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Public Service Staff
Relations Act

Before the Public Service
Staff Relations Board

BETWEEN

JEAN BOISSONNAULT

Grievor

and

CANADIAN FOOD INSPECTION AGENCY

Employer

EXPEDITED ADJUDICATION DECISION

Before: Yvon Tarte, Chairperson

For the Grievor: Cécile La Bissonnière, Public Service Alliance of Canada

For the Employer: Maureen Harris

(Note: The parties have agreed to deal with the grievance by way of expedited adjudication. The decision is final and binding on the parties and cannot constitute a precedent or be referred for judicial review to the Federal Court.)

Heard at Saint-Sauveur, Quebec,
May 11, 2004.

DECISION

[1] Mr. Boissonnault's grievance deals with a one-day suspension he received from the employer following a number of incidents on October 17, 2001. The parties agreed on the following joint statement of facts:

[Translation]

1. *Jean Boissonnault is a member of the Agriculture bargaining unit and has been a Fresh Fruit and Vegetable Inspector in the Public Service since July 12, 1976. His work currently involves evaluating and certifying fresh fruits and vegetables pursuant to the Canadian Food Inspection Agency Act as a designated inspector. He applies the principles and practices of fruit and vegetable inspection to verify the quality, quantity and category of these products at the time of shipment or delivery; he also identifies defects in products, their packaging or their labeling.*
2. *At the time of the incident, Mr. Boissonnault was covered by the collective agreement between the Canadian Food Inspection Agency and the Public Service Alliance of Canada, which expired on December 12, 2002.*
3. *He filed a grievance against the one-day disciplinary suspension imposed on him on December 6, 2001. He was informed of the suspension in writing on November 29, 2001.*
4. *During the period in question, Mr. Boissonnault's work schedule was from 7:00 a.m. to 3:00 p.m. On October 16, 2001, he was told to report the following morning to Laverdure, a certified storage establishment that imports and exports fresh fruits and vegetables, in order to inspect products for export.*
5. *On October 17, 2001, at 7:45 a.m., a representative of Laverdure called Mr. Poirier, Mr. Boissonnault's supervisor, to ask when the inspector would arrive because a truck was ready for loading. Mr. Poirier called Mr. Boissonnault on his pager to find out why he was late. When he received no reply, he sent another inspector to Laverdure, directing him to conduct the product inspection in Mr. Boissonnault's place.*
6. *Mr. Boissonnault claims that he reported to Laverdure around 7:40 a.m. but did not immediately go to the inspection station and the company did not know that he was there.*

7. *When the second inspector arrived in the inspection room, he called Mr. Poirier. Mr. Boissonnault then spoke with his supervisor. Mr. Poirier was upset about Mr. Boissonnault's lateness and reprimanded him accordingly, as well as for the fact that he had not returned his call.*
8. *The client called Mr. Poirier again later that same afternoon to say that a temperature inspection was needed for some products; he also expressed his concerns that no samples appeared to have been examined by Mr. Boissonnault during his inspection. The latter had nevertheless issued the company an inspection certificate despite the fact that the products did not appear to have been properly inspected. The client was concerned because if there were risks associated with the batch, his reputation could suffer and diseases could be transmitted abroad.*
9. *Mr. Poirier then went to Laverdure to assess the situation and met with witnesses. He determined that there was no evidence that an inspection had been carried out in the room used for that purpose; he therefore concluded that no bag had been opened during the inspection.*
10. *When Mr. Poirier asked Mr. Boissonnault to explain the inspection measures taken, Mr. Boissonnault stated that he had inspected bags of potatoes and onions.*
11. *A disciplinary hearing was subsequently held on October 21, 2001.*
12. *Mr. Poirier informed Mr. Boissonnault that conducting an inspection without examining the product was a serious breach of inspection procedures, that it was a lack of professionalism and that his actions tarnished the image of the CFIA. He concluded that disciplinary action was necessary.*
13. *On November 29, 2001, a one-day disciplinary suspension was imposed on Mr. Boissonnault, which was served on December 6 of the same year. Mr. Boissonnault filed his grievance at the first level of the grievance process on December 18, 2001.*
14. *At the request of the representative of the Agriculture union, there was no hearing at the first level and the grievance was dismissed on December 24, 2001.*
15. *Mr. Boissonnault filed his grievance at the second level on December 18, 2001. The hearing at the second level*

was held on January 29, 2002, and the grievance was dismissed on February 7, 2002.

16. *The grievance was then sent to the final level on March 4, 2002. The hearing at the final level was held on July 24, 2002, and the grievance was again dismissed on August 22 of the same year.*
17. *On September 7, 2002, the grievance was sent to the PSSRB and its administration board carried out the appropriate review.*
18. *As for Mr. Boissonnault's previous disciplinary record, he was verbally reprimanded at a meeting on September 27, 2001, for a similar breach of inspection procedures and frequent tardiness.*

[2] The employer is accusing Mr. Boissonnault of issuing an inspection certificate without having first conducted an inspection of the food in question in contravention of established procedures and rules.

[3] In addition, the employer raised a similar incident that had resulted, only three weeks earlier, in a verbal reprimand.

[4] The grievor tried to explain his lack of professionalism by citing circumstances out of his control, such as traffic, a burned-out light on his vehicle, too much work and the need to act quickly.

[5] Mr. Boissonnault does not appear to understand or accept the importance of the inspections he must perform. The fact that the grievor does not acknowledge his error and that he received a disciplinary measure a few weeks earlier satisfies me that the sanction imposed is fair.

[6] The grievance is denied.

**Yvon Tarte
Chairperson**

Ottawa, June 3, 2004.

P.S.S.R.B. Translation