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**Public Service Staff  
Relations Act**

**Before the Public Service  
Staff Relations Board**

**BETWEEN**

**KAREN LESLEY LYONS  
AND  
SHERRILL LORRAINE McINTYRE**

**Grievors**

**and**

**TREASURY BOARD  
(Environment Canada)**

**Employer**

***EXPEDITED ADJUDICATION  
DECISION***

***Before:*** Joseph W. Potter, Deputy Chairperson

***For the Grievors:*** Philippe Trottier, Public Service Alliance of Canada

***For the Employer:*** Drew Heavens, Environment Canada

**Heard at Ottawa, Ontario,  
December 19, 2000**

## **REASONS FOR DECISION**

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- [1] These cases concern the interpretation of Article 34, "Vacation Leave With Pay", of the Program and Administrative Services (all employees) collective agreement, expiring June 20, 2000. More specifically, the interpretation relates to clauses 34.03(a) and 34.03(b).
- [2] Ms. Lyons commenced her employment in the Public Service on April 11, 1972 and she left on May 31, 1998, with an Early Departure Incentive after having been declared surplus.
- [3] Ms. Lyons rejoined the Public Service on April 3, 2000, and is seeking recognition of her former years of service for purposes of vacation leave entitlements.
- [4] Ms. McIntyre has filed a grievance concerning the same issue, albeit with different initial commencement, termination and recommencement dates.
- [5] The grievors' representative argued that clause 34.03(b) overrides clause 34.03(a) and provides for employees such as Ms. Lyons and Ms. McIntyre to count past service towards their vacation leave entitlement. In fact, I was told the employer originally credited Ms. McIntyre with all previous years of service for vacation leave entitlement purposes, only to later change its mind.
- [6] The employer argued that clause 34.03(b) was only an exception to clause 34.03(a) up to the time the employee was terminated. Since both grievors have already been terminated, clause 34.03(b) does not apply.
- [7] Clause 34.03(a) allows all service, whether continuous or discontinuous, to count toward vacation leave except if an employee has taken severance pay. Both grievors received severance pay, therefore under this provision discontinuous service would not count.
- [8] However, clause 34.03(b) provides an exception to clause 34.03(a) and says former service does count until the employee's employment in the Public Service is terminated. As both grievors are now employed, clause 34.03(b) applies to them and until they are terminated in their current positions, they are entitled to count past service for vacation entitlement purposes.

[9] The grievances are therefore sustained.

**Joseph W. Potter,  
Deputy Chairperson**

OTTAWA, December 21, 2000.