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*Public Service
Labour Relations Act*



Before the Public Service
Labour Relations Board

BETWEEN

PROFESSIONAL INSTITUTE OF THE PUBLIC SERVICE OF CANADA

Applicant

and

TREASURY BOARD

Respondent

Indexed as

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

In the matter of a request for the Board to exercise any of its powers under section 43 of the *Public Service Labour Relations Act*

REASONS FOR DECISION

Before: Michele A. Pineau, Vice-Chairperson

For the Applicant: Michael Urminsky

For the Respondent: Drew Heavens, Treasury Board, and Andrew Raven, Public Service Alliance of Canada

Decided on the basis of written submissions
filed January 28, February 4 and May 9, 2011.

REASONS FOR DECISION

Request before the Board

[1] This is a request under subsection 43(1) of the *Public Service Labour Relations Act (PSLRA)* to review an order about the certification of the Health Services Group, represented by the Professional Institute of the Public Service of Canada (“the Institute”).

[2] The Health Services Group bargaining unit arose from an amalgamation of nine bargaining units that resulted from the enactment of the *Public Service Reform Act (PSRA)*, S.C. 1992, c. 54. The Health Services Group was certified by the Public Service Staff Relations Board on June 10, 1999.

[3] On February 4, 2011, the Treasury Board Secretariat notified the Public Service Labour Relations Board (“the Board”) that effective November 25, 2010, a new sub-group was established in the Health Services Group under the classification of NU-EMA in response to a decision of the Canadian Human Rights Tribunal in *Walden et al. v. Social Development Canada, Treasury Board of Canada and Public Service Human Resources Management Agency of Canada*, 2009 CHRT 16 (see also *Canada Attorney General v. Walden et al.*, 2010 FC 490).

[4] The Treasury Board Secretariat published, on January 8, 2011, in the *Canada Gazette*, Part 1, Volume 145, number 2 the following definition of the new NU-EMA sub-group:

Medical Adjudicator Nursing (NU-EMA)

Positions responsible for determining the medical eligibility of applicants for a government program or the provision of expert advice related to medical adjudication.

[5] The NU-EMA sub-group consists of employees previously classified within the PM classification under the Program and Administrative Services (PA) occupational group, certified and represented by the Public Service Alliance of Canada (PSAC). The PM category remains, but with the exclusion of employees who fall under the new occupational definition and sub-group. The creation of the new NU-EMA sub-group does not amend the definition of either the PA or PM occupational groups.

[6] Because of the change of classification and occupational group, the Board determined that more than one bargaining agent may have an interest in becoming the certified representative of the new NU-EMA sub-group.

[7] Pre-empting the Treasury Board's notice to the Board on February 4, 2011, the Institute applied to the Board on January 28, 2011, for an amendment to its bargaining certificate of June 10, 1999, to reflect the changes to the Health Services Group made by the Treasury Board.

[8] On April 7, 2011, the Board wrote to the PSAC, enclosing a copy of the Institute's application and the Treasury Board's notice and requested any comments it might have with respect to the application. On May 9, 2011, the PSAC responded that it took no position on the applications presented pursuant to section 43 of the *PSLRA*.

Reasons

[9] In accordance with section 7 and subsection 57(2) of the *PSLRA*, in the determination of work units appropriate for collective bargaining, the Board must have regard to the authority of the Treasury Board to classify positions and persons employed in the federal public administration.

[10] In the absence of another application by a bargaining agent to represent the employees who fall under the new occupational definition and NU-EMA sub-group, the Board hereby grants the Institute's application to amend the Health Services Group bargaining certificate. The Health Services Group bargaining certificate shall be amended to include the new NU-EMA sub-group as defined in Part I of the *Canada Gazette* of January 8, 2011.

[11] Accordingly, the Board makes the following order:

(The Order appears on the next page)

Order

[12] The Health Services Group bargaining certificate is amended as follows:

*Pursuant to the provisions of subsection 43(1) of the **Public Service Labour Relations Act**, THIS BOARD CONFIRMS that the **Professional Institute of the Public Service of Canada** is the bargaining agent for all the employees of the employer in the Health Services Group as defined in Part I of the Canada Gazette of March 27, 1999, with the addition of the new NU-EMA Sub-group as defined in Part I of the Canada Gazette of January 8, 2011.*

[13] The certificate issued on June 10, 1999 will be amended and a revised certificate will be issued accordingly.

June 20, 2011.

**Michele A. Pineau,
Vice-Chairperson**