

Date: 20151208

File: 425-LP-10

XR: 442-L-9

Citation: 2015 PSLREB 92

*Public Service Labour Relations
and Employment Board Act and
Parliamentary Employment
and Staff Relations Act*



Before a panel of the
Public Service Labour Relations
and Employment Board

BETWEEN

PUBLIC SERVICE ALLIANCE OF CANADA

Bargaining Agent

and

LIBRARY OF PARLIAMENT

Employer

Indexed as

Public Service Alliance of Canada and Library of Parliament

In the matter of a request for the Board to exercise any of its powers under section 17
of the *Parliamentary Employment and Staff Relations Act*

Before: Bryan R. Gray, a panel of the Public Service Labour Relations and Employment
Board

For the Bargaining Agent: Morgan Gay, Public Service Alliance of Canada

For the Employer: Carole Piette, counsel

Decided on the basis of written submissions
filed April 28, September 23 and November 17 and 20, 2015.

REASONS FOR DECISION

Request before the Board

[1] On April 28, 2015, the Public Service Alliance of Canada (PSAC) and the Library of Parliament applied by means of a joint written submission for an order of the Public Service Labour Relations and Employment Board (“the Board”) to amalgamate two bargaining units. Written addendums from the parties were received on November 17 and 20, 2015 as requested by the Board.

[2] The parties cite both sections 17 and 24 of the *Parliamentary Employment and Staff Relations Act* (R.S.C., 1985, c. 33 (2nd Supp.), *PESRA*) in their application. Section 17 of the *PESRA* empowers the Board to amend any order it previously made. Section 24 states that the Board can determine any question that arises as to whether any class of employees is included in a bargaining unit description.

Background

[3] In *Public Service Alliance of Canada and Library of Parliament*, PSSRB File No. 442-LP-9 (19870508, 19870618 and 19871014), the former Public Service Staff Relations Board (PSSRB) certified the PSAC as the bargaining agent for separate bargaining units that included the following:

- (a) all employees in the Library Technician Sub-group in the Research and Library Services Group (“the LT Group”), and
- (b) all employees in the Administrative and Support Group (“the AS Group”)

[4] As a result, the PSSRB issued orders on May 8, 1987, on June 18, 1987, and on October 14, 1987, certifying the PSAC as the bargaining agent for all the employees of the employer in the LT and AS Groups, respectively.

Facts

[5] The joint submission of the parties states that the two bargaining units in question

- share common aspirations in collective bargaining;
- voted on December 11 and 12, 2014, to approve the amalgamation; and

- in February 2015 approved a merger of their previously separate collective agreements.

Statutory authority for transition of past decisions to the current PSLREB

[6] The legislation and Board overseeing the certification of the bargaining units in question has been twice amended and the following statutory provisions allow the Board to make amendments to certificates issued by previous Boards.

[7] On April 1, 2005, the *Public Service Labour Relations Act*, enacted by section 2 of the *Public Service Modernization Act* (S.C. 2003, c. 22, *PSMA*), was proclaimed in force (SI/2005-22 to 24), creating the Public Service Labour Relations Board (PSRLB) to replace the PSSRB. On the same day, the consequential and transitional amendments contained in sections 36 to 66 of the *PSMA* also came into force (SI/2005-24). Pursuant to section 47 of the *PSMA*, a decision, order, determination and declaration made by the PSSRB is deemed to have been made by the PSLRB.

[8] On November 1, 2014, the *Public Service Labour Relations and Employment Board Act* (S.C. 2013, c. 40, s. 365) was proclaimed into force (SI/2014-84), creating the Board to replace the PSLRB as well as the former Public Service Staffing Tribunal. On the same day, the consequential and transitional amendments contained in sections 366 to 466 of the *Economic Action Plan 2013 Act, No. 2* (S.C. 2013, c. 40) also came into force (SI/2014-84). Pursuant to section 402 of the *Economic Action Plan 2013 Act, No. 2*, an order or decision made by the PSLRB is deemed to have been made by the Board.

Analysis of statutory authority

[9] The joint application of the parties cites sections 17 and 24 of the *PESRA* as authority for the amendment of the PSAC certifications and bargaining units description.

[10] Section 17 of the *PESRA* states, "... the Board may review, rescind, amend, alter or vary any decision or order made by it...."

[11] Section 24 of the *PESRA* states,

*Where at any time following the determination by the Board
of a group of employees to constitute a unit appropriate for*

collective bargaining, any question arises as to whether any employee or class of employees is or is not included therein or is included in any unit, the Board shall, on application by the employer or any employee organization affected, determine the question.

[12] I prefer to rely solely upon the authority of section 17 of the *PESRA* as it is unclear that section 24 of the *PESRA* is applicable to an uncontested application by consent of both the bargaining agent and employer.

Reasons

[13] Given the joint submission of the bargaining agent and employer that the two bargaining units have voted to approve their merger and that they have in fact already approved merging their previously separate collective agreements, the Board recognizes the will of the members and grants the application to amend the certificates as allowed by section 17 of the *Act*.

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

(The Order appears on the next page)

Order

[15] The application is allowed.

[16] The Board decisions issued on May 8, 1987, on June 18, 1987, and on October 14, 1987, in *Public Service Alliance of Canada and Library of Parliament* (PSSRB File No. 442-LP-9), are amended.

[17] One new certificate will be issued which describes the merged new bargaining unit as follows:

all employees of the Employer in the Library Technician Sub-group in the Research and Library Services Group and all employees in Clerical and General Services.

tous les employés de l'Employeur du sous-groupe des techniciens de bibliothèque faisant partie du groupe des services de recherche et de bibliothéconomie et tous les employés des Services généraux de bureau.

December 8, 2015.

**Bryan R. Gray,
a panel of the Public Service Labour
Relations and Employment Board**