Date: 20161222

File: 485-HC-55

Citation: 2016 PSLREB 120

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 Public Service Alliance of Canada, as bargaining agent,
and the House of Commons, as employer,
in respect of the bargaining unit composed of all employees of the employer in the Reporting Sub-group and Text Processing Sub-group
in the Parliamentary Programs Group

Indexed as
Public Service Alliance of Canada v. House of Commons

ARBITRAL AWARD

Before: Stephan J. Bertrand, Joe Herbert, and Kathryn Butler Malette, deemed to form 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

Heard at Ottawa, Ontario,
June 10, 2016.

I. Application before the Board

[1] On June 16, 2014, the Public Service Alliance of Canada ("the bargaining agent") served notice to bargain on the House of Commons ("the employer") on behalf of the bargaining unit composed of all employees of the employer in the Reporting Sub-group and Text Processing Sub-group in the Parliamentary Programs Group ("the bargaining unit") under s. 37 of the *Parliamentary Employment and Staff Relations Act, R.S.C. 1985, c. 33 (2nd Supp.),* (*PESRA*). The last collective agreement for the bargaining unit expired on June 30, 2014.

[2] The breakdown of the bargaining unit in terms of employee status is in contention. The employer contends that the bargaining unit is composed of 63 employees, 37 full-time indeterminate and 26 seasonal certified indeterminate (SCI). The bargaining agent contends that 35 casual employees ought to be considered employees of the bargaining unit, hence bringing its total number of employees to 98. There are six (6) job titles in the bargaining unit: editor, transeditor, senior editor, proofreader, publishing and quality assurance coordinator, and publishing and quality assurance officer.

[3] Negotiation sessions between the parties took place on November 12, 2014, on December 8 and 17, 2014, on April 14, 2015, and on September 28, 2015. It is unclear how many issues, if any, the parties agreed to during these negotiation sessions. Approximately 31 issues remained outstanding.

[4] By letter dated September 30, 2015, pursuant to s. 50 of the *PESRA*, the bargaining agent requested arbitration for the bargaining unit. Its letter also included a list of the terms and conditions of employment it wished to have referred to arbitration.

[5] On October 7, 2015, the employer provided its position on the terms and conditions of employment that the bargaining agent wished to refer to arbitration, pursuant to s. 51 of the *PESRA*. The employer also provided a list of additional terms and conditions of employment it wished to refer to arbitration.

[6] By letter of October 16, 2015, the bargaining agent provided its position on the additional terms and conditions of employment that the employer wished to refer to arbitration.

[7] The terms of reference for the arbitration board deemed to form the Public Service Labour Relations and Employment Board ("the Board") were forwarded to the Board members on November 23, 2015, by the Chairperson of the Public Service Labour Relations and Employment Board.

[8] At the outset of the hearing, the bargaining agent informed the Board that the proposals concerning the following collective agreement provisions were withdrawn:

Clause 13.01:	No discrimination (issue re: political activity)
Clause 18.02:	Accumulation of Vacation Leave Credits
Appendix C:	Memorandum of Agreement re Hours of Work – Earning Credits on an Hourly Basis – Article 18.02 Vacation Leave with Pay

[9] At the hearing, the Board was informed that only the following bargaining agent proposals remained in dispute:

Clause 2.01:	Definition of casual employee (NEW)
Clause 7.02:	Employee Representatives – Jurisdiction
Clause 7.04:	Time Off for Representatives
Article 9:	Technological Change (3 items)
Clause 13.01:	No Discrimination (issue re: date of policy)
Clause 19.01(b):	Designated paid holidays – Family Day (NEW)
Clause 20.02:	Bereavement Leave
Clause 20.11:	Leave with Pay for Family-Related Responsibilities
Clause 20.16:	Leave for Medical and Dental Appointments
Clause 20.21:	Personal Leave
Clause 21.09:	Sick leave With Pay – Medical Certificates
Clause 22.05:	Attendance at Conferences and Conventions
Clause 24.02:	Hours of Work and Overtime – definitions
Clause 24.09:	Assignment of Overtime Work
Clause 24.13:	Overtime Meal Allowance
Clause 24.14:	Transportation
Clause 24.15:	Shift Premium
Article 28:	Health and Safety
Clause 31.06:	Integrity of Records (NEW)
Article 38:	Duration
Article 40:	Part-Time and Seasonal Certified Indeterminate (SCI) Employees
Clause 41.01:	Seniority - Definition
New article:	Social Justice Fund
Appendix A:	Rates of Pay
Appendix F:	Memorandum of Agreement – Seasonal Certified Indeterminate (SCI) Employees

[10] As for the employer's proposals, the Board was informed that only the following remained in dispute:

Clause 10.02:	Electronic copy of Collective Agreement
Article 22:	Continuous Employment (NEW)
Clause 24.10:	Overtime Compensation
Article 28:	Health and Safety
Clause 31.05:	Suspension and Discipline - Sunset Clause
Article 38:	Duration
Appendix A:	Rates of Pay

II. The award

[11] The bargaining agent and the employer both submitted that s. 53 of the *PESRA* sets out the considerations to be applied by an arbitration board. That section reads as follows:

> ***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.*

[12] The Board considered the relevant provisions of the *PESRA* when it rendered this award.

A. Clause 2.01: Definition of casual employee (NEW)

[13] The bargaining agent proposed to add the following definition of casual employee to clause 2.01 of the collective agreement:

> *(c) "casual employee" means an employee employed on a casual or temporary basis for a period of six (6) months or more.*

[14] Currently, casual employees are not specifically defined in the collective agreement. The employer opposed the proposal. The Board has determined that the bargaining agent's proposal will not be included in the arbitral award and that the existing clause will remain unchanged. The Board recognizes that an arbitral award can deal only with the terms and conditions of employment of employees in the bargaining unit in respect of which the request for arbitration was made. The Board is also aware of the fact that the collective agreement defines what constitutes an "employee" and, by reference to s. 3 of the *PESRA*, deals with how casual employees are captured by that definition. The Board is of the view that the bargaining agent has not shown a demonstrated need to support its proposed addition.

B. Clause 7.02: Employee Representatives – Jurisdiction

[15] The bargaining agent proposed to remove the reference to consultation with the employer in clause 7.02 with respect to the determination of the bargaining agent's representatives, giving it the sole responsibility for determining the jurisdiction of employee representatives. The employer opposed the proposal. The Board has determined that the bargaining agent's proposal will not be included in the arbitral award, and the existing clause will remain unchanged.

C. Clause 7.04: Time Off for Representatives

[16] The bargaining agent proposed to remove clause 7.04 and replace it with a new clause, for which it has suggested new wording. The current provision provides as follows:

> *7.04 Except for cases of an urgent nature, a representative shall obtain the permission of their immediate supervisor at least twenty-four (24) hours before leaving their work to investigate employee complaints, to meet with local management for the purpose of dealing with grievances and to attend meetings called by management and for any other meetings or hearings specified in Article 12. In emergency situations, management will make every reasonable effort to waive the notice period provided herein. Permissions provided in this clause shall not be unreasonably withheld. Where practicable, the representative shall report back to their supervisor before resuming their normal duties.*

[17] The proposed version of this provision reads as follows (all proposed text is in boldface in this award):

> ***7.04 Operational requirements permitting, the Employer shall grant time off with pay to an employee to enable the employee to carry out his or her functions as a Representative on the Employer's premises. When the discharge of these functions requires an employee who is a Representative to leave his or her normal place of work, the employee shall report his or her return to their supervisor whenever practicable.***

[18] The employer opposed this proposal. The Board has determined that the bargaining agent's proposal will be included in the arbitral award and that the current provision will be replaced by the proposed version.

D. <u>Article 9: Technological Change</u>

[19] The bargaining agent proposed the following changes (in strikethrough) to clauses 9.01 and 9.06:

> *9.01 ~~Both parties recognize the overall advantages of technological change and will, therefore, encourage and promote technological change in the Employer's operations.~~ Where technological change is to be implemented, the Employer will seek ways and means of minimizing adverse effects on employees which might result from such changes.*
>
> …
>
> *9.06 When, as a result of technological change, ~~the Employer determines that~~ an employee requires new skills or knowledge in order to perform the duties of their substantive position, the Employer will ~~make every reasonable effort to~~ provide the necessary training during the employee's working hours and at no cost to the employee.*

[20] The employer opposed these proposals. The Board has determined that the bargaining agent's proposal as it relates to clause 9.01 will be included in the arbitral award and that the first sentence (in strikethrough in the last quotation) will be removed from that clause. The Board has also determined that the bargaining agent's first proposal as it relates to clause 9.06 will not be included in the arbitral award but that its second proposal will be included. Accordingly, clauses 9.01 and 9.06 shall read as follows:

> *9.01 Where technological change is to be implemented, the Employer will seek ways and means of minimizing adverse effects on employees which might result from such changes.*
>
> …
>
> *9.06 When, as a result of technological change, the Employer determines that an employee requires new skills or knowledge in order to perform the duties of their substantive position, the Employer will provide the necessary training during the employee's working hours and at no cost to the employee.*

[21] The bargaining agent also proposed that the following clause be added to article 9:

> ***9.07 No employee shall suffer a reduction in hours or in status as a result of technological change.***

[22] The employer opposed this proposal. The Board has determined that the bargaining agent's proposal to add clause 9.07 will not be included in the arbitral award.

E. <u>Clause 10.02: Electronic copy of Collective Agreement</u>

[23] The employer proposed to move from providing printed copies of the collective agreement to an electronic version. The bargaining agent opposed this proposal. The Board had determined that the employer's proposal will be included in the arbitral award, with the exception of the word "endeavour". Clause 10.02 shall read as follows:

> *10.02 The Employer agrees to supply each employee with an electronic copy of the collective agreement and will do so within one (1) month after it has been finalized by the parties. New employees shall be provided with an electronic copy of the collective agreement.*

F. <u>Clause 13.01: No Discrimination (issue re: date of policy)</u>

[24] The bargaining agent proposed to add language referring to a specific version of the employer's "Harassment Prevention Policy" in clause 13.01. The employer opposed this proposal. Recognizing that policies of this nature constantly evolve in accordance with legislation and best practices, the Board has determined that the bargaining agent's proposal will not be included in the arbitral award. The existing clause shall remain unchanged.

G. Clause 19.01(b): Designated paid holidays – Family Day (NEW)

[25] The bargaining agent proposed to increase the number of designated paid holidays from the current 12 to 13 with the addition of Family Day, which was recognized as a statutory holiday in Ontario in 2008. The employer opposed this proposal. The Board has determined that the bargaining agent's proposal will not be included in the arbitral award. The existing clause shall remain unchanged.

H. Clause 20.02: Bereavement Leave

[26] The bargaining agent proposed that the length and timing of the bereavement leave provision be amended. Under the current language, that clause provides that an employee is entitled to a bereavement leave of five (5) consecutive working days for the death of a member of the employee's immediate family, and the leave is not to extend beyond the day following the day of the funeral. The proposed language provides for a leave of seven (7) consecutive calendar days, which is to include the day of the funeral (or similar ceremony) or to start within two (2) days of the death, at the employee's discretion. The employer opposed this proposal. The Board has determined that the bargaining agent's proposal will be included in the arbitral award. Clause 20.02(a) shall now read as follows:

> *20.02 (a) When a member of the employee's immediate family dies, the employee shall be entitled to a bereavement period of seven (7) consecutive calendar days. The bereavement period, as determined by the employee, must include the day of the memorial commemorating the deceased or must begin within two (2) days following the death. During that period, the employee shall be paid for those days that are not regularly scheduled days of rest for that employee. In addition, the employee may be granted up to two (2) days' leave with pay for the purpose of travel related to the death.*

[27] The balance of clause 20.02 shall remain unchanged.

I. Clause 20.11: Leave with Pay for Family-Related Responsibilities

[28] The bargaining agent proposed to increase the total leave with pay that may be granted for family-related responsibilities under clause 20.11(c) from the current five (5) days to eight (8) days. It also proposed to add a new paragraph (d) that would enable the employer to grant leave with pay for a period greater than that provided in

paragraph (c), based on individual circumstances, and at the employer's discretion. The employer opposed both proposals. The Board has determined that the bargaining agent's proposal will not be included in the arbitral award. The existing clause shall remain unchanged.

J. Clause 20.16: Leave for Medical and Dental Appointments

[29] The bargaining agent proposed to replace the current provision with new language that would grant three (3) hours with pay for every medical or dental appointment attended by an employee and that would deduct any time spent at such appointments beyond three (3) hours from the employee's sick bank, at the employer's discretion. The current provision allows two (2) hours with pay for such appointments and provides that an employee must use sick leave credits if the employee has already attended two (2) appointments in a one (1)-month period or if the employee is away for more than two (2) hours. The last collective agreement between the employer and the bargaining agent in respect of the Scanner Group Bargaining Unit contains the proposed language. The employer opposed the proposal. The Board has determined that the bargaining agent's proposal will be included in the arbitral award. Clause 20.16 shall read as follows:

> *20.16 An employee shall be granted three (3) hours per visit with pay to attend medical or dental appointments. Any hours spent at the medical or dental appointments beyond the three (3) hours may, at the employer's discretion, be deducted from the employee's sick leave.*

K. Clause 20.21: Personal Leave

[30] The bargaining agent proposed to increase an employee's entitlement to personal leave from one (1) to two (2) periods of seven (7) hours. The employer has opposed the proposal. The Board has determined that the bargaining agent's proposal will not be included in the arbitral award. The existing clause shall remain unchanged.

L. Clause 21.09: Sick leave with Pay – Medical Certificates

[31] The bargaining agent proposed to replace the current provision with language that would restrict the employer to requesting employees to produce medical certificates for periods of absence in excess of three (3) consecutive days, unless the employer has reasonable cause to believe that the employee has abused his or her sick

leave entitlement. The current provision imposes no restriction on the employer in terms of when it can ask an employee to substantiate an absence. The employer has opposed this proposal. Recognizing the employer's need to monitor and manage the attendance of its employees, the Board has determined that the bargaining agent's proposal will be included, in part, in the arbitral award and has added additional language. Clause 21.09 shall read as follows:

> *21.09 An employee may be asked to produce a medical certificate only for periods of absence in excess of three (3) consecutive days for any period in which the employee has been absent for medical reasons for less than nine (9) days in a calendar year. When an employee has been absent for medical reasons for nine (9) days or more in a calendar year, he or she may be asked to provide a medical certificate, at the employer's discretion. The employee shall be reimbursed by the employer for the cost of the certificate.*

M. Clause 22.05: Attendance at Conferences and Conventions

[32] The bargaining agent proposed to add an employee making a presentation at an educational institution to the list of circumstances under which an employee receives leave with pay. It also proposed that granting such leave, as well as reimbursing the associated registration fees and reasonable travel expenses, be mandatory rather than discretionary. The employer opposed this proposal. The Board has determined that the bargaining agent's proposal will not be included in the arbitral award.

N. Article 22: Continuous Employment (NEW)

[33] The employer proposed to add a new clause that would deduct leave of three (3) months or more provided under article 22 from the calculation of continuous employment and service for the purposes of calculating severance pay and annual leave and for pay increment purposes. The bargaining agent opposed this proposal. The Board has determined that the employer's proposal will not be included in the arbitral award.

O. Clause 24.02: Hours of Work and Overtime – definitions

[34] The bargaining agent proposed removing the adjective "normal" from the definitions of "work week", "work day", and "days of rest", hence requiring the employer to limit the workday to seven (7) hours and the workweek to thirty-five (35) hours and to always provide Saturdays and Sundays off, without restriction. The

employer opposed this proposal. The Board has determined that the bargaining agent's proposal will not be included in the arbitral award and that the existing clause will remain unchanged.

P. Clause 24.09: Assignment of Overtime Work

[35] The bargaining agent proposed the following changes (in strikethrough) to clause 24.09:

> *(a) ~~Subject to the operational requirements of the House of Commons,~~ the Employer shall make every reasonable effort to avoid excessive overtime and to allocate overtime work ~~on an equitable basis~~ among readily available qualified employees within the work section and to provide as much advance notice as possible.*
>
> *(b) ~~Whenever possible and where it does not hamper service delivery,~~ Overtime will initially be offered to employees on a voluntary basis. In the event that there are excessive volunteers, seniority shall be the determining factor for allocating the overtime. In the absence of sufficient volunteers, the Employer will assign the overtime in reverse order of seniority.*
>
> *~~(c) The application of this clause shall not result in a negative impact on operations or incur additional costs to the Employer.~~*

[36] The employer opposed these proposals. The Board has determined that only the bargaining agent's proposal as it relates to the third strikethrough will be included in the arbitral award, meaning that the words "Whenever possible and where it does not hamper service delivery," will be removed from paragraph (b). The balance of clause 24.09 shall remain unchanged.

Q. Clause 24.10: Overtime Compensation

[37] The employer proposed to add language in paragraph (e) of clause 24.10 to clarify the rate of pay used to pay out accumulated compensatory leave still outstanding at the end of the calendar year following the year in which it was earned. The current provision specifies that such accumulated compensatory leave shall be paid at the employee's daily rate of pay on December 31. The employer proposes that it be paid at the rate of pay of the employee's substantive position, as described in his or her certificate of appointment. The bargaining agent opposed this proposal. The

Board has determined that the employer's proposal will not be included in the arbitral award and that clause 24.10 will remain unchanged.

R. Clause 24.13: Overtime Meal Allowance

[38] The bargaining agent proposed that clause 24.13 be amended by increasing from $11.50 to $13.00 the allowance for a first and any subsequent overtime meal. The employer opposed this proposal. The Board has determined that the bargaining agent's proposal will be included, in part, in the arbitral award and that the allowance shall be increased from $11.50 to $12.00 in paragraphs (a), (b), and (c) of clause 24.13.

S. Clause 24.14: Transportation

[39] The current provision provides that employees who have not been issued a House of Commons parking permit are entitled, subject to the employer's approval, to a taxi voucher or taxi fare when the employee works overtime after public transportation is no longer available or when he or she leaves work after 10:00 p.m., when doing so is not part of his or her regular scheduled hours of work. The bargaining agent proposed to extend the entitlement to taxi vouchers or fares to employees who might have been issued a parking permit but who do not have a vehicle onsite. It also proposed to reduce the threshold from 10:00 p.m. to 9:00 p.m., irrespective of the employee's regular scheduled hours of work. The employer opposed these proposals. The Board has determined that the bargaining agent's proposals will not be included in the arbitral award. The existing clause shall remain unchanged.

T. Clause 24.15: Shift Premium

[40] The bargaining agent proposed to change and increase the amount of time that attracts a shift premium to all hours worked between 5:00 p.m. and 8:00 a.m. The current provision contemplates a shorter period, namely, 6:00 p.m. to 6:00 a.m. The employer opposed the three (3)-hour extension. The Board has determined that the bargaining agent's proposal will not be included in the arbitral award. The existing clause shall remain unchanged.

U. Article 28: Health and Safety

[41] Both parties have proposed a much shorter version of this article. While both the employer's proposed version and that of the bargaining agent bear some

resemblance, they offer different language on a number of issues. The Board has determined that neither the employer's proposal nor the bargaining agent's will be included in the arbitral award. The existing article will remain unchanged.

V. Clause 31.05: Suspension and Discipline - Sunset Clause

[42] The existing provision provides that disciplinary documents in an employee's file are destroyed after two (2) years, as long as no further disciplinary action is recorded during that time. The employer proposed to amend clause 31.05 by extending the two (2)-year period by the length of any period of leave without pay greater than three (3) months. The bargaining agent opposed the proposal. The Board has determined that the employer's proposal will not be included in the arbitral award and that the existing clause 31.05 shall remain unchanged.

W. Clause 31.06: Integrity of Records (NEW)

[43] The bargaining agent proposed to add a new provision to provide that any party to the agreement has the right to refuse to comply with any direction, proposal, or counsel to falsify a record or to make a false record. The employer opposed the proposal. The Board has determined that the bargaining agent's proposal will not be included in the arbitral award.

X. Article 38: Duration

[44] The parties proposed different terms for the renewal of the collective agreement. The employer proposed a term of three (3) years, effective on the date of signature, and the bargaining agent proposed a term of four (4) years, effective on June 5, 2013. The Board has determined that the employer's proposal will be included in the arbitral award. Article 38 shall read as follows:

> *38.01 Unless otherwise expressly stipulated, the provisions of this Agreement shall become effective on the date of signature and shall remain in force until June 30, 2017.*

Y. Article 40: Part-Time and Seasonal Certified Indeterminate (SCI) Employees

[45] The bargaining agent proposed to include casual employees in article 40. The employer opposed the proposal. For those reasons set out in in connection with the proposal made under clause 2.01 (see paragraph 14), the Board has determined that the bargaining agent's proposal will not be included in the arbitral award.

[46] The bargaining agent also proposed introducing new language to paragraph (k) setting out that certain leave entitlements included in article 20 not be prorated for part-time employees and SCI employees, specifically leave with pay for family-related responsibilities (clause 20.11), court leave (clause 20.12), personnel selection leave (clause 20.14), leave with or without pay for other reasons (clause 20.15), and election leave (clause 20.18). The employer opposed this proposal. The Board has determined that this proposal will not be included in the arbitral award. Article 40 will remain unchanged.

Z. Clause 41.01: Seniority - Definition

[47] "Seniority" is currently defined in clause 41.01 as the length of an employee's continuous service with the employer. The bargaining agent proposed that this clause be amended so that seniority be deemed to commence on the employee's date of hire with the employer. The employer opposed the bargaining agent's proposal. The Board has determined that the bargaining agent's proposal will not be included in the arbitral award and that clause 41.01 shall remain unchanged.

AA. Social Justice Fund (NEW)

[48] The bargaining agent proposed that the employer contribute to the bargaining agent's Social Justice Fund. The employer opposed the proposal. The Board has determined that the proposal will not be included in the arbitral award.

AB. Appendix A: Rates of Pay

1. Wage grid adjustments

[49] The bargaining agent proposed to reduce the current wage grid, which consists of a seven (7)-step grid, to a four (4)-step grid. Under its proposal, the current minimum and maximum rates of pay at each of the ten (10) classification levels would be maintained but would be spread over only four (4) increments, rather than the current seven (7). The bargaining agent's main argument for the reduction from seven (7) to four (4) increments is that six (6) years is simply too long to reach the maximum rate of pay. The employer opposed the proposal.

[50] The Board noted that in 2004, a single job-evaluation plan and a universal pay scale were put in place, which included the existing seven (7) increments. At the

hearing, the bargaining agent failed to present any substantial or qualitative changes to the duties and responsibilities of the Reporting Sub-group and Text Processing Sub-group that would justify the requested reduction in the increments; nor did it raise any compelling recruitment or retention concerns. The Board is also mindful of the internal relativity with other groups and of the larger impact that a decision to amend the wage grids without sufficient evidence may have on other bargaining units. The Board has determined that the bargaining agent's proposal will not be included in the arbitral award, and the number of increments in the current wage grid will remain unchanged.

2. Economic Increases

[51] The bargaining agent proposed a general economic increase of three percent (3%) in each year of the four (4)-year term it proposed. Its proposal was based mainly on the Consumer Price Index, labour market trends, and wage settlements in the federal public sector and the private sector under federal jurisdiction.

[52] The employer proposed a general economic increase of 1.5% in the first year of the renewal agreement, followed by increases of 0.75% in each of the following two (2) years. The employer submitted that that would be similar to the economic increases agreed to in other settlements and recent arbitration awards. The employer maintained that no recruitment or retention problems exist within the bargaining unit and that no internal relativity issues justify any other increases.

[53] The Board awards total economic increases of 1.5% effective July 1, 2014, 1.25% effective July 1, 2015, and 1.5% effective July 1, 2016. The Board is of the view that the economic increases are commensurate with the annual percentage wage adjustments in Canada for the applicable years, as submitted by the employer. The Board is also of the view that these economic increases are commensurate with that of other bargaining units in the federal public administration and that they are in keeping with the recent pattern established in the federal public service by agreement or arbitral award.

AC. Appendix F: Memorandum of Agreement – Seasonal Certified Indeterminate (SCI) Employees

1. Item 1: Casual Employees

[54] The bargaining agent proposed to include casual employees in Appendix F,

hence allowing such employees to attain SCI status. The employer opposed this proposal and submitted that the Board was without jurisdiction to consider this aspect of the bargaining agent's proposal. For those reasons set out in in connection with the proposal made under clause 2.01 (see paragraph 14), the Board has determined that the bargaining agent's proposal will not be included in the arbitral award.

2. Item 3: Sitting Days

[55] Currently, employees can maintain their SCI status even if they work less than seven hundred (700) hours during election years, during prorogation years, and during years in which the House of Commons sits less than one hundred fifteen (115) days. The bargaining agent proposed to increase the sitting days threshold to one hundred twenty (120). The employer opposed this proposal. The Board has determined that the bargaining agent's proposal will not be included in the arbitral award and that item 3 will remain unchanged.

3. Item 5: Excluding Certain Leaves from Losing SCI Status

[56] Currently, a calendar year in which an SCI employee is granted maternity leave without pay, parental leave without pay, leave without pay for the care and nurturing of pre-school-aged children, leave without pay for the long-term care of immediate family, or injury-on-duty leave, for more than twenty (20) sitting days; accesses disability benefits for more than twenty (20) sitting days; or is certified sick for more than twenty (20) sitting days is excluded for the purpose of losing SCI status in accordance with item 3. The bargaining agent proposed to reduce this threshold to ten (10) sitting days. The employer opposed this proposal. The Board has determined that the bargaining agent's proposal, as stated, will not be included in the arbitral award. However, the Board has further determined that a new paragraph (d) will be added, which shall read as follows:

> *(d) Notwithstanding 5(a), an employee who is absent on maternity leave without pay, parental leave without pay, or injury-on-duty leave for twenty (20) sitting days or less in a calendar year, and who but for the employee's absence on said leave would otherwise have worked seven hundred (700) hours, shall not be considered to have worked less than seven hundred (700) hours in that calendar year for the purpose of losing SCI status.*

4. Item 7: Availability and Loss of SCI Status

[57] Currently, an employee loses his or her SCI status if he or she refuses ten (10) or more shifts when the House of Commons or its committees sit. The bargaining agent proposed to increase this threshold to fifteen (15) shifts. The employer opposed the proposal. The Board has determined that the bargaining agent's proposal will not be included in the arbitral award and that this item shall remain unchanged.

5. Item 13: Hours of Work (NEW)

[58] The bargaining agent proposed to add a new paragraph that would provide that hours of work beyond those scheduled for full-time indeterminate, part-time, and SCI employees must be offered to qualified casual employees by seniority. The employer opposed the proposal. For those reasons set out in connection with the proposal made under clause 2.01 (see paragraph 14), the Board has determined that the bargaining agent's proposal will not be included in the arbitral award.

6. Item 14: Employment Opportunities (NEW)

[59] The bargaining agent proposed to introduce new language requiring the employer to make every reasonable effort to maximize employment opportunities for SCI employees who are struck off strength, which would include investigating and identifying possible temporary employment opportunities at the employer or other *PESRA* employers. The employer opposed the proposal. The Board has determined that the bargaining agent's proposal will not be included in the arbitral award.

7. Item 15: Sub Plan (NEW)

[60] The bargaining agent proposed to introduce a "Supplemental Unemployment Benefits" plan for SCI employees who are struck off strength. The proposal was opposed by the employer. The Board has determined that the proposal will not be included in the arbitral award.

8. Item 16: Written Notice Regarding Health Benefits Premiums (NEW)

[61] The bargaining agent proposed to introduce new language requiring the employer to provide SCI employees with two (2) weeks' written notice should they be required to pay premiums associated with benefits plans. The employer opposed the

proposal. The Board has determined that the proposal will not be included in the arbitral award.

9. Item 17: Assigned Workweek (NEW)

[62] The bargaining agent proposed to add language that would require the employer, at an employee's request, to review and correct as necessary the employee's assigned workweek for the purpose of superannuation when the employee believes it is inconsistent with his or her hours worked. The employer opposed the proposal. The Board has determined that the bargaining agent's proposal will be included in the arbitral award, subject to additional language that the Board has inserted. The new article will read as follows:

> *13. Assigned Workweek*
>
> *a) Upon request, the employer shall notify an employee of his or her assigned work week as reported for superannuation purposes.*
>
> *b) In the event that an employee believes that his or her assigned workweek as reported for superannuation purposes is inconsistent with his or her actual hours, the employee may request a review by the employer. In the event that there are inconsistencies, the employer will correct such inconsistencies accordingly, subject to any applicable statutory limitations.*

III. General

[63] The Board will remain seized of this matter for a period of three (3) months from the date of this award in the event that the parties encounter any difficulties in its implementation. As part of their implementation consultations, the parties may agree to alternate language for the collective agreement that achieves the same purpose as that contained in this arbitral award and may use article 37 ("Agreement Reopener") to incorporate that language in the collective agreement.

December 22, 2016.

Stephan J. Bertrand,
for the Public Service Labour Relations
and Employment Board