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Public Service Staff
Relations Act

Before the Public Service
Staff Relations Board

BETWEEN

DEBORAH JAREMY ET AL.
ROBERT CURRINGTON ET AL.

Grievors

and

TREASURY BOARD
(Revenu Canada - Customs, Excise & Taxation)

Employer

Before: Philip Chodos, Vice-Chairperson

For the Grievors: Barry Done, Public Service Alliance of Canada

For the Employer: Caroline Engmann, Counsel



Heard at Hamilton, Ontario,
March 8 and 9, 2000.



DECISION

[1] These two group grievances (the first one, known as *Jaremy et al.* was filed on March 26, 1996; the second, referred to as *Currington et al.* was filed on November 20, 1996). The parties had requested that the adjudication of the grievances be held in abeyance to afford them an opportunity to resolve the issues through mediation. However, the Board was advised in December, 1999 that these efforts had failed; accordingly, this hearing became necessary.

[2] These grievances arise out of the same set of facts and address the same issue, namely whether the employer had provided the grievors with a "complete and current statement of duties and responsibilities" as required by Article M-32 of the Master Agreement between the Public Service Alliance of Canada and the Treasury Board. That provision reads as follows:

M-32.01 Upon written request, an employee shall be provided with a complete and current statement of the duties and responsibilities of his or her position, including the classification level and, where applicable, the point rating allotted by factor to his or her position, and an organization chart depicting the position's place in the organization.

[3] At least in part as a result of the concerns expressed by the grievors, three job descriptions were prepared the latest version of which was provided to the grievors on January 19, 1999 (the position descriptions are identified as PM-0729). In addition, this job description was the subject of a classification grievance dated November 20, 1996, and a separate grievance respecting pay, dated March 26, 1996. The grievors continued to be dissatisfied with the contents of the latest job description for the reasons that are outlined below. This decision focuses on the latest job description, that is Exhibit G-4.

[4] Ms. Deborah Jaremy is employed at the Hamilton Tax Centre as a Source Deductions Enforcement/Collections Contact Officer; she is classified as a PM-1. She had begun her employment with Revenue Canada in 1973 as a CR-2 and has been continuously employed with the Department since 1989. In her testimony Ms. Jaremy reviewed in detail Exhibit G-4 noting what, in her view, are the deficiencies in the descriptions of the grievors' duties and responsibilities. For ease of reference Exhibit G-4 is reproduced as an appendix to this decision.

[5] Under the heading "CLIENT SERVICE RESULTS" Ms. Jaremy contended that the statement does not reflect that the grievors in fact look after financial accounting and

trust accounts. Mr. David Woodford is currently the Assistant Director, St. Catharines Tax Services Office; prior to assuming that position he was Assistant Director of the Hamilton office. As Assistant Director he is responsible for the overall management of the division and has between seven to nine team leaders reporting to him; each team leader is responsible for the work of several collectors, trust examiners, etc. With respect to the "CLIENT SERVICE RESULTS" statement Mr. Woodford maintained that the reference to the collection of accounts refers to all accounts including T-1 individual accounts, T-2 corporate accounts, as well as source deductions known as PAYDAC. According to Mr. Woodford, accounts come into the office according to an alpha code, and would go to the collector who is responsible for that part of the alphabet; if the account becomes more complex according to parameters set in a manual it then moves to a PM-2 official; if it is even more complex it would be referred to a PM-3 who would have the responsibility to collect the account.

[6] Ms. Jeremy also took issue with the description of a number of duties under the heading "KEY ACTIVITIES". She observed that the PM-1's have the authority to approve penalties on their own which are under \$1,000.00, and would recommend penalties which are over \$1,000.00; however, the job description only refers to recommending to eliminate or reduce penalties; it says nothing about initiating changes to penalties. In his testimony Mr. Woodford referred to a document known as REFERRAL/AUTHORITY TABLES for the Hamilton Tax Services Office (Exhibit E-3); according to Mr. Woodford, the amount set out cannot be revised but can only be made lower by local officers depending on management's assessment of the risk.

[7] Ms. Jeremy also noted that the Key Activity respecting "Examining client accounts ..." fails to take into account that they initiate and approve assessments under \$1,000.00 and can transfer any amounts. Mr. Woodford referred to Exhibit E-4 which is a document summarizing management's response to the *Currington et al* grievance; it is management's contention that grievors' concerns on this point are addressed in the first subparagraph under "Interaction", which speaks of "Discussing with clients ... regarding complaints, ... in order to make fair and consistent decisions ...".

[8] Ms. Jeremy maintained that the duties listed under "KEY ACTIVITIES" do not make reference to initiating garnishment actions; although she acknowledged that there is reference to this activity under the heading "Thinking Challenge". She

submitted that the job description does not include reference to their authority to withdraw garnishees. Mr. Woodford submitted that "initiating collection measures" subsumes all of their responsibilities with respect to garnishees, and this is reinforced under "Thinking Challenge" which refers to "Initiating legal action when necessary to collect account ...".

[9] Ms. Jaremy also identified a number of responsibilities which she maintained are not reflected in the grievors' job description. She also referred to Exhibit G-6 entitled "SOURCE DEDUCTIONS - PAYDAC" which established, effective June 20, 1995, guidelines providing, among other things, for the exercise of their discretion with respect to assessment decreases under \$1,000.00. She also took issue with the absence under "Administration and enforcement" of any reference to personal income tax, which responsibility is not reflected anywhere in the job description. She noted as well that, from time to time, they are required to prepare T4's based on employee information where an employer cannot be found. This is only mentioned tangentially under "KEY ACTIVITIES", that is "... resolving complaints, ...". Furthermore, according to Ms. Jaremy there is no recognition of their involvement in the administration and enforcement of Canada Pension and Employment Insurance deductions; that is, where there are no proper deductions, they would be alerted and would contact the employer. If there is a debt in the account, they would apply the debit to any credits; while she agreed that this might be subsumed under "reconciling" accounts it is not fully described in the job description.

[10] The grievor also submitted that they are responsible for quality control in that the PM-1's are identified on an account, and any errors done by others would be referred back to them. Furthermore, according to Ms. Jaremy, the grievors would be asked by the PM-2's and 3's to input financial changes into the account; in effect, they are required to approve the transcripts from higher classified employees (Ref. Exhibit G-5). Ms. Jaremy also maintained that there are no longer any parameters on who has responsibility for collection of accounts; the PM-1's have to make the judgment as to whether the account is complex enough to warrant submission to higher classified employees. Finally, Ms. Jaremy submitted that they are required to have knowledge of a wide variety of computer systems, more so than collection officers or reviewing control officers.

[11] In cross-examination Ms. Jeremy agreed that "initiating collection measures" can cover such matters as garnishment actions. She maintained that there is a distinction between initiating legal action and the withdrawal of garnishment, which is a different procedure. Ms. Jeremy also maintained that the reference under "FACTORS AND ELEMENTS" to "Liaising with officers in other areas ..." refers to liaisons concerning her own accounts, but not the accounts of others; even though they are requested regularly by PM-2's and 3's to review the accounts of other officers. She maintained that the use of the term "reconcile" does not fully portray what they do.

[12] Ms. Jeremy acknowledged that she had not grieved the contents of Exhibit G-4; she noted that the document entitled "TO BE ADDED TO THE PM729 JOB DESCRIPTION" which was prepared by the grievors (Exhibit G-5) is a comparison of all three job descriptions including Exhibit G-4; she agreed that the grievance dated February 23, 1999 dealt with the question of the classification of duties outlined in Exhibit G-4. Furthermore, the grievances which the grievors filed on April 20, 1999 concerning the effective date of Exhibit G-4 job description was resolved. Ms. Jeremy also maintained that she is responsible for deciding whether to impose garnishment or lift it, and this is not reflected under "KEY ACTIVITIES".

[13] In his testimony on behalf of the employer, Mr. Woodford noted that the 729 job description became national in scope; since the first job description was prepared the Department went through consolidation including taking over GST accounts; this change is reflected in the change in the title of the position. He stated that, when management reviewed the changes which the grievors had been seeking to make to their job description, they determined that their concerns were already addressed in the job description, or were not part of their duties; the one exception was the reference to the approval of garnishments which now refers to "implementing" as well as "identifying" and "approving" legal actions.

[14] Mr. Woodford also maintained that the grievors are not responsible for the administration and enforcement of T1's (personal) and T2's (corporate) accounts; rather, this is done by the Verification and Enforcement Division. He also stated that the grievors are not responsible for reviewing books and records; this is performed by PM-2 trust examiners. The grievors do receive complaints from clients, which is captured in Exhibit G-4 under "... resolving complaints ...". With respect to the question of the administration and enforcement of certain programs such as HIREs

and PDR4 Mr. Woodford observed that these matters are covered under the key activity of "Examining client accounts ..." and "... reconciling account discrepancies". Mr. Woodford also stated that the PM-1's do not check other employees' work; if the computer identifies an error it is sent to the officer and becomes part of their normal inventory. He explained that "reconciling" an account means determining why it is not in balance and taking action to put it in balance, that is, to assess the amount or write it off or transfer the amount; this in fact involves a wide range of activities. Mr. Woodford also observed that there are written procedures setting out guidelines for the referral of complex accounts to more senior officers (Exhibit E-5). He also noted that the last paragraph under "KEY ACTIVITIES" "Identifying accounts requiring further investigation, ..." addresses this responsibility. With respect to the various computer systems and procedures he referred to the paragraph under "Skills and Knowledge" that addresses "Knowledge of the Departmental organization and its components, systems, policies ...".

[15] In cross-examination Mr. Woodford noted that as the 729 job description is generic in nature and national in scope he does not have the authority to amend it. Mr. Woodford also insisted that PM-1's are not asked to reconstruct payroll accounts, and in fact they have been specifically told not to do so. He also maintained that correcting errors are part of their normal workload and are encompassed under the "reconciling" of accounts.

[16] One of the grievors, Ms. Nancy Spicer, who is a Trust Compliance/Collections Contact Officer, testified in reply. Ms. Spicer stated that when working with trust funds, in order to get a clear picture of where the money to be held in trust funds had gone she is required to examine tax returns such as T1's and T2's. She also maintained that she would have to reconstruct payroll information where employees cannot locate their employer, the only information available may be pay stubs; they are required in effect to prepare T4 slips; in her view, this responsibility is not covered under "examining client accounts and prior transactions ...". She did agree that non-resident issues are covered in Exhibit G-4 (job description), and that there is in fact management pre-approval for refunds and credits under \$1,000.00.

[17] In cross-examination Ms. Spicer acknowledged that the reconstruction of payroll accounts can be subsumed under "resolving complaints".

Argument

[18] The grievors' representative maintained that the employer has not complied with its obligation to provide a job description which is both current and complete. Mr. Done submitted that, while the employer has made attempts through three job descriptions to fulfil this responsibility, it has not done so. The job description sets out the employer's view of key activities in a manner that is so brief it contravenes the requirement to provide a complete description of the duties to be performed.

[19] Mr. Done submitted that since March 1996 the grievors had maintained that to date they have not been provided a complete job description. This dissatisfaction continues to this day, and the employer has been put on notice that the employees remain unhappy with their current job description.

[20] Counsel for the employer agreed that the issue is whether the employer had provided a complete and current statement of duties. According to Ms. Engmann, this determination turns on whether the 729 job description is broad enough to include the duties being performed by the incumbents of that position. In her view, the evidence supports an affirmative response. Ms. Engmann submitted that where there is a national job description one has to be careful not to be overly rigid; in support of this submission counsel referred to the Board's decisions in *Fedun* (Board files 166-2-28278 to 28288), and *Taylor* (Board file 166-2-20396).

[21] Ms. Engmann also maintained that the question of the grievors initiating and approving refunds and credits up to \$1,000.00 is not at issue since it was admitted by Ms. Spicer that management had in fact provided pre-approval for these actions. Counsel also maintained that the evidence is clear that the grievors' actions with respect to garnishment is covered under "KEY ACTIVITIES". In fact all the employees' concerns have been addressed by the employer, as noted in Exhibit E-4.

[22] In the alternative, counsel argued that the latest job description, that is Exhibit G-4, is not properly before the adjudicator as no grievance concerning the content of this job description was ever filed by the grievors.

Reasons for Decision

[23] At the outset, I would like to address the employer's argument to the effect that the alleged deficiencies of the most recent revised job description, that is Exhibit G-4,

is not properly before me. I disagree with this contention. It is clear that the grievors had initiated their grievances on the basis that their job descriptions failed to meet the requirements of the collective agreement. In the face of various attempts by the employer to meet those concerns the grievors continue to maintain that this was the case. It cannot be said that the employer was ever misled into believing that its latest effort in revising the job description, that is Exhibit G-4, laid to rest the employees' grievances. It is my conclusion therefore that I have jurisdiction to address these grievances.

[24] While I find that these grievances are properly before me, it is my conclusion that the job description provided by the employer does fulfil its obligations under Article M-32 of the relevant collective agreement. In my view, the job description does adequately describe, in broad terms, what are the functions and duties of the grievors. The grievors would undoubtedly prefer a more minute delineation of their duties in a manner which details their day-to-day activities. However, the absence of such detail does not necessarily lead to the conclusion that the job description is less than complete and current. As was observed in the *Fedun* decision (supra) "It is not unusual for job descriptions (particularly those that are intended to be applicable to a number of positions across the country) to be written in fairly broad language." (at page 9) In this context, I believe it is quite proper to use such broad terms as "reconciling" of accounts to subsume a number of functions and activities which the grievors use in order to perform their responsibilities. By the same token, for example, I would suggest that the phrase "Identifying, approving and implementing appropriate legal actions ..." does subsume the grievors' responsibilities with respect to garnishment actions. Based on the evidence before me and in particular the testimony of Mr. Woodford, and having regard for the fact that the burden of proof rests with the grievors, I am unable to conclude that the relevant job description leaves out any of the grievors' duties and responsibilities.

[25] Accordingly, for the reasons noted above, these grievances must be denied.

Philip Chodos,
Vice-Chairperson.

OTTAWA, June 23, 2000.

Appendix A**CLIENT SERVICE RESULTS:**

The administration, and enforcement of trust compliance; the Collection, the payment and enforcement of filing provisions on accounts upon initial referral to the Tax Service Office.

KEY ACTIVITIES:

- Reviewing, planning and prioritizing a varied intake of work, analyzing the nature of the issues in terms of sensitivity, danger of loss, obtaining additional information from the systems, clients or third parties and initiating the appropriate actions.
- Reviewing assessed penalties and interest for validity and recommending to eliminate and/or reduce same.
- Interviewing clients, their representatives and/or third parties by telephone or in the office, in order to resolve outstanding accounts.
- Conducting searches from the office to locate clients and their assets, through both internal and external sources.
- Referring leads to other areas of the Department
- Administering the Fairness Legislation
- Analyzing financial data to establish client's ability to pay
- Determining reasons for failure to file pursuant to cases arising from the various Acts, Regulations and Agreements, resolving by way of recommending and/or assessing civil penalties, issuing demands to file and recommending prosecution on appropriate cases.
- Enforcing the provisions of the various Acts, Regulations and Agreements.
- Examining client accounts and prior transactions in order to determine the degree of deficiency and to prepare and issue assessments.
- Initiating collection measures, resolving complaints, locating payments and reconciling account discrepancies.
- Updating accounts and preparing written replies to clients and their representatives.
- Reviewing and analyzing financial and other information received in the office to resolve accounts by means of payment in full, negotiated payment arrangements or deferral/deletion upon completion of investigation
- Identifying, approving and implementing appropriate legal actions on own accounts within the authorization given by the Tax Services Office Director for

the use of his/her signature stamp and in accordance with Departmental policy and procedures as stipulated in the on-line Revenue Collections Manual; or recommending more serious legal actions allowed under the law on accounts where voluntary debt resolution cannot be finalized.

- Identifying accounts requiring further investigation, time or involvement and referring for resolution at a higher level.

FACTORS AND ELEMENTS

Service Delivery

Interaction:

- Discussing with clients and/or their representatives regarding complaints, record and account discrepancies in order to make fair and consistent decisions concerning earnings, remittances, assessments, filing requirements, penalties, interest and other matters pertaining to account transactions
- Liaising with officers in other areas of the Department and other departments to discuss account problems and to prepare replies to account enquiries
- Conducting interviews with clients and their representatives over the telephone and in the office to facilitate payment in full or in part based on their ability to pay
- Gathering information that will assist in the resolution of accounts, deletions, deferrals filing requirements and other matters
- Explaining the circumstances concerning the denial or non issuance of requested refunds, rebates etc.
- Explaining the origin of debts, legal actions taken, legislation, Departmental policies and the repercussions of non-compliance to clients, their representatives and third parties.
- Obtaining information from clients, their representatives, Federal and Provincial Departments/Agencies, banking officials, and third parties to locate clients who have either moved or are being evasive and to locate sources of recovery
- Identifying accounts meeting criteria of the Fairness Legislation. Preparing the synopsis for review and consideration by the Committee, maintain communications with all parties concerned, and upon the decision monitoring arrangement of approved accounts or proceeding with normal collection activities if request denied.

Influence:

- By initiating Requirements to Pay or taking other collection actions, there is a substantial effect on the economic livelihood of the client, their employees or others in the community
- Accuracy of assessments and recommendations made following a review of an assigned workload may affect the clients' financial capability

Thinking Challenge:

- Analyzing statements prepared by bankrupts to determine if further action is justified, responsibility for filing proof of claim and following up with trustee
- Identifying when issuance of requirement for information and document letters to clients and third parties is necessary
- Identifying and determining uncollectible accounts for partial or total write off, or deferral.
- Determining discrepancies, non-compliance and danger of loss to achieve compliance
- Analyzing and reconciling accounts to determine and correct discrepancies.
- Evaluating whether to raise an assessment or make a referral for examination
- Recommending penalty and/or interest consideration based on current legislation and policy guidelines
- Analyzing and verifying refunds based on information from the client.
- Analyzing various tax returns to recommend the issuance of clearance certificates
- Investigating and resolving employee complaints and record of earning discrepancies using client information, completed audits, T4 information and account history
- Identifying those accounts which require further investigation or are beyond the resources available at this level and referring for resolution at a higher level
- Recommending and generating tax leads where investigation uncovers unreported income or non compliance with the excise provisions

- Exercising sound judgement when analyzing each client's financial situation, judging the validity of the information received and evaluating their ability to pay
- Initiating legal action when necessary to collect account and approving Requirements to Pay as delegated
- Identifying when more serious legal actions are required, through initial investigation into factors such as assets and their encumbrances, where transfers have occurred, and/or funds are disbursed incorrectly
- Establishing priorities of an assigned workload to select the course of action to protect loss of revenue while maintaining service to clients
- Analyzing, initiating and authorizing action on correspondence to resolve client enquiries
- Initiating tracking action to locate clients

Physical Demands:

- Sitting for extended periods of time
- Demands associated with extensive use of display monitors, terminals and headsets

Care and Responsibility:

Responsibility for the Work of Others:

- Provides on-the-job training

Responsibility for the Care of Individuals:

- No specific requirement identified

Responsibility for Financial Resources:

- No specific requirement identified

Responsibility for Technical Resources:

- Responsible for the care and security of various types of office equipment, rentals and resource materials.

Working Conditions

Environment:

- Responding to unknown situations with potentially irate and abusive clients and representatives during interviews in the office

- Adapting to a constantly changing work environment, priorities and workloads
- Working in an open office environment.
- Working in a sealed building (where applicable).

Risk to Health:

- Possible eye strain from the use of the video display monitor
- The potential for stress is high
- Possible physical discomfort and mental fatigue brought on by stress and pressures of the office environment
- The requirement to deal with difficult or evasive clients could result in exposure to verbal or physical abuse.
- Repetitive strain injury is possible as a result of various duties/responsibilities of the job.
- The potential risk of assault (sic) from clients or their representatives during in-office or out-of-office interviews.
- Health problems associated with working in a sealed building (where applicable).

Skills and Knowledge:

Context:

- Knowledge of the Departmental organization and its components, systems, policies and procedures in order to expedite service to clients
- Knowledge of the Departmental Mission Statement and Fairness legislation to operate effectively within the guidelines released to clients
- Knowledge of the departmental computer systems as required to assist the officer in the job function
- Knowledge of business and organizational structures as they relate to the resolution of accounts
- Knowledge of the economic and industrial structures in numerous geographic regions to determine the advisability of collection actions

Acts and Regulations:

- Knowledge of relevant sections of the various Acts, Regulation and Agreements administered such as the Income Tax Act, the Excise

Act, Excise Tax Act, Customs Act, Bankruptcy and Insolvency Act, Canada Pension Plan, Unemployment Insurance Act, and other related Federal and Provincial Acts pertaining to Revenue Collections

- Knowledge of Reciprocal Tax Agreements to determine withholding requirements or exemptions from same.
- Knowledge of the Privacy Act and Access to Information Acts to protect confidentiality
- Knowledge of proposed legislative changes, information circulars, guides and bulletins to assess the effects on collection remedies available, and to provide accurate information to clients

Theories and Principles:

- Knowledge of basic accounting and financial principles
- Knowledge of business and organizational structures

Methods, Techniques and Practices:

- Knowledge of the Departmental Computer systems
- Knowledge of the computer amendments system to verify and process T4 supplementary adjustments
- Knowledge of interviewing methods and techniques, especially as they relate to uncooperative clients, to procure information as required
- Effective interpersonal, analytical and decision making skills to resolve accounts in a timely manner.
- Ability to exercise sound judgement and tactful behaviour at all times as required to ensure clients' needs are addressed and our actions do not reflect negatively on the Department
- Knowledge of Departmental security policies in order to effectively and efficiently control the handling of tax sensitive information
- Ability to manually complete complex interest calculations, including the proper allocation of debits and credits, for purposes of reconciliation of accounts, bankruptcy and receivership claims

Communications:

- Effective oral and written communication skills due to extensive daily interaction with internal personnel, clients and their representatives to ensure information is accurately relayed and recorded

- Effective listening skills are required to ensure accurate assimilation of information
- Adaptability of communication style to explain diverse material and to accommodate clients with varying backgrounds and levels of understanding

Physical Dexterity:

- Keyboarding Skills
- Effective use of various office equipment