

Date: 20080718

File: 561-02-176

Citation: 2008 PSLRB 57



*Public Service
Labour Relations Act*

Before the Public Service
Labour Relations Board

BETWEEN

PROFESSIONAL INSTITUTE OF THE PUBLIC SERVICE OF CANADA

Complainant

and

TREASURY BOARD

Respondent

Indexed as

Professional Institute of the Public Service of Canada v. Treasury Board

In the matter of a complaint made under section 190 of the *Public Service Labour Relations Act*

REASONS FOR DECISION

Before: Dan Butler, Board Member

For the Complainant: Glen Chochla, Professional Institute of the Public Service of Canada

For the Respondent: Caroline Engmann, counsel

Decided on the basis of written submissions
filed July 14, 2008.

I. Complaint before the Board

[1] On September 14, 2007, the Professional Institute of the Public Service of Canada (“the complainant”) filed a complaint against the Treasury Board of Canada (“the respondent”) under paragraphs 190(1)(b) and (g) of the *Public Service Labour Relations Act*, S.C. 2003, c. 22, (“the Act”). The complainant alleged that the respondent had failed to comply with the duty to bargain in good faith under section 106 of the Act and that it had committed an unfair labour practice within the meaning of section 185 when it refused to provide to the bargaining agent certain requested contact information for employees in the following bargaining units: Applied Science and Patent Examination (SP), Computer Systems (CS), Engineering, Architecture and Land Survey (NR), Health Services (SH), and Audit, Commerce and Purchasing (AV). The complainant also alleged violations of the *Canadian Charter of Rights and Freedoms*.

[2] The Public Service Labour Relations Board (“the Board” or PSLRB) issued an interim decision in this complaint and another related file on February 21, 2008. In *Professional Institute of the Public Service of Canada v. Treasury Board and Canada Revenue Agency*, 2008 PSLRB 13, the Board declared in principle that the present respondent and the respondent in the related complaint, the Canada Revenue Agency, interfered in the representation of employees by the complainant by failing to provide necessary employee contact information. The Board found that such interference constituted an unfair labour practice. The Board ordered that a hearing be convened on June 25 to 27 and July 11, 2008, to determine the remaining issues.

[3] At the hearing, the parties reached an agreement, and by letters to the Board dated July 14, 2008, they requested that the terms of that agreement be incorporated into an order of the Board.

[4] The order, on consent, is as follows:

(The Order appears on the next page)

II. Order

[5] The employer will:

1. on a quarterly basis, disclose to the bargaining agent the home mailing addresses and home telephone numbers of its employees belonging to the following bargaining units: SP, CS, NR, SH, RE & AV, that the employer possesses in its human resources information systems. The employer will endeavour to provide this information to the bargaining agent within 5 months of the PSLRB Order endorsing this MOA;
2. subject to the receipt of an express written consent from the Public Service Alliance of Canada (PSAC) granting permission to use the business process and system developed for the PSAC (*Public Service Alliance of Canada v. Treasury Board*, 2008 PSLRB 43) for the sole purpose of transmitting employee home contact data to the bargaining agent, the employer agrees to provide the data as outlined in paragraph 1;
3. provide the data in a flat file comma delimited format specified in Appendix A (field lengths to be confirmed);
4. prior to the initial disclosure of the information outlined in paragraph 1 above, the employer and the bargaining agent will jointly advise employees that the information will be disclosed. The message will explain the reasons why the information is being disclosed. Attached to the joint message will be the Board Order. Any questions concerning the disclosure will be directed to the bargaining agent. The joint message is attached to this agreement as Appendix B.

[6] The bargaining agent will:

1. withdraw complaint 561-02-176;
2. agree that this is a full and final settlement of all claims they have, or shall have in respect of home contact information for employees in the bargaining units, against Her Majesty in right of Canada, Her employees, agents and servants arising out of this application and, subject to the provisions of the *PSLRA*, agrees not to take any proceeding of any manner with respect to them;

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3. ensure that the disclosed information is used solely for the legitimate purposes of the bargaining agent in accordance with the *PSLRA*;
 4. ensure that the disclosed information will be securely stored and protected;
 5. respect the privacy rights of the employees in the bargaining units;
 6. acknowledge that the employer is bound by the *Privacy Act* with respect to the protection of personal information as defined in that *Act*. The bargaining agent shall manage the personal information disclosed under this Memorandum of Agreement in accordance with the principles of fair information practices embodied in the *Privacy Act* and the *Privacy Regulations*. Specifically, it will keep private and confidential any such personal information disclosed by the employer to the bargaining agent under this Memorandum of Agreement;
 7. for the sake of clarity, the bargaining agent shall among other things:
 - a. not disclose the personal information to anyone other than bargaining agent officials that are responsible for fulfilling the bargaining agent's legitimate obligations in accordance with the *PSLRA*;
 - b. not use, copy or compile the personal information for any purposes other than those for which it was provided under this agreement;
 - c. respect the principles of the *Government Security Policy* at http://www.tbs-sct.gc.ca/pubs_pol/gospubs/TBM_12A/gsp-psg_e.html for the security and disposal of this personal information; and
 - d. ensure that all bargaining agent officials that have access to the disclosed information comply with all the provisions of this agreement;
 8. recognize the sensitivity of the information being disclosed with respect to personal security of employees, especially where inadvertent mishandling/disclosure of this information could result in serious safety concerns, and accordingly, will ensure vigilant management and monitoring controls on this information at all times in light of these potential risks to employees and their families;

9. recognize that the information provided from the employer's databases in place at the time of disclosure was provided by employees and that the employer will not be held liable should a strike vote be challenged. The bargaining agent is responsible for updating its own database.

[7] The terms and conditions of this agreement are made without prejudice or precedent.

[8] It is expressly understood and expressly agreed that neither implementation of the terms of settlement nor acceptance of this agreement constitutes any admission of liability on behalf of any of the parties and that such liability is expressly denied in this or any other matter.

July 18, 2008.

**Dan Butler,
Board Member**

Appendix A

Union Address File (UAF) DRAFT

Person:		To PWGSC	To Union
PRI (9) PCIS # 63	<i>Num (9)</i>	Y	N
IAN (9)	<i>Num (9)</i>	N	Y
Person Name			
<i>Mixed Char (3)PCIS # 65</i>	Initials	Y	Y
<i>Mixed Char (20)PCIS # 64</i>	Family Name	Y	Y
Person Address			
<i>Mixed Char (55)</i>	Home Address Line (1)	Y	Y
<i>Mixed Char (55)</i>	Home Address Line (2)	Y	Y
<i>Mixed Char (55)</i>	Home Address Line (3)	Y	Y
<i>Mixed Char (55)</i>	Home Address Line (4)	Y	Y
<i>Mixed Char (30)</i>	Municipality/City Name	Y	Y
<i>Mixed Char (30)</i>	Province / Territory	Y	Y
<i>Upper Char (30)</i>	Country	Y	Y
<i>Upper Char (10)</i>	Postal Code	Y	Y
Person Telephone			
<i>Num (3)</i>	International Country Code	Y	Y
<i>Num (3)</i>	Area City Code	Y	Y
<i>Num (7)</i>	Subscriber Number	Y	Y
<i>Example</i>	Yellow indicates new fields to be added to PCIS and to be filled where the information is available in HR systems.		888888888,hl,garson, 123 somewhere lane, around the corner,,, ottawa, canada, e8n4e6,011,613, 9999999
Rules: 1. When producing an extract for any bargaining agent the PCIS field # 91 (BARG) must equal that agent's code. 2. The PCIS field # 55 (EXCL) must be blank 3. The PRI must be converted to the bargaining agents IAN before sending to the bargaining agent.			

Appendix B

Message to Employees in Bargaining Units Represented by the Professional Institute of the Public Service of Canada (PIPSC)

With the introduction of the *Public Service Labour Relations Act*, bargaining agents who conduct strike votes must now permit all employees in the bargaining unit to participate in those votes, not merely members of the union in good standing, as was previously the case.

In order for the PIPSC to comply with its obligations under the *PSLRA* to give proper notice of strike votes to all employees, and also to fulfill its other duties in accordance with the *PSLRA*, it is necessary that the employer disclose to the PIPSC the home contact information for all employees in the bargaining unit.

The provision of this information is governed by an order of the Public Service Labour Relations Board, which is attached. The information provided to the PIPSC will be used for the legitimate purposes of the union and its security is to be carefully maintained. The PSLRB order sets out the privacy and security safeguards to which your information will be subject.

To this end, it is in every employee's interest that their contact information be kept up to date with their bargaining agent. You are therefore encouraged to submit your current contact information to the PIPSC and to advise your union of any changes to that information that may occur in the future.

You can provide your contact information via the PIPSC website at <http://www3.pipsc.ca/portal/page/portal/website/memberservices/membership> or by communicating with the PIPSC at 1-800-267-0446.

Thank you for your attention and cooperation. Should you have any questions arising from this message, please do not hesitate to communicate with the PIPSC at the above number.