Date: 20091211

File: 521-34-2
XR: 561-34-153

Citation: 2009 PSLRB 174

Public Service Labour Relations Act

Before the Public Service Labour Relations Board

BETWEEN

GUY VEILLETTE

Applicant

and

PROFESSIONAL INSTITUTE OF THE PUBLIC SERVICE OF CANADA

Respondent

Indexed as
Veillette v. Professional Institute of the Public Service of Canada

In the matter of a request for the filing of a Board order in the Federal Court under subsection 52(1) of the *Public Service Labour Relations Act*

REASONS FOR DECISION

Before: Michele A. Pineau, Vice-Chairperson

For the Applicant: Himself

For the Respondent: Robert Dury, counsel

Decided on the basis of written submissions
filed September 7, 11, 13 and 29, 2009.
(PSLRB Translation)

I. Application before the Board

[1] The applicant, Guy Veillette, is a federal employee. In January 2007, the board of directors of the Professional Institute of the Public Service of Canada ("the Institute" or "the respondent") imposed a disciplinary sanction on him by suspending him from his union duties for two years, until January 15, 2009. Mr. Veillette filed a complaint under section 190 of the *Public Service Labour Relations Act* (*PSLRA*). On May 7, 2009, the Public Service Labour Relations Board ("the Board") allowed the applicant's complaint on the grounds that the disciplinary process that led to the suspension and the suspension imposed on the applicant did not respect the principles of natural justice. The Board ordered that the applicant be reinstated both as a steward and in the union positions that he held when suspended. The undersigned stated that she would remain seized of the matter for a period of 45 days to deal with any matter that arose from implementing the decision (see 2009 PSLRB 58). Mr. Veillette requests that the Board file its order in 2009 PSLRB 58 in the Federal Court to ensure compliance.

[2] To clarify further, it should be added that, on January 27, 2009, the Institute suspended the applicant retroactively to January 15, 2009 for what it termed administrative reasons until the proceedings for his case before the Board terminated. That second suspension gave rise to a second complaint, which was decided in the applicant's favour. The Board Member seized with that case did not grant the applicant's reinstatement but ordered the Institute to amend it disciplinary policy to comply with the *PSLRA* (see 2009 PSLRB 64). The Institute has applied for judicial review of that decision.

[3] Since the order that Mr. Veillette requested be filed was issued, the Institute has not reinstated the applicant and has applied for judicial review of that decision and, among other requests, a suspension of the proceedings before the Board. The Institute has not complied with the Board's reinstatement order. The applicant asked to be heard by the Board concerning the enforcement of the order. After hearing the parties' submissions, the Board suspended proceedings in the case until the Federal Court of Appeal ruled on the motions filed by the Institute. The applicant again requested the enforcement of the order despite the Institute's motions before the Federal Court of Appeal.

[4] On June 29, 2009, the Board informed the parties to this case that it would open a file for what it considered a request for the enforcement of 2009 PSLRB 58 under

section 52 of the *PSLRA*. That section provides for ensuring compliance by filing a Board order in the Federal Court.

[5] The Board sent the following letter to the parties requesting that they submit their written arguments on the merit of the request for filing 2009 PSLRB 58:

> [Translation]
>
> . . .
>
> *This letter is further to emails from Ms. Katty Duranleau and Mr. Guy Veillette, received June 23 and 25, 2009 in the file 561-34-153.*
>
> *The Board has asked me to notify the parties as follows:*
>
> > *"On June 22, 2009, the Public Service Labour Relations Board (the Board) suspended proceedings before it in its file 561-34-153 while awaiting the decision of the Federal Court of Appeal on two applications filed by the Professional Institute of the Public Service of Canada (the Institute) (Federal Court of Appeal file A-229-09). The applications before the Federal Court of Appeal are as follows: the first application, filed on June 5, 2009, seeks judicial review of* Veillette v. Professional Institute of the Public Service of Canada, *2009 PSLRB 58, and a stay of execution of that decision; the second application, filed on June 18, 2009, for a stay of the resumption of proceedings before the Board in its file 561-34-153 (request for execution of the jurisdiction retained by the Board) until the Federal Court of Appeal rules on the Institute's application for judicial review.*
> >
> > *On June 22, 2009, the Institute informed the complainant Guy Veillette that the Federal Court of Appeal had not accepted the filing of the application for a stay of resumption of proceedings before the Board because of a technical irregularity. The Institute also indicated that it was preparing to send Mr. Veillette a new application for a stay of a resumption of the proceedings before the Board, pursuant to the* Federal Court Rules, *when it received the email from the clerk of the Board informing it of the suspension of proceedings in Board file 561-34-153.*
> >
> > *The Institute then contacted the Board for a clarification of what it meant by a "suspension of proceedings." The Board clarified that all proceedings before it, including a teleconference*

scheduled for June 23, 2009, were suspended while awaiting the decision of the Federal Court of Appeal. The Board was referring at that time to the resumption of proceedings in its file 561-34-153 since the application for judicial review of 2009 PSLRB 58 is pending before the Federal Court of Appeal and that application contains an application for a stay of the execution of that same decision.

The Institute responded by asking if the Board was able to proceed with a teleconference. If that was not possible, the Institute would be required to file before the Federal Court of Appeal a new application for a stay of the resumption of proceedings before the Board. The Board asked Mr. Veillette for his position on that request by the Institute.

Mr. Veillette replied as follows:

First, I must point out that, to date, I have complied with the PSLRB's requests and orders.

Second, it is my view that the firm of Trudel, Nadeau is in a conflict of interest in this matter and that it should withdraw from the case.

Finally, the PSLRB's orders in Veillette v. Professional Institute of the Public Service (2009 PSLRB 58) are very clear, and I quote:

"[55] The disciplinary action is rescinded.

[56] Mr. Veillette shall be reinstated as a steward in the bargaining agent positions that he held when he was suspended."

The Board issued those orders on May 7, 2009.

Thus, it is my position that, failing a different order from a court of higher jurisdiction, the Institute and its chief officer must comply with the PSLRB's orders and must do so as of May 7, 2009.

Although Mr. Veillette does not invoke section 52 of the Public Service Labour Relations Act *(*PSLRA*) in his reply, the Board believes that his reply constitutes a request for the enforcement of 2009 PSLRB 58. Accordingly, the Board is opening file 521-34-2 for the request for enforcement of 2009 PSLRB 58 under section 52 of the PSLRA."*

. . .

> ***The Board requests that the parties provide it with their written submissions on the merit of the request for the enforcement of 2009 PSLRB 58. The written submissions shall be provided by the following dates:***
>
> 1. ***The Institute has until July 13, 2009 to file its written submissions in response to the request for enforcement under section 52;***
>
> 2. ***Mr. Veillette will then have until July 20, 2009 to file his response.***
>
> *Once the exchange of written submissions is complete, the matter will be submitted to the Board Member who will render a decision.*
>
> [Emphasis in the original]

. . .

[6] The Board received the Institute's reply on July 13, 2009 and the applicant's on July 19, 2009.

[7] On September 3, 2009, the Federal Court of Appeal rendered a decision on the Institute's application for a stay of proceedings before the Board (2009 CAF 256). The application for a stay of 2009 PSLRB 58 was dismissed. Here is the relevant extract from that decision:

> [Translation]
>
> . . .
>
> *[15] The Institute argues that, without providing more detail, removing the incumbents from the positions that Mr. Veillette held represents irreparable harm. Surprisingly, that argument is not reflective of the statements of the Institute's executive secretary who signed the affidavit in support of the application under consideration. According to that person, Mr. Veillette's reinstatement would be contrary to the Institute's bylaws and regulations because there would then be two incumbents in the positions that he held: the individual elected or appointed to each of the positions and Mr. Veillette.*
>
> *[16] Regardless of the angle from which the irreparable harm is envisaged (removing the incumbents or contravening the Institute's bylaws), it is my view that the Institute has not provided evidence of irreparable harm.*

> *[17] The harm alleged in a very general manner is nothing more than the usual consequence of an order of reinstatement.*
>
> *[18] The applicant also urges the Court to consider, at this stage, the public interest of the Institute's general membership.*
>
> *[19] In my opinion, it would be more appropriate to consider them at the third stage of the analysis. Nevertheless, the democratic process of the bargaining agent that led to the selection of the respondent is just as important as the subsequent process that led to the selection of his replacements. In the present context, there is no reason to prefer one over the other by attributing it greater importance. According to the above-mentioned affidavit, the positions that the respondent held in 2007 that are now filled by other incumbents have two- and three-year terms. That means that the general membership will be required to again exercise its right.*
>
> *[20] Given my finding that the Institute has not provided evidence of irreparable harm, it is not necessary to discuss the third component, namely, the balance of inconvenience.*
>
> *[21] The application for a stay will be dismissed without costs.*

. . .

II. <u>The respondent's arguments</u>

[8] In support of its request to deny the request to file the order issued in 2009 PSLRB 58 in the Federal Court, the Institute states that it is not possible to reinstate the applicant because the positions that he held at the time of the suspension are now held by persons who were elected or appointed in accordance with the bylaws governing those positions. The Institute also states that it cannot act without removing the members currently holding the applicant's positions.

[9] The Institute argues that the Board should apply the test of the balance of inconvenience until the Federal Court of Appeal has ruled on the merit of the application for judicial review filed on June 5, 2009. The Institute further submits that the issue is serious, based on the tests that *RJR-Macdonald Inc. v. Canada (Attorney General)*, [1994] 1 S.C.R. 311, sets out that the harm is irreparable given the obligation to remove other stewards from their positions to comply with the Board's order and

that the balance of inconvenience is in its favour given the need to maintain the integrity of union democracy.

[10] The respondent argues that the Board has considerable discretion to refuse to file the order if it considers that it would serve no useful purpose. The respondent submits that, in this case, the Institute cannot act without affecting the rights of elected members and that no useful purpose would be served by reinstating the applicant in his union positions.

III. The applicant's arguments

[11] The applicant points out that, to date, the respondent has not complied with the Board's orders and that there is no reason to believe that it will without the filing of the order in 2009 PSLRB 58. In support of that argument, the applicant cites a memo dated June 2, 2009 in which the General Counsel of Legal Affairs informed the board of directors that the Institute did not intend to comply with the Board's order given that it was seeking a stay of the order. The memo is worded as follows:

> [Translation]
>
> ***MEMO***
>
> ***TO:*** *Board of directors*
>
> ***FROM:*** *Geoffrey Grenville-Wood* ***DATE:*** *June 2, 2009*
> *General Counsel, Legal Affairs*
>
> ***FOR INFORMATION***
>
> ***SUBJECT:*** *Veillette v. PIPSC — 2009 PSLRB 58*
> *Application for judicial review and application for stay*
>
> ***INTRODUCTION***
>
> *I am sending this memo as a follow-up to my presentation to the board on Friday, May 29, 2009.*
>
> ***BACKGROUND***
>
> *On May 7, 2009, the PSLRB allowed Mr. Veillette's complaint that the two-year suspension he had received was a violation of subsection 188(c) of the PSLRA.*
>
> *The order requires the Institute to take the necessary action to reinstate Mr. Veillette in all the positions that he held when he was suspended. A number of questions were asked about the order and its implementation.*

> ***NEXT STEPS***
>
> *The Institute will file an application for judicial review of that decision. It will be filed no later than June 8, 2009 and will be accompanied by an application for a stay of the order. Consequently, and because we are seeking a stay of the order, we will not take any action to comply with the PSLRB's order.*
>
> *Any questions or requests for information should be directed to the attention of the Office of the General Counsel, Legal Affairs.*

[12] The applicant argues that, by refusing to comply with the order, the Institute is again violating paragraph 188(*e*) of the *PSLRA*. He points out that the Board has broad powers, which include the power to issue any order that it deems appropriate in the circumstances and to enforce compliance with the order issued in 2009 PSLRB 58, regardless of whether there is an application for judicial review.

[13] The applicant submits that this is a serious issue because the Institute continues to disregard the principles of natural justice and that, by agreeing to suspend the effect of the order that it issued, the Board would contribute to prolonging the harm that he suffered because of the suspension from his bargaining agent positions.

[14] The applicant points out that he was elected democratically, that he was not accused of any wrongdoing and that, were he not suspended illegally from his duties by the Institute's board of directors, he would likely still be performing his duties since he has never lost an election since first being elected.

[15] The applicant points out that the balance of inconvenience should be in his favour since he is an experienced steward, the renewal of a steward's term is virtually routine, the Institute does not limit the number of stewards and the Institute is still seeking stewards.

IV. Reasons

[16] With the coming into force of the *PSLRA* on April 1, 2005, a new provision also came into force, section 52, which allows, under certain conditions, for the filing of a Board order in the Federal Court to ensure its enforcement:

> ***52.*** *(1) The Board must, on the request in writing of any person or organization affected by any order of the Board, file a certified copy of the order, exclusive of the reasons for the order, in the Federal Court, unless, in its opinion,*
>
> *(*a*) there is no indication of failure or likelihood of failure to comply with the order; or*
>
> *(*b*) there is other good reason why the filing of the order in the Federal Court would serve no useful purpose.*
>
> *(2) An order of the Board becomes an order of the Federal Court when a certified copy of the order is filed in that court, and it may subsequently be enforced as such.*

[17] Similar to section 52, section 234 of the *PSLRA* sets out separate provisions for the enforcement of an adjudicator's decision, as follows:

> ***234.*** *For the purpose of enforcing an adjudicator's order, any person who was a party to the proceedings that resulted in the order being made may, after the day provided in the order for compliance or, if no such day is provided for, after 30 days have elapsed since the day the order was made, file in the Federal Court a copy of the order that is certified to be a true copy, and an order so filed becomes an order of that Court and may be enforced as such.*

[18] It should be noted that the provisions for filing an adjudicator's decision are different from those for filing a Board decision. For an adjudicator's decision, any party may file a certified true copy of the order in the Federal Court that, once filed, becomes an order of the Federal Court.

[19] However, Board decisions do not follow the same automatic process. It is up to the Board to decide whether to act based on the two tests set out in section 52 of the *PSLRA*. Notably, those tests are not new law. Identical tests govern the filing of an order issued by the Canada Industrial Relations Board (CIRB). Subsection 23(1) of the *Canada Labour Code* ("the *Code*") sets out conditions identical to those of section 52 of the *PSLRA*:

> ***23.*** *(1) The Board shall, on the request in writing of any person or organization affected by any order or decision of the Board, file a copy of the order or decision, exclusive of the reasons therefor, in the Federal Court, unless, in the opinion of the Board,*

> (a) *there is no indication of failure or likelihood of failure to comply with the order or decision; or*
>
> (b) *there is other good reason why the filing of the order or decision in the Federal Court would serve no useful purpose.*

[20] As with the *PSLRA*, the *Code* provides (in section 66) for the automatic effect of the filing by the person affected by an order or decision of an arbitrator appointed under a collective agreement. Therefore, the filing does not require any intervention by the body that made the decision:

> ***66.*** *(1) Any person or organization affected by any order or decision of an arbitrator or arbitration board may, after fourteen days from the date on which the order or decision is made or given, or from the date provided in it for compliance, whichever is the later date, file in the Federal Court a copy of the order or decision, exclusive of the reasons therefor.*
>
> *(2) On filing an order or decision of an arbitrator or arbitration board in the Federal Court under subsection (1), the order or decision shall be registered in the Court and, when registered, has the same force and effect, and all proceedings may be taken thereon, as if the order or decision were a judgment obtained in the Court.*

[21] After section 123 came into force (now section 23 of the *Code*), the Canada Labour Relations Board (CLRB) (as the CIRB was known at that time) rendered an initial decision in *Seafarers International Union of Canada v. Seaspan International Ltd.* (1979), 33 di 544 ("*Seaspan*"), in which it analyzed the new provisions both in terms of their historical contexts and their meanings in terms of the CLRB's expanded powers.

[22] In *Seaspan*, the union tried to obtain a stay of a CLRB order until the Federal Court of Appeal reviewed it. The union did not argue that there had been a failure to comply with the order but rather sought to not comply with it while waiting for the Court's ruling. The CLRB reviewed the history of amendments to the *Code* and how those amendments were to be reflected in its approach to its decisions and orders. The CLRB's experience after the *Code*'s amendments came into force warrants particular attention.

[23] The CLRB explained in *Seaspan* that the decision to amend the *Code* resulted from a series of Federal Court judgments dealing with attempts to file decisions and orders issued by the CLRB and arbitration boards after the 1973 *Code* came into force.

In short, the Federal Court decided that the following two conditions were required before it would grant an enforcement order: first, the applicant had to prove the other party's failure to comply with an order; and second, the CLRB's decision had to be precise, unconditional and unambiguous. The Court also recognized that, while it had jurisdiction to stay the execution of a CLRB decision, non-compliance with such an order was an issue that could properly be dealt with during enforcement proceedings rather than through recourse to the Court.

[24] Parliament's response to the Federal Court's decisions was to assign to the CLRB the responsibility for developing a procedure for filing and registering its orders, and such a procedure was put in place. The CLRB then took the position that the authority to enforce its decisions and orders was part of the more comprehensive and less punitive role it had been given by Parliament in the following areas: labour-relations problem solving, remedial authority, limitations on the judicial review of CLRB decisions and assigning new areas of supervisory authority, for example, the duty of fair representation. The CLRB also saw in its new powers an opportunity to use all the means at its disposal to adopt an accommodative approach to the resolution of diverse labour relations problems as well as to give greater meaning and authority to its decisions. All this was intended to further the objectives expressed by the Preamble of the *Code*.

[25] Relying on those principles, the CLRB commented in *Seaspan* on the meaning of the new provisions of section 123 of the *Code*. With respect to the issue raised by paragraph (*a*) that, namely, "there is no indication of failure or likelihood of failure to comply with the order or decision," the CLRB determined that there could be three opportunities where it could intervene: to determine the willingness of a party to comply with the order, since the CLRB was the best authority to interpret the meaning of its order; to seek the resolution of the difference in an accommodative fashion before resorting to judicial proceedings; and to allow for the possibility of amending any order or decision to account for partial compliance or any subsequent event.

[26] As for the issue raised by paragraph 23(*b*) of the *Code*, namely, "there is other good reason why the filing of the order or decision in the Federal Court would serve no useful purpose," the CLRB saw this as an opportunity to exercise its discretionary power to further the objectives of the *Code* while acknowledging as follows that

. . .

> *. . . the Board must act as a flexible instrument in the often shifting labour relations climate where further proceedings on its decisions can be futile or contrary to the evolved circumstances. The Board is to be sensitive and responsive to the parties' social, economic and political positions in their labour relations environment and have as its primary goal constructive accommodation. The last or another ounce of retribution in strict compliance with a Board order may not in some exceptional circumstances further future good relations, particularly where other Board recourse or intervention can achieve the same results in another manner.*
>
> . . .

[27] Despite the very broad discretionary authority provided by the *Code*, the CLRB has been quite reticent over the years to exercise its discretion with respect to filing its orders to force compliance. I note that, as indicated in *International Longshoremen's Association, Local 1846 v. Maritime Employers' Association* (1987), 72 di 26, the CLRB and its successor grant only about one-third of requests for filing an order in the Federal Court.

[28] In *Seaspan*, the CLRB denied the request to file its order on the grounds that doing so as a means of staying the order would serve no useful purpose within the context of the *Code* as it would merely exacerbate a potentially disruptive situation and would also cast doubt on the employer's decision to conform with the CLRB's decision.

[29] In *Canadian Merchant Service Guild Inc. v. Dome Petroleum Limited* (1980), 41 di 169, following the issuance of an order granting the union access to the employer's premises, the employer refused to comply with the order on the grounds that it intended to make an application for judicial review and that the filing would serve no useful purpose since the Federal Court of Appeal would undoubtedly order a stay of the order. The CLRB granted the union's request to enable it to begin enforcing its order, given that the advancing season placed its order in jeopardy and that a stay is not automatically granted.

[30] Here are a few other examples. In *Canadian National Railway Company v. United Transportation Union, Local 1179* (1983), 52 di 166, the employer requested that the CLRB simultaneously issue a cease-and-desist order with respect to an illegal strike and an order to file in the Federal Court. The Board ruled that an order to file

was not warranted because the parties had other means available to resolve their differences within a good labour relations climate, i.e., a letter of agreement to peacefully implement the new crew calling system, which was the heart of the conflict.

[31] In *Maritime Employers' Association*, the CLRB declined to file an order because it believed that forcing compliance would serve no useful purpose. In that case, the employers' association obstinately refused to appoint a representative as required under the *Code*, and there was no specific penalty provided for such a situation. Since it was clear that filing the order would not change the employer's position, the CLRB chose to appoint a representative because a majority of employers had opted to be represented by an employer association within the process for certification of a single employer.

[32] In *Verreault v. Iberia* (1988), 72 di 671, the CLRB refused to file an order because it believed that it would serve no useful purpose. In that case, as ordered, the employer had distributed a copy of the CLRB's decision to its employees, but it had struck out portions and had added an interpretation justifying its disagreement with the decision. Rather than order the filing, the CLRB used the jurisdiction that it had reserved in its decision to order different corrective action that was more immediate and more appropriate than filing for enforcement in the Federal Court, namely, distributing the original order to all employees with an explanatory letter prepared by the CLRB and without comments from the employer.

[33] In *NAV Canada v. Canadian Air Traffic Control Association* (1999), 250 N.R. 321 (C.A.), the employer asked the Federal Court of Appeal to rescind a CLRB order on the grounds that it was a breach of the rules of natural justice and of the *Code*. The decision to file the order had been made without the respondent having an opportunity to make its submissions to the CLRB on the failure or the likelihood of failure to comply with the order. When the applicant asked the CLRB to rescind its order to file, the CLRB requested submissions from the parties. Without deciding the application for judicial review, the Court confirmed that the parties must first proceed to the CLRB for it to formulate an opinion on a request to file before proceeding to the Court.

[34] A recent decision, *British Columbia Maritime Employers Association v. International Longshore and Warehouse Union, Local 500*, [2008] CIRB no. 423, dealt with an order of a declaration of an illegal strike. The employer asked the CIRB to file a

copy of its order with the British Columbia Supreme Court (see section 23.1 of the *Code*). The CIRB denied the application based on the principles set out in *Seaspan*. In light of the diametrically opposed positions of the parties, the CIRB was of the opinion that filing its order would amount to punitive action. It saw its role as providing a remedy to breakdowns in labour relations and not as putting employees in situations where they could be subject to fines or incarceration. The CIRB chose to encourage the parties to find a negotiated solution.

[35] I am of the view that the CIRB's case law should influence my decision in this case, but I should also take into account the special nature of a complaint made under section 190 of the *PSLRA* that led to the order that is the subject of this decision.

[36] First, since both legislations come from the federal Parliament, there can be no doubt that the new provisions of the *PSLRA* were inspired by those of the *Code* and that the decisions of the Federal Court, which preceded the amendments to the *Code*, have the same meaning as they apply to the amendments made to the *PSLRA*.

[37] The ability of the Board to enforce its decisions and orders is part of the more comprehensive role assigned to it under the amendment of its *Act*, and the Board must use the means at its disposal to give greater effect to its decisions.

[38] Pursuant to paragraph 52(1)(*a*) of the *PSLRA*, the Board determines whether it believes that its order will or will not be complied with and, pursuant to paragraph 52(1)(*b*), whether there is other good reason that filing the order would serve no useful purpose.

[39] In its objection to the request to file the order, the Institute raised the same arguments as it did before the Federal Court of Appeal, i.e., that it cannot act without removing elected members from the bargaining agent positions that the applicant held. I am of the same opinion as the Federal Court of Appeal that removing the incumbents presently holding the applicant's positions does not constitute irreparable damage and is nothing more than the consequence of an order of reinstatement. Indeed, the applicant's right to reinstatement in his union positions is just as serious an issue as the exercising of the bargaining agent's rights, which led to the applicant's replacement.

[40] In this context, the respondent's refusal to reinstate the applicant, as stated in the respondent's June 2, 2009 memo to its board of directors, fulfills the condition of paragraph 52(1)(*a*) of the *PSLRA* that there is no indication that the order issued in 2009 PSLRB 58 will be complied with. As for paragraph 52(1)(*b*), the respondent did not present any good reason to show that the filing would serve no useful purpose. In rendering its decision not to stay the Board's decision in 2009 PSLRA 58, the Federal Court of Appeal implicitly recognized that a Board order is enforceable, which is a different issue than whether the respondent complied with the order.

[41] Parliament gave the Board the authority to issue orders but reserved for the Federal Court the authority to enforce orders. Subsection 52(2) of the *PSLRA* expressly states as follows:

> ***52.*** *(2) An order of the Board becomes an order of the Federal Court when a certified copy of the order is filed in that court, and it may subsequently be enforced as such.*

[42] The parties had an opportunity to present written submissions on non-compliance with the order. Consequently, to hear the parties again on the question of the enforcement of the order issued in 2009 PSLRA 58 is not a useful process. The intransigence of the parties with respect to their respective rights does not allow for a negotiated solution. Unlike the decisions cited earlier, in which refusals were made to file orders because the conflicts could have been resolved in other ways, I believe that, in this instance, there is no more immediate or more appropriate action than filing in the Federal Court.

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

(The Order appears on the next page)

V. Order

[44] The Board finds that the Professional Institute of the Public Service of Canada has failed to comply with the order issued in paragraphs 54 to 58 of *Veillette v. Professional Institute of the Public Service of Canada*, 2009 PSLRB 58.

[45] The Board will file its order in *Veillette v. Professional Institute of the Public Service of Canada*, 2009 PSLRB 58, in the Federal Court.

December 11, 2009.

PSLRB Translation

Michele A. Pineau,
Vice-Chairperson