Date: August 16, 2010

File: 485-SC-41

Citation: 2010 PSLRB 87

Parliamentary Employment and Staff Relations Act

Before the Public Service Labour Relations Board

IN THE MATTER OF
THE PARLIAMENTRY *EMPLOYMENT AND STAFF RELATIONS ACT*
and a dispute affecting

PUBLIC SERVICE ALLIANCE OF CANADA

Bargaining Agent

and

SENATE OF CANADA

Employer

In respect of employees in the Operational Group

Indexed as
Public Service Alliance of Canada v. Senate of Canada

ARBITRAL AWARD

Before: Ian R. Mackenzie, Joe Herbert and Ron LeBlanc, Members of the Board for the purposes of the arbitration in the above-cited matter

For the Bargaining Agent: Morgan Gay, Public Service Alliance of Canada

For the Employer: Carole Piette, counsel

Heard at Ottawa, Ontario,
January 26 and May 26, 2010.

[1] On September 27, 2007, the Public Service Alliance of Canada ("the bargaining agent" or "Alliance") served notice to bargain on the Senate of Canada ("the employer"), on behalf of the Operational Group, under section 37 of the *Parliamentary Employment and Staff Relations Act* (*PESRA*). The last collective agreement expired on September 30, 2007.

[2] The Operational Group is composed of approximately 100 employees of the Building Operations and the Material Management and Production divisions of the Building Services Directorate of the Senate. Employees in the group work in the areas of committee support, mail services, installations, transport, maintenance, printing services and trades. There are full-time and part-time indeterminate employees in the bargaining unit. Approximately 25 employees are part-time.

[3] The parties met for 10 negotiation sessions between December 4, 2007 and June 10, 2008. A complaint of bad faith bargaining was filed by the bargaining agent on October 16, 2008 and was dismissed by the Public Service Labour Relations Board (see 2008 PSLRB 100) on November 28, 2008.

[4] On November 27, 2008, the employer and the bargaining agent agreed to annual increases in each of four years. Conciliation on May 14, 2009 was unsuccessful.

[5] On May 22, 2009, a revised request for arbitration was submitted to the Board by the bargaining agent.

[6] The employer selected Ron Leblanc from the panel of persons representative of the interests of the employer. The bargaining agent selected Joe Herbert from the panel of persons representative of the interests of the employees to be a member of the Board for the purpose of this arbitration. The Chairperson of the Public Service Labour Relations Board ("the Board") appointed me as chairperson for these proceedings.

[7] The Chairperson of the Board established the terms of reference for these proceedings in *Public Service Alliance of Canada v. Senate of Canada,* 2009 PSLRB 85, which consists of the parties' proposals, set out in the reasons of this award.

[8] After filing its list of matters in dispute, the employer advised the Board that article 9 of the collective agreement, Technological Change, had been included in its list through an administrative oversight and was no longer in dispute.

[9] A hearing was scheduled for January 26, 2010 to address objections by the bargaining agent to a number of proposals of the employer. The parties were able to resolve the objections at the hearing, and the proceedings continued on May 26, 2010 on the merits of the proposals of the bargaining agent and the employer.

I. Reasons

[10] Section 53 of the *PESRA* sets out as follows the factors that the Board must consider in rendering its award:

> ***53.*** *In the conduct of proceedings before it and in rendering an arbitral award in respect of a matter in dispute, the Board shall consider*
>
> *(*a*) the needs of the employer affected for qualified employees,*
>
> *(*b*) the need to maintain appropriate relationships in the conditions of employment as between different grade levels within an occupation and as between occupations of employees,*
>
> *(*c*) the need to establish terms and conditions of employment that are fair and reasonable in relation to the qualifications required, the work performed, the responsibility assumed and the nature of the services rendered, and*
>
> *(*d*) any other factor that to it appears to be relevant to the matter in dispute,*
>
> *and, so far as consistent with the requirements of the employer, the Board shall give due regard to maintaining comparability of conditions of employment of employees with those that are applicable to persons in similar employment in the federal public administration.*

[11] The Board has taken these factors into consideration in weighing the proposals made by the parties.

[12] These reasons also take into consideration the applicable provisions of the *Expenditure Restraint Act*, S.C. 2009, c. 2, s. 393 (*ERA*). The Board is satisfied that the award that it is rendering is consistent with the *ERA*.

[13] The employer has two other bargaining units, the Senate Protective Services and the Legislative Clerks sub-group. The Senate Protective Services bargaining unit is represented by the Senate Protective Services Employees Association (SPSEA), and the

Legislative Clerks sub-group is represented by the Professional Institute of the Public Service of Canada (PIPSC). Voluntary agreements were reached with both bargaining agents in this round of collective bargaining.

A. Article 11: Information (notification to bargaining unit regarding vacancies)

[14] The bargaining agent proposed the following new provision:

> ***11.08 The Employer shall post bargaining unit vacancies when they occur.***

[15] The bargaining agent submitted that the current practice of the employer is to send an email to all bargaining unit members when a vacancy occurs. The purpose of the proposal is to enshrine that practice into the collective agreement.

[16] The employer submitted that the proposal was outside the jurisdiction of the Board because it related to staffing. Subsection 55(2) of the *PESRA* states the following:

> *No arbitral award shall deal with the standards, procedures or processes governing the appointment, appraisal, promotion, demotion, transfer, lay-off or release of employees. . . .*

[17] The employer relied on *Public Service Alliance of Canada v. House of Commons*, Board File No. 485-H-12 (19910213), in which the Board determined that a similar posting requirement was not within its jurisdiction.

[18] The Board has determined that it does not have the jurisdiction to consider this proposal.

B. Article 13: Leave with or without pay for Alliance business

[19] The employer proposed that the references in the article to the "Public Service Staff Relations Board" be changed to the "Public Service Labour Relations Board." The bargaining agent was in agreement with this editorial change. This change applies to the English version of the article only.

[20] The employer proposed that all the leave provisions for Alliance business (complaints, applications, arbitrations and adjudications) be amended to include the phrase "when operational requirements permit." The employer submitted that service to parliamentarians must take precedence over leave for Alliance business. It also

submitted that "operational requirements" was the standard provision in the collective agreement for comparable bargaining units on Parliament Hill.

[21] The bargaining agent proposed the status quo.

[22] The employer proposed an increase in the rate of compensation for benefits for those bargaining unit employees who are involved in collective bargaining (clauses 13.15 and 13.16). The current rate is 15.5%. The employer proposed an increase to 20%. The PIPSC and SPSEA bargaining units agreed to the increase in the current round of collective bargaining. In the alternative, the employer proposed the deletion of this provision and a modification to clause 13.10 to allow a maximum of three employees to be on leave for collective bargaining.

[23] The bargaining agent noted that the reimbursement of benefit costs is an unusual contract provision. It proposed the status quo.

[24] In accordance with the agreement of the parties, the reference to the "Public Service Staff Relations Board" shall be changed to the "Public Service Labour Relations Board" in the English version of this article.

[25] The Board has determined that, with the exception of the above-noted editorial change, article 13 shall remain unchanged.

C. <u>Article 17: Restriction from outside employment</u>

[26] The employer proposed the following changes to clause 17.01:

> ***17.01*** *Unless* ~~*mutually*~~ ***otherwise*** *determined by the Employer* ~~*and the Alliance*~~ *as being in an area that could represent a conflict of interest, employees shall not be restricted in engaging in other employment outside the hours they are required to work for the Employer.*

[27] The employer submitted that the current practice at the Senate is for the Senate administration to determine conflict of interest issues, according to the employer's policy on conflict of interest. If the current language of the contract were applied, it would unduly infringe on the privacy rights of employees. The current language is inconsistent with provisions in other collective agreements under the *PESRA* and in the federal public service.

[28] The bargaining agent noted that this contract language dates to the first collective agreement signed in 1988 and that there was no demonstrated need to change the language. It proposed the status quo.

[29] The Board has determined that, in the absence of a demonstrated problem with the current language, article 17 shall remain unchanged.

D. Article 19: Vacation leave

[30] During the hearing, the bargaining agent removed its proposal for the entitlement to vacation leave credits and accepted the employer's proposal. Accordingly, the collective agreement is amended by reducing the years of continuous employment required to receive 17.5 hours of vacation leave per month from 29 to 28 years.

E. Article 20: Designated paid holidays

[31] The bargaining agent proposed the addition of the following two designated paid holidays: the day after New Year's Day (January 2) and the third Monday of February. January 2 is a provincial statutory holiday in Quebec, and the third Monday of February is Family Day in Ontario, also a provincial statutory holiday.

[32] The employer proposed the status quo.

[33] The Board has determined that article 20 shall remain unchanged.

F. Article 21: Other leave with and without pay

1. Clauses 21.04 to 21.09: Maternity leave without pay and special parental allowance

[34] The employer proposed changes to these clauses to reflect changes to the Quebec Parental Insurance Plan while maintaining the current levels of maternity/parental leave and allowances. The employer also proposed a change that would maintain the same maximum allowance of 52 weeks to employees and employee-couples regardless of their province of residence. The employer submitted that the proposed changes are the same as agreed to by the SPSEA and the PIPSC.

[35] The bargaining agent proposed similar changes in the language to reflect changes to the Quebec Parental Insurance Plan. In addition, it proposed the elimination of the cap of 52 weeks for leave and allowances, as well as the elimination of the cap

on parental leave of 37 weeks. The bargaining agent submitted that other Alliance agreements include a 52-week limit on combined maternity and parental leave allowances. However, it is in exchange for eliminating the 52-week cap on maternity and parental leave without pay. The cap on leave punishes those employees who live in Quebec who have access to a total of 55 weeks of insurance. The bargaining agent's proposal is standard language in the federal public service.

[36] The parties are in agreement with a number of changes to these clauses. In clause 21.04, the parties agreed to a change in the end date for maternity leave without pay from 17 weeks to 18 weeks. They agreed to add the text "Quebec Parental Insurance Plan" throughout these clauses. They also agreed to the inclusion of "paternity or adoption" benefits in clauses 21.08 and 21.09. The parties agreed, as follows, to a new clause (21.08(c)(iii)), which is in the employer version:

> ***(iii) where an employee has received the full eighteen (18) weeks of maternity benefit and the full thirty-two (32) weeks of parental benefit under the Quebec Parental Insurance Plan and thereafter remains on parental leave without pay, she is eligible to receive a further parental allowance for a period of two (2) weeks, at ninety-three (93%) percent of her weekly rate of pay for each week, less any monies earned during this period.***

[37] The employer proposed a new paragraph in clause 21.08 as follows:

> ***(k) The maximum combined maternity and parental allowances payable to a couple employed in the Senate shall not exceed a total of fifty-two (52) weeks for each combined maternity and parental leave without pay.***

[38] It is the Board's view that, as a general principle, maternity and parental leave provisions should be the same for all unionized employees of the same employer. The Board has determined that the clause shall be amended to reflect the agreement of the parties. In addition, clause 21.08 shall be amended to include the new paragraph (k), as proposed by the employer.

2. <u>Clause 21.10: Leave without pay for care and nurturing of pre-school age children</u>

[39] The bargaining agent proposed the replacement of the clause for care and nurturing of pre-school age children with a new clause on leave without pay for the care of immediate family.

[40] The employer proposed the status quo.

[41] The Board has determined that clause 21.10 shall remain unchanged.

3. 21.13: Family-related leave

[42] The parties are in agreement that the limits on the number of days within the family-related leave entitlement that can be used for medical and dental appointments should be removed. The clause is amended accordingly.

[43] The bargaining agent proposed an increase in the entitlement for family-related leave from the current five days to seven days in a fiscal year.

[44] The employer proposed the status quo for the number of days.

[45] The Board has determined that there shall be no change to the number of days of leave specified in clause 21.13.

[46] The employer proposed what it termed "grammatical' changes to paragraph 21.13(b). The bargaining agent disagreed with the proposed changes. The Board has determined that the word "while" is to be removed from the paragraph. The paragraph is to be amended as follows :

> *(i) ~~while~~ an employee is expected to make reasonable effort to schedule medical or dental appointments for dependent family members to minimize or preclude his absence from work, however, when alternate arrangements are not possible an employee shall be granted ~~up to one (1) day~~* ***leave*** *for a medical or dental appointment when the dependent family member is incapable of attending the appointments by himself, or for appointments with appropriate authorities in schools or adoption agencies. An employee requesting leave under this provision must notify his supervisor of the appointment as far in advance as possible;*

4. Clause 21.15: Injury-on-duty leave with pay

[47] The bargaining agent proposed the following change to this clause:

> *An employee shall be granted injury-on-duty leave with pay ~~for such reasonable period as may be determined by the Employer~~ when a claim has been made pursuant to the appropriate Worker's Compensation Act, and a Worker's Compensation Board authority has notified the Employer*

> *that it has certified that the employee is unable to work because of:*
>
> > *(a) personal injury accidentally received in the performance of his duties and not caused by the employee's willful misconduct,*
> >
> > *or*
> >
> > *(b) an industrial illness or a disease arising out of and in the course of his employment*
>
> *if the employee agrees to remit to the Receiver General of Canada any amount received by him in compensation for loss of pay resulting from or in respect of such injury, illness or disease providing, however, that such amount does not stem from a personal disability policy for which the employee or his agent has paid the premium.*

[48] The bargaining agent submitted that its proposed change would ensure that the period required to heal from a workplace injury determined by a workers' compensation board would be adhered to by the employer. It also submitted that its proposal was identical in language to that contained in the Alliance collective agreements for its bargaining units at the House of Commons.

[49] The employer submitted that the proposal would be bad public policy, that there was no demonstrated need for the change and that the current clause is identical to the agreements with the other Senate bargaining units.

[50] The PSAC bargaining units in the federal public service all provide that the period of leave is to be determined by the employer. In addition, the bargaining agent has not provided any information on the nature or scope of any difficulties with the application of the clause as worded to individual employees in the bargaining unit.

[51] The Board has determined that clause 21.15 shall remain unchanged.

5. <u>Clause 21.17: Leave with or without pay for other reasons</u>

[52] The bargaining agent proposed the addition of one day of leave with pay "for reasons of a personal nature."

[53] The employer proposed the status quo.

[54] The Board has determined that clause 21.17 shall remain unchanged.

6. Clause 21.18: Deferred leave

[55] The employer proposed that the clause on deferred leave be removed from the collective agreement. It submitted that the provision had never been used by employees in the bargaining unit. It also submitted that financial institutions were not prepared to set up the trust fund that would be required to implement a deferred leave plan. In addition, the employer submitted that there are other leave provisions that employees could access that could meet any need for deferred leave. It also noted that there was an employer policy on leave with income averaging.

[56] The deferred leave provision was removed from the collective agreements with the SPSEA and the PIPSC in the current round of negotiations.

[57] The bargaining agent proposed the status quo.

[58] The Board has determined that, in the absence of any use of this leave provision, and recognizing that this leave entitlement was removed from the other collective agreements with this employer, clause 21.18 shall be removed from the collective agreement.

G. Article 22: Sick leave

[59] The bargaining agent proposed an increase in the rate of accrual for sick leave credits from 8.75 hours to 9.92 hours per calendar month.

[60] The employer submitted that the proposal is "additional remuneration" that is prohibited by section 27 of the *ERA*. In the alternative, the employer submitted that the current provision is similar to the entitlements of other parliamentary employees.

[61] The Board has determined that article 22 shall remain unchanged.

H. Article 23: Career development leave (secondment opportunities)

[62] The bargaining agent proposed a new provision in this article, as follows:

> ***The Employer shall not unreasonably deny employees requests for secondment opportunities. Seniority shall be the determining factor when two or more employees of the same job classification make secondment requests of a similar nature.***

[63] The employer submitted that the Board does not have jurisdiction over this proposal since it relates to the appointment process.

[64] The Board has determined that it does not have jurisdiction to consider this proposal.

I. Article 25: Hours of work

1. Clause 25.02(a): Posting of scheduled hours of work

[65] The employer proposed the following change to clause 25.02 for the posting of schedules of hours of work for committee attendants (in bold):

> *25.02 (a) Schedules of hours of work shall be posted at least fifteen (15) working days in advance of the starting date of the new schedule, and the Employer shall arrange schedules which will remain in effect for a period of not less than thirty (30) working days.*
>
> . . .
>
> ***(i) Notwithstanding clause 25.02(a) above, schedules of hours of work for Committee Attendants, shall normally be posted one (1) week in advance of the starting date of the new schedule, and the Employer shall, where practical, arrange schedules which will remain in effect for a period of not less than thirty (30) working days. Subject to operational requirements, the Employer will endeavour to schedule hours of work for Committee Attendants in accordance with clause 25.02(a) when the Senate is in recess.***
>
> . . .

[66] The bargaining agent accepted that the shorter posting period is the practice when the Senate is in session. It opposed the part of the proposal that applies when the Senate is not in session (the last sentence of the proposed new subclause).

[67] The Board has determined that the clause shall be changed to reflect the current practice for the posting of schedules for committee attendants when the Senate is in session. The revised wording will be as follows:

> ***(i) Notwithstanding clause 25.02(a) above, when the Senate is in session schedules of hours of work for Committee Attendants shall normally be posted one (1) week in advance of the starting date of the new schedule, and the Employer shall, where practical, arrange***

> ***schedules which will remain in effect for a period of not less than thirty (30) working days.***

2. Clause 25.06: Completing hours of work in less than 5 days

[68] The employer proposed the following changes to clause 25.06:

> *25.06 Notwithstanding the provisions of this article, upon request of an employee,* ***and the concurrence of the Employer,*** *this employee may complete his weekly hours of work in a period of other than five (5) full days provided that over a period of forty-two (42) calendar days,* ***the*** *employee~~s~~ work**s** an average of thirty-five (35) hours per week. In every such period, employees shall be granted days of rest on days not scheduled as normal work days for them. Notwithstanding anything to the contrary contained in this agreement, the implementation of any variation in hours shall not result in any additional overtime* ***hours*** *~~work~~ or additional payment by reason ~~only~~ of such variation, nor shall it be deemed to prohibit the right of the Employer to schedule any hours of work permitted by the terms of this Agreement.*

[69] The employer submitted that the proposed changes reflect the current practice.

[70] The bargaining agent submitted that there was no demonstrated need for the changes and proposed the status quo.

[71] The Board has determined that clause 25.06 shall remain unchanged.

J. Article 26: Shift premium

[72] The bargaining agent proposed an increase in the shift premium from $1.75 to $2.00. The parties made no submissions on this proposal.

[73] The Board has determined that any increase in premiums is prohibited by the *ERA*. Article 26 of the collective agreement shall remain unchanged.

K. Article 27: Overtime

1. Clause 27.01: Assignment of overtime

[74] In clause 27.01, the employer proposed the elimination of the provision for assigning overtime work (in the absence of volunteers) on a rotational basis using the reverse order of seniority. The employer stated that, under its proposal, overtime would be assigned to "readily available qualified employees." It submitted that the current language does not permit the employer to meet the Senate's service

requirements "with the quality and efficiency expected of it." It also submitted that the concept of seniority is not widely recognized in collective agreements under the *PESRA* or in the federal public service.

[75] The bargaining agent submitted that the current language has been in the collective agreement since 1991 and that the employer has not demonstrated any need to change the language. The bargaining agent proposed the status quo.

[76] The Board has determined that clause 27.01 shall remain unchanged.

2. Clause 27.02: Process for overtime compensation

[77] At the hearing, the bargaining agent agreed with the employer's proposal on the process for compensation for overtime. Accordingly, the collective agreement is amended as follows: clauses 27.02(b)(i) to (iv) are eliminated from the collective agreement.

L. Article 35: Uniform clothing issue

[78] The bargaining agent proposed the creation of a committee of local representatives and management to meet and discuss uniform clothing issues.

[79] The employer proposed the status quo.

[80] The Board has determined that article 35 shall remain unchanged.

M. Article 37: Health and safety

[81] The employer proposed that clause 37.04 of the collective agreement be eliminated because the matter is already addressed under clause 22.06. In the alternative, the employer proposed that the clause be moved under article 22.

[82] The bargaining agent opposed the elimination of the clause, but agreed to it being moved to article 22.

[83] The Board has determined that clause 37.04 shall be moved to article 22 and that it shall be renumbered as clause 22.09. The remaining clauses in article 37 shall be re-numbered accordingly.

[84] The employer proposed to change the wording of clause 37.07 as follows:

37.07 Health and safety committee

> *(a) The employer, in close cooperation with the bargaining unit, will establish a health and safety committee which will have the following powers:*
>
> *. . .*
>
> *(iv) It may ~~establish and promote~~* ***participate in the establishment and promotion of*** *safety and health programs for the education of employees represented by the committee.*
>
> *. . .*
>
> *(vi) It may ~~develop, establish and maintain~~* ***participate in the development, establishment and maintenance of*** *programs, measures and procedures related to the safety and health of employees.*
>
> *. . .*

[85] The employer submitted that the proposed changes more accurately reflect the roles and responsibilities of the joint occupational health and safety committee.

[86] The bargaining agent proposed the status quo.

[87] The Board has determined that, in the absence of any demonstrated need, clause 37.07 shall remain unchanged.

N. <u>Article 41: Seniority</u>

[88] The employer proposed that the current provision in clause 41.02(a) that makes seniority the only determining factor in vacation leave selection be changed to make seniority one of the determining factors. The employer proposed the elimination of clause 41.02(b), which states that seniority will be one of the factors considered for shift selection.

[89] The bargaining agent proposed status quo for clause 41.02(a).

[90] The Board has determined that the employer has not demonstrated any need to change clause 41.02(a) of the collective agreement (seniority as the determining factor in vacation leave selection). Accordingly, this clause shall remain unchanged.

[91] The bargaining agent proposed a new clause 41.02(b) that reads as follows:

> ***(b) the parties agree that, subject to Article 25, hours of work and shift scheduling are subject to operational requirements as determined by the Employer. The parties***

> ***also agree that, consistent with past and current practice at the Senate, the Employer shall assign shifts based on seniority once the Employer has determined staffing and shifts within a department.***

[92] In the collective agreement that expired in 2004, the clause read as follows:

> *41.02 The seniority of an employee shall be the determining factor in the shift and vacation leave selections.*

[93] The employer submitted that the language was changed to the current language in exchange for the implementation of a new classification system at an earlier time than anticipated. It submitted that the bargaining agent is now seeking the modification of provisions that they freely negotiated.

[94] The employer submitted that the assignment of shifts on the basis of seniority has been problematic for the employer and that it should be based on operational requirements.

[95] The bargaining agent submitted that it had agreed to the change to the clause in the previous round of collective bargaining in recognition of the fact that the existing language would be far too restrictive for the employer in the event of an emergency or crisis. The tentative collective agreement that contained the amended clause was not ratified by the bargaining unit members. After returning to the bargaining table, the parties negotiated a letter of understanding that read as follows:

> *… the Senate agrees to maintain employees occupying full-time maintenance heavy duty positions as of July 25, 2006 on the day shift during the life of this collective agreement.*

[96] The bargaining agent submitted that the proposed change to clause 41.02(b) is necessary because the employer indicated at collective bargaining and in the workplace that it intends to use the current language of the collective agreement (seniority as one of the factors considered for shift selection) to significantly reduce the role that seniority will play in shift selection.

[97] It is the Board's view that the parties freely negotiated the change to the seniority provision for shift selection. This is a significant point in favour of the status quo for this clause. However, it is also clear from the letter of understanding under the previous collective agreement that the employer gave assurances to employees that seniority would remain the dominant factor in shift selections. It is the Board's view

that seniority should remain the primary factor in shift selection, although not the only factor. The employer raised some other factors that it considered relevant for shift assignments: an adequate balance of junior and senior employees on shifts for operational, mentoring and health and safety reasons; accommodating employees with physical restrictions and the impact of assigning undesirable shifts on employee morale. The employer provided no evidence on these factors. The Board can accept that accommodation of employees, as required by human rights law, is a legitimate factor in assigning shifts. The bargaining agent referred to emergency situations where the employer required additional flexibility in assigning shifts. The Board can accept that this would be a legitimate factor in assigning shifts. Accordingly , the Board has determined that clause 41.02(b) shall be amended as follows:

> *(b) Seniority will* ***be the determining factor in shift selection, unless the employer is required to accommodate an employee pursuant to the Canadian Human Rights Act or an emergency situation arises.***

O. <u>Article 43: Duration (effective date)</u>

[98] The parties are in agreement with a duration of four years for the collective agreement, which would expire September 30, 2011.

[99] The bargaining agent proposed a retroactive date of October 1, 2007 for all the provisions of the collective agreement.

[100] The employer proposed that, except as expressly stated in the agreement, the effective date shall be the date of the arbitral award.

[101] The Board has determined that clauses 43.01 and 43.02 of the current collective agreement shall be amended as follows:

> ***43.01 This Agreement shall expire on September 30, 2011.***
>
> ***43.02 Unless otherwise expressly stipulated in this agreement, the provisions of the agreement shall become effective on the date of the arbitral award.***

II. <u>Appendix A : Rates of pay and pay notes</u>

[102] The employer proposed the elimination of appendix "A," which contains the pre-conversion rates of pay that applied in 2004. It also proposed the elimination of the pay notes relating to the new classification structure and new pay structure (A-1

through A-6). The employer submitted that these pay notes are no longer applicable as the conversion was completed in 2005. It provided a copy of a letter from the director of human resources at the Senate to the negotiator for the bargaining agent that attested that there were no employees in the bargaining unit subject to salary protection.

[103] The bargaining agent agreed to the elimination of Appendix A-1. For the remainder of the proposal, the bargaining agent proposed the status quo.

[104] The Board has determined that appendix A-1 shall be removed from the collective agreement. In light of the disagreement of the parties about the continued application of pay notes A-2 through A-6, they shall remain in the collective agreement.

[105] On November 27, 2008, the parties came to an agreement on the increase to rates of pay as follows:

> Effective October 1, 2007: 2.5%
> Effective October 1, 2008: 1.5%
> Effective October 1, 2009: 1.5%
> Effective October 1, 2010: 1.5%

[106] The *ERA* provides for a maximum increase of 2.3% for 2007. Accordingly, the agreement of the parties will be modified to reflect a 2.3% increase, effective October 1, 2007.

III. <u>New: Social justice fund</u>

[107] The bargaining agent proposed a new article as follows:

> ***xx.01 The Employer shall contribute one cent (1¢) per hour worked to the PSAC Social Justice Fund and such contribution will be made for all hours worked by each employee in the bargaining unit, commencing on the date that the PSAC Social Justice Fund receives charitable status from the Canada Customs and Revenue Agency. Contributions to the Fund will be made quarterly, in the middle of the month immediately following completion of each fiscal quarter year, and such contributions remitted to the PSAC National Office. Contributions to the Fund are to be utilized strictly for the purposes specified in the Letters Patent of the PSAC Social Justice Fund.***

[108] The employer proposed the status quo.

[109] The Board has determined that the collective agreement shall not include the proposed new article.

[110] The Board will remain seized of this matter for a period of sixty (60) days in the event that the parties encounter any difficulties in implementing the arbitral award.

August 16, 2010.

Ian R. Mackenzie
Vice-Chairperson
Chairperson of the arbitration board