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Files: 166-34-30003 to 30023
166-34-30183 to 30187

Citation: 2003 PSSRB 13



Public Service Staff
Relations Act

Before the Public Service
Staff Relations Board

BETWEEN

KEITH BARNES, BRUCE ANTHONY BESPLUG, DAVID JOSEPH BOSCH,
ROBERT CARPENTIER, DEBBIE CHAPTON, R. DOUGLAS CRAIG,
CAROL GLASS, LUANN F. GOURLEY, THOMAS CAMERON HARBOUR,
LINDA BARBARA LANGSTON, JANET G. LAWRENCE, HENRY DONALD MUNDT,
PAT NYGREN, LAURA ELAINE POINTER, ALICE LYNN PRASAD, GORDON E. ROSS,
GERALD J. SCHELL, FRED DANIEL TEMUSH, GEROGE WHEELER,
DENNIS V. WIENS AND DONALD J. YOUNG
ANTHONY ASSEN, BRIAN CHAMP, ARTHUR HOPKINS,
CONSTANCE MONTPETIT, STEPHEN C. VON MATT

Grievors

and

CANADA CUSTOMS AND REVENUE AGENCY

Employer

Before: Joseph W. Potter, Vice-Chairperson

For the Grievors: Paul Taylor and Dan Fisher, Public Service Alliance of Canada

For the Employer: John Jaworski, Counsel

Heard at Calgary, Alberta,
May 28 and 29, 2002, and
January 28, 2003.

DECISION

[1] This is a group grievance from 26 Trust Accounts Examination Officers, classified at the PM-02 level and employed in the Calgary office of the Canada Customs and Revenue Agency (CCRA). The grievances were filed on April 1, 1998, and allege a violation of Article M-32 of their collective agreement.

[2] More specifically, the grievors allege that their job description does not accurately reflect the duties being performed. They request an accurate and up-to-date copy of their job description.

[3] Article M-32 of the relevant collective agreement states (Exhibit G-1):

STATEMENT OF DUTIES

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.

[4] Many efforts had been made to resolve this matter short of an oral hearing and the record reflects the dates the mediator met with the parties in this regard. On February 13, 2002, the Public Service Staff Relations Board (the Board) was informed that the matter should be brought forward for a hearing, and it was scheduled for May 2002. The initial hearing ensued.

Background

[5] On the first day of the hearing Denis Wiens, a trust examiner and one of the grievors, began testifying as to the duties he was performing. On the second day of the hearing, prior to completion of Mr. Wiens' evidence, the parties again tried to resolve the issue. They were not successful; consequently, the matter was set down for a continuation. The record reflects the unavailability of one of the parties for a continuation in November, and January was agreed upon to continue the hearing.

[6] On November 19, 2002, the Board was informed that the Public Service Alliance of Canada's representative would be Dan Fisher. When the matter continued in January, Mr. Fisher was the representative in charge.

[7] I was informed that, when the grievances were filed, there were some 440 points of contention with respect to the content of the job description applicable to the

grievors. When the hearing finally resumed in January 2003, there were three points of contention remaining. I am eternally grateful to the representatives from both sides for so greatly narrowing the gap. To have heard evidence on some 440 points concerning job content would have consumed considerable time and patience, so the work the parties did is certainly appreciated.

[8] By agreement of the parties, the original job description was amended, retroactive to March 31, 1998, to that contained in Exhibit G-5, and the first two pages further amended by virtue of the amended Exhibit G-5. It is from this that three areas of contention remain.

[9] The three areas of contention are (Exhibit G-6, page 2):

1. Analysis of shareholder's loan accounts.
2. Analysis of arm's length transactions to determine taxable benefits as well as fraud and determination of benefits as related to the collecting of EI and Canada Pension.
3. Audits are also performed on bankrupt estates, trustees and receiverships sometimes involving total reconstruction of registrant records.

[10] The grievors are all trust examiners who are assigned work from a team leader in the Calgary Tax office. Hugh O'Rourke is the team leader for Mr. Wiens. Mr. O'Rourke explained that the employees travel to the premises of various employers in the Calgary area and review their records with respect to payroll and GST accounts. The trust examiners must ensure that employers have complied with remitting and filing requirements.

[11] Mr. Wiens testified that in the course of their work, some time may be spent reviewing shareholder loan accounts. The employer does not dispute this, but Mr. O'Rourke stated this was just one of a variety of accounts or documents trust examiners look at in the course of their duties.

[12] Mr. O'Rourke also stated this duty was found in a variety of places in the new job description (Exhibit G-5), including the first paragraph under Key Activities where it states: "Examines clients' accounting documents".

[13] Mr. Wiens stated the trust examiners must review any arm's length transactions. Mr. O'Rourke did not dispute this, but stated it too was covered in the new job description, including but not limited to Key Activities wherein it states: "Analyses and determines workers' coverage under the Canada Pension Plan (CPP) and Employment Insurance (EI) Acts".

[14] Finally, with respect to the third issue in dispute, Mr. Wiens testified audits are done which may require reconstruction of registrant records. In cross-examination, Mr. Wiens agreed the word "registrant" could be replaced by the word "client".

[15] Mr. O'Rourke stated this duty was found in the amended job description, as well.

[16] At the conclusion of Mr. Wiens' testimony, the parties agreed his evidence would apply to all of the grievors.

Argument for the Grievors

[17] It is the grievors' position that the job description, as amended, does not provide enough accuracy to be considered a complete job description as required by the language of the collective agreement.

[18] The three duties in question are being performed and should stand alone in the job description, given their complexity.

[19] Counsel for the grievors referred to the following adjudication decisions: *Taylor* (Board file 166-2-20396), *Littlewood* (Board file 166-2-16044), *Foreman* (Board file 166-2-27344).

Argument for the Employer

[20] It is not in dispute that the grievors perform the three tasks in question, but their work description covers this. The wording is broad, but it covers all of what Mr. Wiens stated a trust examiner does.

[21] Whether the duties are listed in one location or another goes to format. There is no requirement to put the duties in any particular order or location. As long as the job description tells the reader what the employee does, it is complete.

[22] Counsel for the employer referred to the following adjudication decisions: *Fedun and Others* (Board files 166-2-28278 to 28288), *Hughes*, 2000 PSSRB 69 (166-2-29452), *Kerswill*, 2000 PSSRB 91 (166-2-29055), *Jarvis*, 2001 PSSRB 84 (166-2-29603 to 29619), *Hymander and Kihara*, 2002 PSSRB 71 (166-2-19749, 166-2-29750).

Decision

[23] In *Hughes* (supra) at paragraph 26, Chairperson Tarte wrote, in part:

... A job description need not contain a detailed listing of all activities performed under a specific duty. Nor should it necessarily list at length the manner in which those activities are accomplished.

[24] I concur with this reasoning. In my view, the generic job description worked out by the parties and identified at Exhibit G-5 and Exhibit G-5 amended, accurately reflects, in broad terms, the three points in contention. The fact they may not all be located in one area, under separate headings, does not alter my conclusion.

[25] The collective agreement requires the production of a complete and current statement of duties and responsibilities. In my view, the employer has complied with this requirement and the grievances are, consequently, denied.

**Joseph W. Potter,
Vice-Chairperson.**

OTTAWA, February 13, 2003.