

Public Service Staff  
Relations Act



Before the Public Service  
Staff Relations Board

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BETWEEN

CANADA COUNCIL OF TEAMSTERS

Applicant

and

CANADIAN FOOD INSPECTION AGENCY

Employer

and

PROFESSIONAL INSTITUTE OF THE PUBLIC SERVICE OF CANADA

Intervener

**RE:** Application for certification -  
Veterinary Medicine (VM) Group

**Before:** Y. Tarte, Chairperson

**For the applicant:** Gino Castiglio, counsel for the Canada Council of Teamsters

**For the employer:** Richard Fader, for the Canadian Food Inspection Agency

**For the intervener:** Dougald E. Brown, counsel, and Andy Zajchowski for the Professional Institute of the Public Service of Canada

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Decided without an oral hearing

## *DECISION*

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On December 17, 1998, the Public Service Staff Relations Board received from the applicant, the Canada Council of Teamsters (CCT), an employee organization within the meaning of section 2 of the *Public Service Staff Relations Act* (the *Act*), an application for certification, made pursuant to section 29 of the *Act* by the duly authorized officers of the said employee organization, to represent all employees in the Veterinary Medicine (VM) Group. This group is represented at present by the Professional Institute of the Public Service of Canada (PIPSC), the intervener in this proceeding. In support of its application, the applicant produced 237 duly signed membership applications. The applicant also produced a receipt certifying that the sum of \$237 had been paid by these employees (an amount of \$1 per employee) as membership fees.

The terminal date set by the Secretary of the Board under the *P.S.S.R.B. Regulations and Rules of Procedure, 1993* was December 21, 1998. In accordance with the *Regulations and Rules of Procedure*, the employer posted a sufficient number of copies of the notice of application for certification in the manner prescribed, in conspicuous places where they were most likely to come to the attention of the employees affected. In keeping with the *Regulations and Rules of Procedure* and the *Act*, this notice indicated, among other things, that an employee or group of employees affected by the application and wishing to make representations in opposition to it was required to file with the Board, before the terminal date, a concise written statement of opposition to be signed by the employee or by each member of the group of employees in question. The Board received 16 such statements signed by employees of this bargaining unit.

The employer filed two lists of the names of the employees belonging to the bargaining unit. One list contained the names of the occupants of 11 excluded positions, while the second list contained the names of the occupants of 442 non-excluded positions; the total number of employees from both lists was 453. Following an inquiry by Board officers, the number of employees in the bargaining unit was found to be 472.

In its decision of April 28, 1999, the Board directed that a representation vote be held by mail ballot among the employees in the bargaining unit. The ballots cast were opened and counted on the Board premises on June 15, 1999, at Ottawa.

The result of the vote was as follows:

<i>Number of employees eligible to vote.....</i>	<i>472</i>
<i>Number of ballots cast.....</i>	<i>416</i>
<i>Number marked in favour of the Canada Council of Teamsters .....</i>	<i>195</i>
<i>Number marked in favour of the Professional Institute of the Public Service Canada .....</i>	<i>202</i>
<i>Number marked in favour of none of the above.....</i>	<i>0</i>
<i>Number of spoiled ballots .....</i>	<i>2</i>
<i>Number segregated.....</i>	<i>17</i>

Based on the above-cited results, the Returning Officer advised the parties that a hearing before the Board would be held to deal with the 17 segregated ballots.

Consequently, on July 6, 1999, the Board heard arguments from the parties on the outstanding 17 segregated ballots, plus one additional ballot received after the voting period had ended.

At the outset of the hearing, the Board dealt with a late ballot (#210) received by the Board on June 16, 1999. The Canada Council of Teamsters suggested that it be accepted; the Professional Institute of the Public Service of Canada disagreed. The Board decided not to accept this ballot on the basis of its decision ordering the representation vote.

The Board then dealt with the ballots of two individuals who had been re-classified from the Veterinary Medicine group to the Biological Sciences group (#468 & 469). Both parties agreed they should be excluded. Consequently both ballots were excluded and not counted.

The Board then considered the ballots of three new employees (#471, 476 & 479). Both parties agreed to count these ballots. Consequently the Board agreed that these three ballots should be counted.

The Board then dealt with the ballots of four employees who have been on extended leave without pay (#461 to 464). The Canada Council of Teamsters argued they should be accepted. The Professional Institute of the Public Service of Canada argued they should be excluded. The Board decided to accept one ballot (#463) and exclude the other three ballots (#461, 462 & 464). The test in such cases lies in determining whether there exists in any given situation, a reasonable expectation of return to work within a reasonable period of time. It is important to look at the length of an employee's absence in assessing likelihood of return. Finally, as a general rule of thumb, subject to the exigencies of individual cases, return to work within one year can be viewed as reasonable.

The Board then considered the ballot of one employee (#473). Both parties agreed that this ballot should be excluded. Consequently, the Board decided not to accept this ballot.

The Board then dealt with the ballot of one individual (#482) who was a part-time employee and had recently become indeterminate. Both parties agreed to count this ballot. The Board decided to accept this ballot as properly cast.

The Board then considered the ballot of one employee (#108) who retired before the voting process began. Both parties agreed that this ballot should be excluded. Consequently, the Board decided not to accept this ballot.

The Board then dealt with the ballots of three employees who had been on extended leave without pay during the voting period (#93, 378 & 404). The Canada Council of Teamsters argued that they should be accepted; the Professional Institute of the Public Service of Canada disagreed. The Board decided to accept all three ballots on the basis of the principles referred to earlier.

The Board then considered the ballots of two employees who were in acting positions in other departments (#309 & 383). Both parties agreed that #383 should not be counted. The Board consequently decided to exclude this particular ballot. The Canada Council of Teamsters argued that #309, who had been acting in an EX position from April 1 to June 25, 1999, and had since returned to the bargaining unit should be counted; the Professional Institute of the Public Service of Canada objected. The Board decided to accept this ballot and directed that it be counted.

In his report to the Board, the Returning Officer indicated that the final result of the vote, including the nine additional ballots, was as follows:

<i>Number of employees eligible to vote.....</i>	<i>472</i>
<i>Number of ballots cast.....</i>	<i>417</i>
<i>Number marked in favour of the Canada Council of Teamsters .....</i>	<i>201</i>
<i>Number marked in favour of the Professional Institute of the Public Service Canada .....</i>	<i>205</i>
<i>Number marked in favour of none of the above.....</i>	<i>0</i>
<i>Number of spoiled ballots .....</i>	<i>2</i>
<i>Number not counted.....</i>	<i>9</i>

The Returning Officer presented to the Board the Certificate of Result of Vote which indicated the above-mentioned result and bore the signatures of the Board's Returning Officer and of the representatives of the applicant, the intervener and the employer.

The Returning Officer also presented to the Board, a Scrutineers' Certificate signed by the representatives of the three parties. The certificate indicates that these representatives had the opportunity to examine the ballot envelopes returned, that they consented to the counting of the ballots and that the vote was conducted according to the rules.

The Returning Officer also presented to the Board a Consent and Waiver Certificate, signed by the representatives of the three parties, in which they consent to the Board's disposing of this case without a hearing, on the basis of the evidence presently before it and the certificate of result of vote. A copy of the certificate of result of vote, signed by the Returning Officer and initialled by the representatives of the three parties, will be provided to each of the three parties in the near future.

The result of the vote indicates that the applicant does not have the support of a majority of the employees in the bargaining unit. The application is accordingly dismissed.

The Secretary will destroy the ballots cast in the representation vote taken in this matter following the expiration of 30 days from the date of this decision unless a statement requesting that the ballots should not be destroyed is received by the Board from one of the parties before the expiration of such 30-day period.

**Y. Tarte**  
**Chairperson**

OTTAWA, August 9, 1999  
Certified true translation

Serge Lareau