

Date: 20140917

File: 666-24-0008

Citation: 2014 PSLRB 83



*Budget Implementation
Act, 2009*

Before a panel of the Public
Service Labour Relations Board

BETWEEN

PUBLIC SERVICE ALLIANCE OF CANADA

Complainant

and

**TREASURY BOARD
(Statistical Survey Operations)**

Respondent

Indexed as

Public Service Alliance of Canada v. Treasury Board (Statistical Survey Operations)

In the matter of a complaint referred to the Public Service Labour Relations Board pursuant to subsection 396(1) of the *Budget Implementation Act, 2009*

REASONS FOR DECISION

Before: Margaret T.A. Shannon, a panel of the Public Service Labour Relations Board

For the Complainant: Andrew Astritis, counsel

For the Respondent: Lynn Marchildon and Elizabeth Kikuchi, counsel

Heard at Ottawa, Ontario,
March 31 to April 4, 2014.

I. Complaint before the Public Service Labour Relations Board

[1] On January 6, 2011, the Canadian Human Rights Commission referred this complaint to the Public Service Labour Relations Board (“the Board”) pursuant to subsection 396(1) of the *Budget Implementation Act, 2009* (S.C. 2009, c. 2; “the BIA”), which came into force on March 12, 2009. Section 396 provides as follows:

396. (1) The following complaints with respect to employees that are before the Canadian Human Rights Commission on the day on which this Act receives royal assent, or that are filed with that Commission during the period beginning on that day and ending on the day on which section 399 comes into force, shall, despite section 44 of the Canadian Human Rights Act, without delay, be referred by the Commission to the Board:

(a) complaints based on section 7 or 10 of the Canadian Human Rights Act, if the complaint is in respect of the employer establishing or maintaining differences in wages between male and female employees; and

(b) complaints based on section 11 of the Canadian Human Rights Act.

(2) The complaints referred to in subsection (1) shall be dealt with by the Board as required by this section.

(3) The Board has, in relation to a complaint referred to it, in addition to the powers conferred on it under the Public Service Labour Relations Act, the power to interpret and apply sections 7, 10 and 11 of the Canadian Human Rights Act, and the Equal Wages Guidelines, 1986, in respect of employees, even after the coming into force of section 399.

(4) The Board shall review the complaint in a summary way and shall refer it to the employer that is the subject of the complaint, or to the employer that is the subject of the complaint and the bargaining agent of the employees who filed the complaint, as the Board considers appropriate, unless it appears to the Board that the complaint is trivial, frivolous or vexatious or was made in bad faith.

(5) If the Board refers a complaint under subsection (4) to an employer, or to an employer and a bargaining agent, it may assist them in resolving any matters relating to the complaint by any means that it considers appropriate.

(6) If the employer, or the employer and the bargaining agent, as the case may be, do not resolve the matters relating to the complaint within 180 days after the complaint is referred to them, or any longer period or periods that may