

Date: 20140707

File: 525-02-0053
XR: 542-02-0001 and 0002
and 525-02-0001 and 0011

Citation: 2014 PSLRB 68



*Public Service
Labour Relations Act*

Before a panel of the Public
Service Labour Relations Board

BETWEEN

TREASURY BOARD OF CANADA

Applicant

and

ASSOCIATION OF JUSTICE COUNSEL

Respondent

Indexed as

Treasury Board of Canada v. Association of Justice Counsel

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

For the Applicant: Carl Trottier, Treasury Board Secretariat

For the Respondent: Lisa Blais, President, Association of Justice Counsel

Decided on the basis of written submissions
filed January 22 and February 18, 2014.

REASONS FOR DECISION

I. Request before the Board

[1] The applicant, the Treasury Board of Canada (“the employer”), pursuant to section 43 of the *Public Service Labour Relations Act* (S.C. 2003, c. 22, s. 2; “the Act”), seeks the review and amendment of the order of the Public Service Labour Relations Board (“the Board”) rendered in *Association of Justice Counsel et al. v. Treasury Board of Canada et al.*, 2006 PSLRB 45, as amended by the decision of the Board in *Treasury Board v. Association of Justice Counsel*, 2007 PSLRB 84. The amendment sought is a change of the title of the occupational group for which the certificate was issued to reflect the change of the occupational group title to “Law Practitioner Group” as well as recognition of amendments to the group definition. The applicant also seeks to have the existing exclusions from the bargaining unit confirmed as continuing under the amended certification order. The respondent is the bargaining agent, the Association of Justice Counsel (“the bargaining agent”) which has indicated its concurrence with this application by so indicating on the initiating document submitted by the applicant.

II. Background

[2] On December 9, 2010, the group definition of the Law (LA) occupational group was amended when the new Law Management (LC) occupational group was established. The Board was advised of the changes via letter dated April 6, 2011. In the interim, the President of the Treasury Board changed the title of the LA occupational group to the Law Practitioner (LP) occupational group. The conversion of positions from the LA occupational group to the LP occupational group was completed on January 6, 2014.

[3] The employer seeks an amendment to the LA group certification order (2006 PSLRB 45), as amended (2007 PSLRB 84), to reflect the change in name of the occupational group and to incorporate the new group definition as part of the amended certification order. In addition, the employer seeks confirmation that the existing exclusions of positions within the LA group will continue in its new guise as the LP group.

[4] The bargaining agent concurred with the employer’s request and has indicated this concurrence by signing the letter of application filed with the Board by the employer.

III. Reasons

[5] The employer seeks, with the concurrence of the bargaining agent, an amendment to the certification order issued pursuant to 2006 PSLRB 45, as amended by 2007 PSLRB 84, to reflect the current title and structure of the LA group pursuant to section 43 of the *Act*. Section 43 provides the Board with the authority to review and amend its decisions, as follows:

Review of orders and decisions

43. (1) *Subject to subsection (2), the Board may review, rescind or amend any of its orders or decisions, or may re-hear any application before making an order in respect of the application.*

...

[6] Section 70 of the *Act* provides the Board with the authority to review the structure of the bargaining unit affected by the application before me and to amend the composition of the bargaining unit to alter the occupational groups. Section 70 reads as follows:

Changes to Certification

Review of Bargaining Units

70. (1) *If the Board reviews the structure of one or more bargaining units, it must, in determining whether a group of employees constitutes a unit appropriate for collective bargaining, have regard to the employer's classification of persons and positions, including the occupational groups or subgroups established by the employer.*

(2) *The Board must establish bargaining units that are co-extensive with the occupational groups or subgroups established by the employer, unless doing so would not permit satisfactory representation of the employees to be included in a particular bargaining unit and, for that reason, such a unit would not be appropriate for collective bargaining.*

[7] In my opinion, the effect of the requested order would facilitate the administration of the collective agreement by ensuring that the certification order and the occupational group definitions are consistent. It would also ensure that when negotiating pay scales, the classification categories listed will reflect the occupational

group definitions. In order to clarify the impact of the change to the title of the occupational group, the document submitted with this application and attached here as Annex A should form part of the order.

[8] Under section 36 of the *Act*, I have the authority to:

36. The Board administers this Act and it may exercise the powers and perform the functions that are conferred or imposed on it by this Act, or as are incidental to the attainment of the objects of this Act, including the making of orders requiring compliance with this Act, regulations made under it or decisions made in respect of a matter coming before the Board.

The employer's request, with the bargaining agent's concurrence, that the current exclusions from the former LA occupational group continue to be in effect is reasonable since the effect of amending the certification order would not alter the reasons for which these positions were excluded and giving effect to this request would be incidental to the attainment of the objects of the *Act*, in my opinion.

[9] For all of the above reasons, the Board makes the following order:

(The Order appears on the next page)

IV. Order

[10] I order the order of the Board in decision 2006 PSLRB 45, as amended by the Board's decision 2007 PSLRB 84, be further amended to reflect the change in the title of the occupational group to which these orders pertain from the LA group to the LP group. The certification issued on September 12, 2007, shall be amended, starting from ". . . bargaining unit comprised of all employees in the LA Group as defined in Part I of the Canada Gazette of March 27, 1999, for which the Treasury board is the employer . . ." as follows:

*In accordance with the provisions of the Public Service Labour Relations Act, the BOARD CERTIFIES the **Association of Justice Counsel** as the bargaining agent for the bargaining unit comprising all employees of the LA Group as defined in Part I of the Canada Gazette of March 27, 1999, now known as the LP Group as outlined in Schedule A attached, for which the Treasury Board is the employer who are not excluded from collective bargaining by law or determination of the Board.*

[11] The group definition for the Law Practitioner's group submitted with the employer's application dated January 22, 2014, shall be attached to the certificate as Annex A and shall form part of the certificate.

[12] A new certificate will be issued.

[13] All exclusions of positions within the LA group, whether made by reason of law or determination of the Board, shall continue in full force and effect with the exception that they will now be exclusions from the LP group.

July 7, 2014.

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