

Date: 20131121

Files: 585-09-60

Citation: 2013 PSLRB 151



*Public Service
Labour Relations Act*

Before the Chairperson of the Public
Service Labour Relations Board

IN THE MATTER OF
THE *PUBLIC SERVICE LABOUR RELATIONS ACT*
and a dispute affecting
the Research Council Employees' Association, as bargaining agent,
and the National Research Council of Canada, as employer,
in respect of the bargaining unit comprised of all employees of the employer in the
Operational Category ("OP bargaining unit")

Indexed as
Research Council Employees' Association v. National Research Council of Canada

TERMS OF REFERENCE

To: Ian Mackenzie, chairperson of the arbitration board;
Georges Nadeau and Guy Lauzé, arbitration board members

Before: David P. Olsen, Acting Chairperson of the Public Service Labour Relations
Board

For the Bargaining Agent: Christopher Rootham, counsel

For the Employer: Caroline Richard, counsel

Issued on the basis of written submissions,
dated April 29, May 10 and 17, and June 19, 2013,
and a hearing held on May 21 and 22, 2013.

[1] By letter of April 29, 2013, the Research Council Employees' Association ("the bargaining agent") requested arbitration in respect of the bargaining unit comprised of all employees of the employer in the Operational Group ("OP bargaining unit"). Along with its request, the bargaining agent provided a list of the terms and conditions of employment that it wished to refer to arbitration. Those terms and conditions of employment and supporting material are attached as schedule 1.

[2] By letter of May 10, 2013, the National Research Council of Canada ("the employer") provided its position on the terms and conditions of employment that the bargaining agent wished to refer to arbitration. The employer raised objections and jurisdictional issues in response to certain terms and conditions of employment proposed by the bargaining agent in its Form 8 submission; those objections were in respect of the bargaining agent's proposals on the "Workforce Adjustment Policy," on article 4 - the definition of "Cumulative Working Period" and on a new article, entitled "Term Employees." The employer also provided a list of additional terms and conditions of employment it wished to refer to arbitration. The letter of May 10, 2013 and the employer's supporting material are attached as schedule 2.

[3] By letter of May 17, 2013, the bargaining agent provided its position on the additional terms and conditions of employment that the employer wished to refer to arbitration. In addition, the bargaining agent suggested that, since the employer's objections in the present file were almost identical to objections made in PLSRB file Nos. 585-09-54, -55 and -56, and since a hearing was to take place on May 21 and 22, 2013 to deal with these objections, therefore the results of the hearing should govern the parties in the present matter. That letter and the bargaining agent's supporting material are attached as schedule 3.

[4] By letter of June 19, 2013, the employer advised that it would accept that the pending decisions in PSLRB files Nos. 585-09-54, -55 and -56 would also apply to the present file. That letter is attached at schedule 4.

[5] A hearing was held on May 21 and 22, 2013. The Chairperson proceeded to prepare a final decision on the matters dealt with during the hearing.

[6] However, before a final decision could be issued, by letter dated November 6, 2013, the bargaining agent withdrew its proposals on the "Workforce Adjustment

Policy,” on article 4 - the definition of “Cumulative Working Period” and on a new article, entitled “Term Employees.” That letter is attached as schedule 5.

[7] Accordingly, pursuant to section 144 of the *Act*, the matters in dispute on which the arbitration board shall make an arbitral award are those set out in schedules 1 to 5 inclusive, which are attached to this decision. For more clarity, the proposals of the bargaining agent identified as the “Workforce Adjustment Policy,” as article 4 - the definition of “Cumulative Working Period” and as a new article, entitled “Term Employees” shall not form part of the Terms of Reference.

[8] Should any jurisdictional question arise during the course of the hearing as to the inclusion of a matter in these terms of reference, that question must be submitted without delay to the Chairperson of the Public Service Labour Relations Board, who is, according to subsection 144(1) of the *Act*, the only person authorized to make such a determination.

November 21, 2013.

David P. Olsen,
Acting Chairperson of the
Public Service Labour Relations Board