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*Parliamentary Employment
and Staff Relations Act*



Before the
Public Service Labour Relations
and Employment Board

IN THE MATTER OF
THE *PARLIAMENTARY EMPLOYMENT AND STAFF RELATIONS ACT*
and a dispute affecting
the Canadian Association of Professional Employees, as bargaining agent,
and
the Library of Parliament, as employer,
in respect of the employees of the Library of Parliament in the Research and Library
Services Groups except the Library Science and Library Technician Sub-Groups
bargaining unit

Indexed as
Canadian Association of Professional Employees v. Library of Parliament

ARBITRAL AWARD

Before: Michael McNamara, Katherine Butler Malette and William Krause, deemed to
form the Public Service Labour Relations and Employment Board

For the Bargaining Agent: Peter Englemann and Colleen Baumann, counsel

For the Employer: Carole Piette, counsel

Heard at Ottawa, Ontario,
June 19, 2015.

Application before the Board

[1] On May 22, 2014, the Canadian Association of Professional Employees (“the bargaining agent”) served notice to bargain on the Library of Parliament (“the employer” or “Library”) on behalf of the Research Officer and Research Assistant Sub-group in the Research and Library Services Group bargaining unit under section 37 of the *Parliamentary Employment and Staff Relations Act*, R.S.C. 1985, c. 33 (2nd Supp.) (*PESRA*). That bargaining unit is composed of all employees of the employer in the Research and Library Services Groups except the Library Science and Library Technician Sub-groups.

[2] The Library provides reference, resource and analysis services to parliamentarians and their staff, parliamentary committees, associations and delegations, and to senior Senate and House of Commons officials, as well as certain information services to the general public. The Library is Parliament’s key resource in meeting the challenges of the information age, providing parliamentarians and the general public with a range of information-related services and products.

[3] According to the employer, 95 employees in the bargaining unit have an overall average annual salary of \$89 505. The average age of employees in the bargaining unit is 40, and 76% have 9 years of service or less. Most positions in the bargaining unit require a master’s degree. Based on the information provided by the employer, recruiting new employees does not seem to be a problem. However, with close to two-thirds of employees having nine years of service or less, there has continued to be a fairly high turnover of employees in recent years.

[4] The last collective agreement expired on June 15, 2014. The parties tabled their proposals on September 25, 2014, and met on October 28 and 29 and November 18, 19 and 20, 2014.

[5] By letter dated December 15, 2014, pursuant to section 50 of the *PESRA*, the bargaining agent requested arbitration for the bargaining unit. It attached to that letter a list of the terms and conditions of employment that it wished to refer to arbitration.

[6] On December 22, 2014, the employer provided its position on the terms and conditions of employment that the bargaining agent wished to refer to arbitration. The employer also provided a list of additional terms and conditions of employment that it

wished to have referred to arbitration.

[7] The terms of reference of the Board were forwarded by the Chairperson of the Public Service Labour Relations and Employment Board on January 25, 2015, to the Board members.

[8] The parties' respective submissions were received on June 4, 2015.

[9] In its application for arbitration, the bargaining agent informed the Board that during bargaining, the parties had reached agreement on several changes to the following provisions of the collective agreement:

Article 10	10.XX Information
Article 11	11.XX Provision of Bulletin Board Space and Other Facilities (new)
Article 16	16.08 Leave General
Article 17	17.12 Vacation Leave
Article 18	18.05 Designated Paid Holidays
Article 19	19.02 Bereavement Leave with Pay
	19.06 Parental Leave Without Pay
	19.10 Leave Without Pay for Care Giving
	19.12 Compassionate Care Leave
	19.13 Leave With Pay for Family-Related Responsibilities
	19.14 Medical Appointments for Pregnant Employees
	19.XX Pre-Retirement Transition Leave (new)
Article 20	20.04 Sick Leave Credits, Medical and Dental Appointments
Article 23	23.01 Hours of Work
Article 24	24.04 Overtime
Article 28	28.02 Probationary Period Employees Performance Review and Employee Files
Article 36	36.02 Use of Taxis

Article 37 37.XX Staffing (New)

Article 41 41.XX Long Term Disability

[10] The parties informed the Board that they could not agree on the following provisions of the collective agreement. Those provisions remained at issue before the hearing and had to be determined by the Board.

Article 17 17.02 Accumulation of Vacation Leave Credits

Article 18 18.01 Designated Paid Holidays

Article 19 19.23 Volunteer Leave

19.XX Personal Leave (New)

Article 24 24.11 Meal Allowance

Article 26 26.01 Travel

Appendix A Rates of Pay

[11] Before the hearing, the parties further informed the Board that they had reached agreement on all issues except Rates of Pay (including restructuring) and Duration.

The award

[12] Section 53 of the *PESRA* sets out as follows the factors that the Board must consider in rendering its award:

53. In the conduct of proceedings before it and in rendering an arbitral award in respect of a matter in dispute, the Board shall consider

(a) the needs of the employer affected for qualified employees,

(b) the need to maintain appropriate relationships in the conditions of employment as between different grade levels within an occupation and as between occupations of employees,

(c) the need to establish terms and conditions of employment that are fair and reasonable in relation to the qualifications required, the work performed, the

responsibility assumed and the nature of the services rendered, and

(d) any other factor that to it appears to be relevant to the matter in dispute,

and, so far as consistent with the requirements of the employer, the Board shall give due regard to maintaining comparability of conditions of employment of employees with those that are applicable to persons in similar employment in the federal public administration.

[13] The Board considered those factors when weighing the proposals made by the parties.

[14] Under subsection 56(1) of the *PESRA*, as follows, I am the only signatory of this arbitral award as the Chairperson of the panel:

56. (1) An arbitral award shall be signed by the member of the Board who is not a member selected from a panel appointed under section 47 and copies thereof shall be transmitted to the parties to the dispute and no report or observations thereon shall be made or given by either of the members selected from a panel appointed under section 47.

[15] Subsections 56(2) and (3) of the *PESRA* govern the process by which the members of the Board decide the arbitral award as follows:

(2) Subject to subsection (3), a decision of the majority of the members of the Board in respect of the matters in dispute shall be the arbitral award in respect of the matters in dispute.

(3) Where the majority of the members of the Board in respect of the matters in dispute cannot agree on the terms of the arbitral award to be rendered in respect thereof, the decision of the member of the Board who is not a member selected from a panel appointed under section 47 shall be the arbitral award in respect of the matters in dispute.

[16] The Board's award is unanimous.

[17] The bargaining agent proposed, in a two-year award, economic increases of 2.50% in each year as well as adding an increment to the Analyst level 3 (AN-3) classification in the first year.

[18] The bargaining agent pointed to a number of areas and presented evidence to support its position, including the following:

- The employer has consistently had difficulty retaining qualified employees.
- During the period in which the country was in a recession, the increases were 1.50% in each year; now that we are in a surplus position, increases should not be lower than that.
- Data compiled by the federal government's Labour Program indicates that since 2006, the bargaining unit members have fallen behind the federal private sector by 4.71% and the federal public sector by 4.82%. They also argued that the federal government has legislated that increases for members of Parliament are tied to the following index:

Strategic Policy, Analysis, and Workplace Information Directorate, Labour Program, Employment and Social Development Canada, Major wage settlements by jurisdictions (aggregated) and year, April 28, 2015, Book of Documents, vol. II, Tab 32.

In 2015, that generated a 2.3% increase, while in 2014, the increase was 2.2%. Since 2012, the compounded increase has been 6.13%, while members of this bargaining unit have received 3.53% compounded.

- Additionally, the bargaining agent identified data from the Industrial Aggregate Index for Canada and the Consumer Price Index as well a comparison with per-capita GDP.
- In support of its position favouring an additional increment, the bargaining agent compared several positions with what it identified as comparable positions in the federal public service.
- Pattern settlement data was limited, and no data was available for settlements in the federal public administration sector.

[19] The employer proposed a three-year duration with increases of 0.50%, 0.50% and 0.50%, with no additional increments, and focused on the following issue areas:

- Recruitment and retention were not problematic for the Library.
- Pattern settlement data indicated increases of 1.50%, 0.75% and 0.75%.
- Budgetary limits have been placed on the Library by the Board of Internal Economy as a result of government cost-cutting measures. The Library has had to react to these decisions by reducing services and reallocating resources as well as via a workforce reduction. The bargaining agent's proposals would further exacerbate the current fiscal situation in the Library.
- Adding a step to the AN-3 ranges would create a severe compression problem with management rates.

[20] While the parties differed on the issue of recruitment and retention, the Board found that the best way to address compensation was not by adding a step, which would affect only employees at the current maximum, but by awarding increases to all rates of pay, in an effort to benefit all employees.

[21] The Board awards economic increases of 1.75%, effective June 16, 2014; 1.50%, effective June 16, 2015; and 1.50%, effective June 16, 2016.

General

[22] The Board will remain seized of this matter for a period of sixty (60) days in the event that the parties encounter any difficulties implementing this arbitral award.

September 15, 2015.

**Michael McNamara,
for the Public Service Labour
Relations and Employment Board**