PSEA*. For example, subsection 30(2) of the *PSEA* requires that, in order for an appointment to be made on the basis of merit, a person must meet the essential qualifications. Thus, the Parliament clearly intended that it would be an abuse of authority to appoint a person who does not meet the essential qualifications, irrespective of any improper intention. As explained in *Tibbs, supra*:

[74] (...) It could not have been envisioned by Parliament that, for example, when a manager unintentionally makes an appointment that leads to an unreasonable or discriminatory result, there would be no recourse available under the *PSEA*. When a manager exercises his or her discretion, but unintentionally makes an appointment that is clearly against logic and the available information, it may not constitute bad faith, intentional wrongdoing, or misconduct, but the manager may have abused his or her authority.

[37] The respondent has explained that an error was made in the formatting of the rating guide. The order of the wording for the experience criterion from the notice to the rating guide was reversed. Mr. Wilson testified that the assessment of the criterion was made taking into account both extensive and recent experience as this combination was essential for the position of Senior Practitioner, Drug Prosecutions.

[38] The Tribunal finds that the overwhelming evidence is that this was a simple typographical error and, as such, it is not an abuse of authority. This sort of error is clearly not of a serious nature and not indicative of wrongdoing that could constitute an abuse of authority. Furthermore, this typographical error did not have any bearing in the assessment of the merit criterion. As the Tribunal found in *Tibbs, supra*, at par 65 : “It is clear from the preamble and the whole scheme of the *PSEA* that Parliament intended that much more is required than mere errors and omissions to constitute abuse of authority.”

[39] The Tribunal finds that there was no abuse of authority in the assessment of the merit criterion of extensive and recent experience.

Issue II: Did the selection board's decision not to further assess the complainant constitute an abuse of authority?

[40] The complainant alleges that it was improper that weight was given to the different criteria and that only candidates who received an "honour" or "exceptional" rating for the first two criteria advanced to the next step. He complains that he should have been assessed against all of the merit criteria. He also claims that selecting candidates who had the highest scores for their answers is similar to the former PSEA and, therefore, the selection board had no discretion to select the applicant who was the right fit for the job.

[41] The respondent submits that there were legitimate reasons to rank as first and foremost the criterion of extensive and recent experience. The employer developed merit criteria and an order of importance for assessing the merit criteria in accordance with section 31 of the *PSEA* to find the candidates who were the right fit for the positions. The ranking of the criteria reflected the work requirement for the position of Senior Practitioner, Drug Prosecutions which involves fairly complex wiretap law and the need for a person that could "hit the ground running."

ANALYSIS

[42] Broad discretion is given to managers under subsection 30(2) of the *PSEA* to establish the necessary qualifications for the position they want to staff and to choose the person who not only meets the essential qualifications, but is the right fit. Similar discretion is provided under section 36 of the *PSEA* for those with staffing authority to choose and use assessment methods to determine if the person meets the established qualifications. The Tribunal has discussed the discretion provided by section 36 with respect to the choice of assessment

method in *Jolin v. Deputy Head of Service Canada et al.*, [2007] PSST 0011, at paragraphs 26 to 28.

[43] Weighting the merit criteria and using cut-off scores based on the performance of the candidates are methods that fall within the broad discretion given to managers under the *PSEA*. There is flexibility for managers to determine which criteria are more important than others for a position at the time of the selection process. Mr. Wilson made this determination and chose an assessment method that put more emphasis on two criteria, namely, extensive and recent experience, and judgment.

[44] Under the former *PSEA*, the ground for an appeal was that relative merit was not achieved. The process was prescriptive, ranking was mandatory, and any discrepancy in the process could lead to an appeal being allowed. Now, under subsection 30(2) the *PSEA*, considerable discretion is given to choose amongst the applicants who meet the essential qualifications, the person that in the manager's judgment is the **right fit** for the job. Accordingly, there is no requirement to rank candidates or establish an eligibility list. The Tribunal believes that the former practice of ranking candidates should be discouraged as it does not reflect the spirit of the *PSEA*. However, a manager is not precluded from doing so and, moreover, ranking does not in and of itself constitute an abuse of authority. When ranking is used to select the successful candidates, the Tribunal will review its application to determine whether or not there was an abuse of authority in the selection process.

[45] The selection board did not just use ratings but also the essential qualifications determined to be the most important for the positions, to appoint the persons who were the right fit. The uncontradicted evidence is that the persons with the highest scores in the two most important qualifications were appointed. Mr. Wilson testified that even if the complainant had received honours instead of pass for the top two criteria it would not have made a difference. Each of the successful candidates received a rating of excellent or

honours for the top two criteria and all of the other criteria so their scores still would have been higher than the complainant's score.

[46] The assessment of the complainant for the first criterion was that he had extensive experience as a junior counsel and as a lead counsel for a major case in 2003-2005; however, this experience was not recent. This assessment was fair as the complainant had not conducted a wiretap case for the three years preceding the interview for this selection process. Mr. Wilson testified that other candidates received a rating superior to that of the complainant on this criterion.

[47] All candidates were assessed in the same manner against the merit criteria. The complainant has acknowledged that the persons appointed meet the merit criteria. No improper intention or improper result is alleged. Mr. Wilson provided a rational explanation to support the emphasis that the selection board placed on the criterion of extensive and recent experience. The Tribunal finds that there was no abuse of authority by weighting the merit criteria and using cut-off scores based on the performance of the candidates.

Issue III: Was there an abuse of authority in the manner in which the criterion of judgment was assessed?

SUBMISSIONS

[48] The complainant submits that the selection board abused its authority by not assessing his answer properly. As well, he complains that Mr. Hubbard's personal knowledge of the complainant was used to assess the complainant's judgment and was an important factor in the assessment of this criterion. However, personal knowledge did not constitute an established tool that the selection board could use to assess candidates for this selection process.

[49] The respondent submits that the complainant was given the opportunity to provide examples demonstrating his level of good judgment. Section 36 of the *PSEA* is specifically designed to provide flexibility in the choice of methods of

assessment. Past performance and accomplishments are specifically contemplated in section 36 and, therefore, logically there was nothing wrong in Mr. Hubbard bringing his knowledge of various candidates to the selection board. As Senior General Counsel at the time, Mr. Hubbard could have had knowledge of many candidates as it is a small specialized field. All candidates potentially could have been impacted in the same way.

ANALYSIS

[50] The complainant is disputing the assessment that was done of his answer to the question regarding the judgment criterion. However, Mr. Wilson testified that the selection board did not find the second example of judgment provided by the complainant to be a good example of superior exercise in judgment. The selection board was of the view that the examples given by the complainant did not reach the “honours” level.

[51] Managers have broad discretion under section 36 of the *PSEA* to select and use assessment methods to determine whether a candidate meets the established qualifications for a position. However, as the Tribunal found in *Jolin, supra*, this discretion is not absolute and a person who was not appointed can complain under paragraph 77(1)(a) of the *PSEA* that there was an abuse of authority in the selection and use of an assessment method.

[52] Section 36 of the *PSEA* reads as follows:

36. In making an appointment, the Commission ***may use any assessment method***, such as a review of past performance and accomplishments, interviews and examinations, that it considers appropriate to determine whether a person meets the qualifications referred to in paragraph 30(2)(a) and subparagraph 30(2)(b)(i).

(emphasis added)

[53] As highlighted by the words ***“may use any assessment method”***, section 36 of the *PSEA* is non-prescriptive; a selection board may choose from a wide range of assessment tools and methods. There is no dispute that personal knowledge of a selection board member is an accepted assessment method and

could be treated as a reference check. The complainant's claim is that it was an abuse of authority because it was not specifically identified as an assessment method that would be used in this appointment process.

[54] The job opportunity advertisement posted on *Publiservice* for this position indicated that "all other essential qualifications will be assessed by various means." It was also specified that reference checks, including current and/or previous managers, would be sought. As such, the use of personal knowledge of this selection board member, Bob Hubbard, ought to have been expected by the complainant.

[55] Mr. Wilson explained that there was some unfamiliarity with the new processes under the *PSEA* and the assessment methods were identified late in the process. Also Mr. Hubbard's comment was specifically related to the criterion of judgment which was similar to the reference check on this question.

[56] The Tribunal finds that the use of the words "various means" on the advertisement was broad enough to encompass the assessment methods chosen in this appointment process. While the circumstances of this case do not lead to a conclusion of abuse of authority, informing the persons to be assessed, in a timely manner, of the assessment methods that are going to be used, including personal knowledge, could avoid allegations of this nature. In addition, care should be exercised to ensure that the selection board member's knowledge of the candidate is relevant to the merit criteria being assessed and is treated similarly to a reference check.

[57] The Tribunal does not find that there was an abuse of authority in the assessment of the judgment criterion, or in the fact that personal knowledge of a selection board member was used in this assessment.

Issue IV: Is it an abuse of authority that multiple panels were used to assess the candidates?

SUBMISSIONS

[58] The complainant claims that it is an abuse of authority for the selection board to have established multiple selection panels to conduct interviews and assess candidates. A single uniform panel should have assessed all candidates, especially in light of the manner in which the criterion of extensive and recent experience was applied. In the circumstances of this selection process, it was not essential to have multiple panels.

[59] The respondent claims that the use of multiple panels is a well established practice in the federal public service. There is no requirement to have a uniform board. Everything was done to ensure fairness and consistency. Mr. Wilson was constant on all panels, and the whole group met to share the information gathered during the selection process.

ANALYSIS

[60] The use of multiple panels does come within the broad discretion given to managers under the *PSEA*. The complainant claims that the use of multiple panels was neither necessary, nor conducive to ensuring consistent assessment of the merit criteria.

[61] The complainant has the burden of proving allegations of abuse of authority. It was incumbent on the complainant to demonstrate through cogent evidence that the use of multiple panels in this appointment process led to an abuse of authority of a type contemplated by the Tribunal in *Tibbs, supra*. He has provided no such evidence. On the contrary, the Tribunal is satisfied on the evidence that the process chosen for the reporting of the panels, as well as the fact that Mr. Wilson was a member of all of the panels, ensured consistent reporting to and assessment by the selection board of the merit criteria in this appointment process.

DECISION

[62] For all these reasons, the complaint is dismissed.

Guy Giguère
Chairperson

PARTIES OF RECORD

Tribunal File:	2006-0096
Style of Cause:	<i>Rick Visca and the Deputy Minister of Justice et al.</i>
Hearing:	April 2-3, 2007 Toronto, Ontario
Date of Reasons:	May 31, 2007
APPEARANCES	
Jacques Dupont	For the Complainant
Karen Clifford	For the Respondent
John Unrau	For the Public Service Commission