

Date: 20100112

File: 561-02-123

Citation: 2010 PSLRB 6



*Public Service
Labour Relations Act*

Before the Public Service
Labour Relations Board

BETWEEN

PUBLIC SERVICE ALLIANCE OF CANADA

Complainant

and

**TREASURY BOARD
(Department of Veterans Affairs)**

Respondent

Indexed as

Public Service Alliance of Canada v. Treasury Board (Department of Veterans Affairs)

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

CONSENT ORDER

Before: [George Filliter, Board Member](#)

For the Complainant: [Edith Bramwell, Public Service Alliance of Canada](#)

For the Respondent: [Jeff Laviolette, Treasury Board](#)

REASONS FOR DECISION

Complaint referred to adjudication

[1] On September 20, 2006, the Public Service Alliance of Canada (“the PSAC”) filed a complaint under paragraph 190(1)(g) of the *Public Service Labour Relations Act* (“the Act”).

[2] The complaint was filed after the PSAC had requested, on May 22, 2006, from the Department of Veterans Affairs (“the respondent”) certain information concerning its members. The respondent denied this request on June 16, 2006.

[3] The PSAC submits that the denial is a violation of paragraph 186(1)(a) of the Act. In the complaint, the PSAC submits that the Public Service Labour Relations Board (“the Board”) should issue an order requiring the respondent to provide “. . . a list of all PSAC/UVAE members along with their classification group and level and their actual salary.”

[4] This matter had been set for a hearing in Ottawa from July 6 to 9, 2009, which was adjourned so that the parties could pursue potential settlement.

[5] I was assigned to hear this matter. By letter dated December 18, 2009, the parties advised the Board that an agreement had been reached, but requested that the terms of the agreement be incorporated into “. . . an order of the Public Service Labour Relations Board.” Attached to the letter was a copy of the Memorandum of Agreement between the parties. Having reviewed the file and the joint request of the parties, I am prepared to issue the order as requested.

(The Order appears on the next page)

Order**The Employer will:**

1. on a monthly basis, disclose to the bargaining agent the actual salary information of its bargaining unit members that are employed by Veterans Affairs Canada;
2. agree, as a result of mediation discussions, to modify the current MUD Report to report in the salary field the actual salary for PSAC bargaining unit members that are employed by Veterans Affairs Canada. The actual salaries will be reported as follows:

| Salary Rate | Employer's pay system | DPWGS MUD – salary field |
|--------------------|------------------------------|---------------------------------|
| Hourly | 14.52 | 001452 |
| Annual | 45650 | 045650 |

3. commence the disclosure of this information, via the modified MUD Report, effective February 2010;
4. prior to the initial disclosure of the information outlined in paragraphs 1 to 3 above, the employer will advise the affected employees at Veterans Affairs Canada that the information will be disclosed. The message will explain the reasons why the information is being disclosed. Attached to the message will be the Board Order (see paragraph 14). Any questions concerning the disclosure will be directed to the bargaining agent. The message to affected employees is attached to this agreement as Appendix A;

The bargaining agent will:

5. agree to assume the one-time development costs associated with modifying the current MUD Report. These costs, as of the date of signing of this agreement, are estimated to be approximately \$1,896.00. The PSAC shall be invoiced for these costs by Public Works and Government Services Canada (PWGSC);
6. agree to ensure that the disclosed information is used solely for the legitimate purposes of the bargaining agent in accordance with the PSLRA, including but not limited to the establishment of membership dues;

7. ensure that the disclosed information will be securely stored and protected;
8. respect the privacy rights of the employees in the bargaining unit;
9. 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 agreement in conformity 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 agreement;
10. acknowledge for the sake of clarity, and in accordance with the Privacy Act and the Privacy Regulations, the bargaining agent shall among other things:
 - a. not disclose the personal information to anyone other than bargaining agent officials that are responsible for administering and coordinating dues check-off and those who 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; and
 - c. take whatever action is necessary to ensure that all bargaining agent officials that have access to the disclosed information are made aware of, and fully comply with, all the provisions of this agreement;
11. agree that this is a full and final settlement of all claims they have, or shall have, against Her Majesty in right of Canada, Her employees, agents and servants arising out of this complaint and agrees not to take any proceeding of any manner with respect to them.

The Parties further agree that:

12. The terms and conditions of this agreement are made without prejudice or precedent.
13. 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.

14. the parties agree to jointly write the Public Service Labour Relations Board by no later than January 25, 2010 to request that the terms of this agreement be incorporated into a Board order.

APPENDIX A

Message to the Union of Veterans Affairs Employees (UVAE) Bargaining Unit Members

The Public Service Alliance of Canada (PSAC) filed an 'unfair labour practice' complaint with the Public Service Labour Relations Board (PSLRB) in September 2006, in which the PSAC complained that the Employer (Treasury Board and Veterans Affairs Canada) was in violation of Section 186 (1)(a) and the Public Service Labour Relations Act by interfering with the administration of an employee organization and the representation of employees by an employee organization, by refusing to provide a list of names and salaries of members, for the sole purpose of calculating their salary-based dues.

The PSAC was seeking information regarding the actual salaries of UVAE members following the adoption by UVAE of a dues structure based on their members' actual salary.

Following a review of the Privacy Act, specifically Section 8.(2)(a), which provides that personal information under the control of a government institution may be disclosed for a purpose for which the information was obtained or compiled by the institution or for a use consistent with that purpose, and of relevant case law relating to the provision of actual salary information, the Employer has consented to provide the PSAC with actual salary information for all UVAE Bargaining Unit members.

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 PSAC 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.

Thank you for your attention. Should you have any questions arising from this message, please do not hesitate to communicate with the PSAC at 1-888-604-7722.

January 12, 2010.

**George Filliter,
Board Member**