

Date: 20140319

File: 585-09-52

Citation: 2014 PSLRB 33



*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 Professional Institute of the Public Service of Canada, as bargaining agent,
and the National Research Council of Canada, as employer,
in respect of all of a bargaining unit comprised of the employees of the employer in
the Scientific and Professional category who are engaged in the selection, acquisition,
organization and subject analysis of recorded knowledge in libraries or documentation
centres; the provision of reference and bibliographic services; the development and
compilation of catalogues, bibliographies, indexes and other similar publications; the
development and utilization of manual and automated systems for recording, storing
and retrieving information in library systems and the provision of advice (“LS
bargaining unit”)

Indexed as
*Professional Institute of the Public Service of Canada v. National Research Council of
Canada*

SUPPLEMENTARY TERMS OF REFERENCE

To: Ian Mackenzie, Chairperson of the arbitration board;
Larry Robbins and Guy Lauzé, arbitration board members

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

For the Bargaining Agent: Michael Urminsky, Professional Institute of the Public
Service of Canada

For the Employer: Caroline Richard, counsel

Heard at Ottawa, Ontario,
March 5, 2014.

[1] In decision 2013 PSLRB 153, on November 21, 2013 the Chairperson of the Public Service Labour Relations Board (“the PSLRB”) issued Terms of Reference in file 585-09-52 (“the Terms of Reference”). The Terms of Reference were issued further to a request for arbitration made by the Professional Institute of the Public Service of Canada (“the bargaining agent”) in respect of a bargaining unit at the National Research Council of Canada (“the employer”) comprised of the employees of the employer in the Scientific and Professional category who are engaged in the selection, acquisition, organization and subject analysis of recorded knowledge in libraries or documentation centres; the provision of reference and bibliographic services; the development and compilation of catalogues, bibliographies, indexes and other similar publications; the development and utilization of manual and automated systems for recording, storing and retrieving information in library systems and the provision of advice (“LS bargaining unit”).

[2] The Terms of Reference explained that the bargaining agent had initially objected to the employer’s proposal with respect to articles 30.01 to 30.03. However, after an exchange of various correspondences, by email of November 7, 2013, the bargaining agent withdrew its objection to the employer proposal with respect to articles 30.01 to 30.03.

[3] Since there was no objection to the employer proposal with respect to articles 30.01 to 30.03, the proposal was included Terms of Reference as part of the matters in dispute on which the arbitration board was to make an arbitral award.

[4] Also as part of the Terms of Reference, the parties were advised that 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 was to be submitted without delay to the Chairperson of the PSLRB, who is, according to subsection 144(1) of the *Public Service Labour Relations Act* (“the Act”), the only person authorized to make such a determination.

[5] By letter dated December 9, 2013, the employer raised a jurisdictional question regarding its proposal with respect to articles 30.01 to 30.03. In that letter, the employer informed that, after the bargaining agent withdrew its objection to the said proposal and after the Terms of Reference were issued, the parties continued collective bargaining. Collective bargaining did not result in a tentative agreement. However, the employer further advised that, as part of these negotiations, it became apparent that

the same jurisdictional question regarding articles 30.01 to 30.03, as were initially raised prior to the issuance of the Terms of Reference, would arise in the course of the hearing before the arbitration board.

[6] Therefore, specifically, and amongst other questions, the employer raised the jurisdictional question as to whether section 150 of the *Act* precludes the arbitration board from rendering an arbitral award which would eliminate the existing articles 30.01 to 30.03.

[7] A hearing was held before the Chairperson of the PSLRB on March 5, 2014 to determine this jurisdictional question.

[8] During the hearing, both parties acknowledged that the employer's proposal with respect to articles 30.01 to 30.03 was in violation of section 150 of the *Act* and, as such, could not be included in the matters in dispute on which the arbitration board was to make an arbitral award. Therefore, the parties requested on consent that the Terms of Reference be amended to remove the employer's proposal to eliminate the existing articles 30.01 to 30.03.

[9] Accordingly, pursuant to section 144 of the *Act*, the Terms of Reference issued on November 21, 2013 in decision 2013 PSLRB 153 are hereby amended as follows. The matters in dispute on which the arbitration board shall make an arbitral award are those set out in schedules 1 to 4 inclusive contained in the Terms of Reference with the exception of the employer's proposal at articles 30.01 to 30.03 which shall not form part of the Terms of Reference.

[10] Should any jurisdictional question arise during the course of the hearing as to the inclusion of a matter in the Terms of Reference, that question must be submitted without delay to the Chairperson of the PSLRB, who is, according to subsection 144(1) of the *Act*, the only person authorized to make such a determination.

March 19, 2014

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