

Public Service Staff  
Relations Act



Before the Public Service  
Staff Relations Board

---

BETWEEN

CANADA COUNCIL OF TEAMSTERS

Applicant

and

CANADIAN FOOD INSPECTION AGENCY

Employer

and

PROFESSIONAL INSTITUTE OF THE  
PUBLIC SERVICE OF CANADA

Intervenor

**RE:** Application for Certification -  
Veterinary Medicine Group

**Before:** [Yvon Tarte, Chairperson](#)

---

(Decided without an oral hearing.)

## DECISION

---

This is an application for certification made by the Canada Council of Teamsters (CCT) pursuant to section 29 of the *Public Service Staff Relations Act (PSSRA)* to displace the Professional Institute of the Public Service of Canada (PIPS) as bargaining agent for all employees of the Canadian Food Inspection Agency (CFIA) in the bargaining unit composed of all the employees of the employer performing duties in positions which are or would be classified under the Veterinary Medicine (VM) Group in the classification system of the Treasury Board.

On December 17, 1998, PIPS, the incumbent bargaining agent, applied to intervene in this application on the ground that “the Application should be dismissed, without a vote, as a majority of employees in the bargaining unit wish the intervener to continue representing them as their bargaining agent”. PIPS also reserved the right to challenge the CCT’s estimate of the number of employees in the bargaining unit.

PIPS was certified as bargaining agent for this bargaining unit on October 27, 1997 (Board file 140-32-14). Prior to the transfer of these employees from Treasury Board to the CFIA, a new separate employer, PIPS had been the certified bargaining agent for the veterinarians since December 1, 1967 (Board file 142-2-49).

In its Reply to the application for certification filed with the Board on December 21, 1998, the CFIA indicated that “the employer will not be making a reply or any submission regarding the matter”.

The relevant provisions of the *PSSRA* are the following:

*28. An employee organization seeking to be certified as bargaining agent for a group of employees that it considers constitutes a unit of employees appropriate for collective bargaining may, subject to section 31, apply in the manner prescribed to the Board for certification as bargaining agent for the proposed bargaining unit.*

*29.(1) Where two or more employee organizations have come together to form a council of employee organizations, the council so formed may, subject to section 31, apply in the manner prescribed to the Board for certification as described in section 28.*

*(2) The Board may certify a council of employee organizations as bargaining agent for a bargaining unit where the Board is satisfied that*

(a) *the requirements for certification established by this Act are met; and*

(b) *each of the employee organizations forming the council has vested appropriate authority in the council to enable it to discharge the duties and responsibilities of a bargaining agent.*

30. *A council of employee organizations shall, for all purposes of this Act except subsection 29(2), be deemed to be an employee organization, and membership in any employee organization that is part of a council of employee organizations shall for the same purposes be deemed to be membership in the council.*

...

33.(1) *Where an employee organization has made application to the Board for certification as described in section 28, the Board shall determine the relevant group of employees that constitutes a unit appropriate for collective bargaining.*

(2) *In determining whether a group of employees constitutes a unit appropriate for collective bargaining, the Board shall have regard to the plan of classification, including occupational groups or subgroups, established by the employer for positions in the Public Service and shall establish bargaining units coextensive with the classes, groups or subgroups established by the plan, unless any such bargaining unit would not permit satisfactory representation of the employees to be included in it and, for that reason, would not constitute a unit appropriate for collective bargaining.*

(3) *[Repealed, 1992, c. 54, s. 41]*

(4) *For the purposes of this Act, a unit of employees may be determined by the Board to constitute a unit appropriate for collective bargaining whether or not its composition is identical with the group of employees in respect of which application for certification was made.*

...

35. *Where the Board*

(a) *has received from an employee organization an application for certification as bargaining agent for a bargaining unit in accordance with this Act,*

(b) *has determined the group of employees that constitutes a unit appropriate for collective bargaining in accordance with section 33,*

(c) is satisfied that a majority of employees in the bargaining unit wish the employee organization to represent them as their bargaining agent, and

(d) is satisfied that the persons representing the employee organization in the making of the application have been duly authorized to make the application,

the Board shall, subject to this Act, certify the employee organization making the application as bargaining agent for the employees in that bargaining unit.

36.(1) For the purpose of enabling the Board to discharge any obligation imposed by section 35 to satisfy itself as to the matters described in paragraphs 35(c) and (d), the Board may

(a) examine, in accordance with any regulations that may be made by the Board in that behalf, such evidence as is submitted to it respecting membership of the employees in the proposed bargaining unit in the employee organization seeking certification;

(b) make or cause to be made such examination of records or make such inquiries as it deems necessary; and

(c) examine documents forming or relating to the constitution or articles of association of the employee organization seeking certification.

(2) For the purpose of satisfying itself under paragraph 35(c) that a majority of employees in the bargaining unit wish the employee organization to represent them as their bargaining agent, the Board, in its sole discretion, may direct that a representation vote be taken among the employees in the bargaining unit.

(3) Where the Board directs that a representation vote be taken pursuant to subsection (2), the Board shall

(a) determine the employees that are eligible to vote; and

(b) make such arrangements and give such directions as it deems requisite for the proper conduct of the representation vote including the preparation of ballots, the method of casting and counting ballots and the custody and sealing of ballot boxes.

In light of article 4.09 of the CCT constitution which authorizes any two officers to apply for certification on behalf of the CCT, the Board is satisfied that Louis Lacroix and Robert Bouvier, respectively the President and Member of the Executive Committee of the CCT, the persons representing the CCT in the making of this application, have been duly authorized to make the application.

The Board also finds that the application has been made in a timely manner and that the proposed unit that is the subject matter of this application is appropriate for collective bargaining.

The terminal date fixed by the Secretary pursuant to section 20 of the *P.S.S.R.B. Regulations and Rules of Procedure, 1993* was December 21, 1998. In accordance with section 21 of the *Regulations*, the CFIA posted an appropriate number of notices of the application for certification in specified form where they would most likely come to the attention of the employees affected by the application. Pursuant to the Board's *Regulations*, the notice stated, among other things, that any employee or group of employees affected by the application and intending to make representations in opposition to the application was required to file, in writing, with the Board by the terminal date a concise statement of opposition, signed by the employee or each member of a group of employees. The Board received 26 statements expressing opposition to the application, five of which were received after the terminal date.

In support of its application, the CCT submitted a copy of its constitution. The following are relevant extracts from the constitution:

***MEMBERSHIP***

- 2.01 *Only Local Unions of the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America may be member Locals of this Council.*
- 2.02 *The Council shall be comprised of its founding Local Unions and such other Local Unions as may be accepted as members.*
- 2.03 *Membership by any person in any trade Union that forms part of this Council of trade Unions is deemed to be membership in this Council of trade Unions.*

...

- 2.05 *Any Local Union applying for membership in the Council shall provide to the Council a copy of a resolution passed at a duly constituted meeting of the Local Union, authorizing the application for membership.*
- 2.06 *As a condition of membership, each Local Union member of this Council shall grant to the Council appropriate authority so as to enable it to discharge the duties and responsibilities of a bargaining agent.*

### **OBJECTS**

- 3.01 *The Canada Council of Teamsters is dedicated to promoting the interests of its affiliates and their members. More particularly, the objects of the Council are:*
- a) *To represent and advance the interests of Local Union members of the Council and the membership of such Local Unions with respect to terms and conditions of employment and related matters.*
  - b) *To act as a certified bargaining agent and a Trade Union Council pursuant to any legislation in Canada that recognizes the right of this Council so to do.*
  - c) *To act as an agent and to bargain collectively and conclude Collective Agreements and to administer Collective Agreements.*

### **EXECUTIVE BOARD**

...

- 4.09 *Any two (2) officers may execute cheques and applications for Certification and execute all documents on behalf of this Council.*

...

In addition, the CCT submitted Resolutions of the Executive Boards of Locals 91, 141, 395, 419, 464, 855, 879, 880, 927, 979, 987 and 1999 of the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America wherein they adopted and approved the constitution of the CCT. They also agreed to abide by the terms of the constitution and accepted the responsibilities of and became member local unions of the CCT.

Attached to each Resolution was a document signed by the executive of each local union granting authority to the CCT “to represent and to advance the interests of the Local Union and its members with respect to terms and conditions of employment by acting as a certified bargaining agent and a Council of Trade Unions” pursuant either to the provisions of the *Canada Labour Code* (the Code) or the *PSSRA*. Only locals 419, 464 and 987 contain such a delegation of authority in relation to the *PSSRA*. The Board is satisfied that the aforementioned local unions are employee organizations and the CCT is a council of employee organizations within the meaning of the *PSSRA*.

Because there was some dispute between the parties regarding membership in the bargaining unit, the Board appointed Norman Bernstein and Carol Rossignol, who are officers of the Board, to enquire into the matter and to report back to the Board. As a result of their enquiry, the Board finds that there were 454 employees in the bargaining unit as of the terminal date of December 21, 1998, as reflected in the Report of the Board’s officers to the Board dated April 15, 1999. This excludes four persons who are on long term absence and will not be returning to work in the foreseeable future and one person on an extended assignment with another employer. CCT has submitted a total of 230 valid membership cards for employees in the bargaining unit constituting 50.6% of the membership of the bargaining unit. Accordingly, CCT has submitted *prima facie* evidence of the support of the majority of the employees in the bargaining unit.

It is the practice of the Board in a displacement application to hold a representation vote where the applicant has presented evidence of the support of the majority of the employees in the bargaining unit. Accordingly, the Board directs that a representation vote be held by mail ballot among the employees in the bargaining unit, namely, all the employees of the CFIA performing duties in positions which are or would be classified under the Veterinary Medicine (VM) Group in the classification system of the Treasury Board.

For the purpose of the vote, the Board directs the CFIA to file the names and addresses of the employees in the bargaining unit as of the terminal date, December 21, 1998, as determined in the list dated April 15, 1999, prepared by the officers of the Board. However, the CFIA is to exclude the name of any employee who

has ceased to be employed since the terminal date, and to include the name of any employee hired since that date. This updated list of names and addresses is to be provided to the Board no later than 4:00 p.m. Ottawa time on May 5, 1999. The CFIA is further directed to advise the Board forthwith of any subsequent changes, either by way of deletions or additions, to the updated list up to the end of the voting period. In turn, the Board will forthwith advise both the applicant and the intervenor of any changes to the names on the list made subsequent to the terminal date. The voting period will commence with the mailing of the ballots on May 10, 1999 and will terminate at 4:00 p.m. Ottawa time on June 10, 1999.

Also the five persons excluded from the list as noted above will be entitled to vote but their votes will be segregated and a determination will only be made as to their eligibility to vote should the need arise. Voters will be asked to indicate whether they wish the CCT to represent them as their bargaining agent or whether they wish to continue to be represented by PIPS.

The matter is referred to the Assistant Secretary, Operations, for the purpose of making arrangements for the conduct of the representation vote.

**Yvon Tarte,  
Chairperson**

OTTAWA, April 28, 1999.