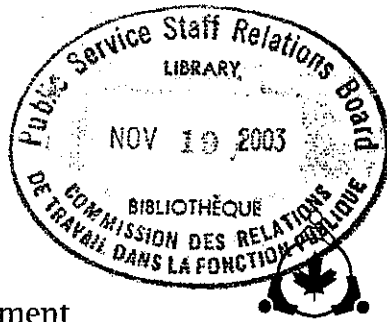


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Date: 20031117

File: 440-LP-1
442-L-13

Citation: 2003 PSSRB 102



Parliamentary Employment
and Staff Relations Act

Before the Public Service
Staff Relations Board

BETWEEN

**CANADIAN ASSOCIATION OF PROFESSIONAL EMPLOYEES
AND THE SOCIAL SCIENCE EMPLOYEES ASSOCIATION**

Applicants

and

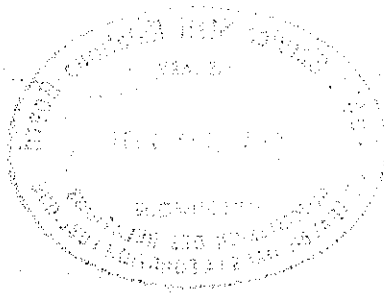
LIBRARY OF PARLIAMENT

RE: Application for Declaration of Successor Rights
under section 36 of Parliamentary Employment
and Staff Relations Act

Before: Yvon Tarte, Chairperson

For the Applicants: Frederica Wilson, counsel, Engelmann Gottheil

(Decided without an oral hearing.)



[1] This decision concerns an application dated October 15, 2003, by the Canadian Association of Professional Employees (CAPE) under section 36 of the *Parliamentary Employment and Staff Relations Act* (the Act) to have the Board recognize CAPE as the successor to the Social Science Employees Association (SSEA).

[2] On March 19, 1990, the Board certified the Economists', Sociologists' and Statisticians' Association (ESSA) as the bargaining agent for all employees in the research officer and research assistant sub-groups in the research and library services group at the Library of Parliament (Board file 442-LP-13). In October of 1994, the ESSA changed names and became the SSEA.

[3] On June 9, 2003, SSEA and the Canadian Union of Professional and Technical Employees (CUPTE) jointly wrote to the Board, informing it that they had recently concluded constitutionally mandated processes within each organization which resulted in the formation of a new public service union to represent their combined memberships, to be called the Canadian Association of Professional Employees (CAPE). Mr. Bill Krause, the then-President of SSEA, and Mr. Luc Pomerleau, the then CUPTE TR Group President, applied to have the Board recognize CAPE as the successor and assign thereto their rights, privileges and duties as bargaining agent under subsection 49(1) of the *Public Service Staff Relations Act* (PSSRA). Since the present application is made under the *Parliamentary Employment and Staff Relations Act*, a brief history of the events surrounding the recognition of CAPE by the Board under the PSSRA is appropriate at this point in the decision.

[4] On June 25, 2003, the Board advised the parties that their application would be dealt with under subsection 49(2) of the PSSRA and that pursuant to subsection 49(3), the Board would appoint a fact-finder to inquire into the circumstances of the amalgamation of their organizations and report to the Board. The Board appointed Messrs. Guy Baron and Gilles Grenier as fact-finders and on July 16, 2003, a letter went out to both organizations, requesting a meeting to discuss the amalgamation process and requesting a variety of documentation including the dates, times and locations of information meetings with the membership to discuss amalgamation plans; copies of voting procedures and eligibility criteria; dates, times and locations of votes; a copy of the procedure for tabulating votes and data concerning the number of members in each organization on the day of the vote. The requested documentation was provided by CUPTE on July 23, 2003, and by SSEA on August 1, 2003.

[5] According to telephone conversations and information provided by Mr. Luc Pomerleau, it was established that CUPTE members are not eligible to vote on an amalgamation and that decisions of this nature are the responsibility of the CUPTE Executive. That fact notwithstanding, CUPTE carried out a consultation process with its members and held four consultation meetings in Montréal, Quebec City, Ottawa and Toronto. Documentation, ballots and stamped return envelopes were mailed to all CUPTE members in good standing on March 28, 2003, and the results of the consultation were announced on April 22, 2003: 509 ballots were received; 454 members voted for the amalgamation and 51 members voted against, with four ballots being rejected or cancelled. The decision of the membership was ratified by the CUPTE Biennial Convention on April 28, 2003.

[6] As for SSEA, a meeting was held on August 29, 2003, with Mr. Bill Krause, President, and Mr. Claude Danik, Director of Professional Services. In accordance with SSEA by-laws, only regular and holding members may vote. All members with a right to vote received a voting kit, including information on the proposed amalgamation as well as a ballot. The votes were counted on April 22, 2003, and the results were as follows: 757 votes were in favour of the amalgamation; 455 votes were against the amalgamation; 38 ballots were rejected and 4 ballots were cancelled.

[7] On the basis of the file before it, the Board recognized that the SSEA and the CUPTE had merged. The Board also agreed that CAPE was an employee organization within the meaning of section 2 of the PSSRA and that CAPE had shown that a majority of the employees in the bargaining unit supported the merger. The Board also ordered the issuance of amended certificates.

[8] The merger agreement indicates that the bargaining rights of CUPTE and SSEA in respect of the Economics and Social Sciences Services and the Translation Groups, and all of their rights, privileges and duties under any statute or agreement, are transferred to the Canadian Association of Professional Employees (CAPE).

[9] On October 15, 2003, counsel to CAPE wrote to the Board, requesting that it declare that the rights, privileges and duties of SSEA flowing from its status as certified bargaining agent for employees in the research officer and research assistant sub-groups in the research and library services group at the Library of Parliament have passed to CAPE and that the certificate be re-issued in the name of CAPE.

[10] Section 36 of the Act provides as follows:

36. Where, on a merger or an amalgamation of employee organizations or a transfer of jurisdiction among employee organizations otherwise than as a result of revocation of certification, any question arises concerning the rights, privileges and duties of an employee organization under this Part or under a collective agreement or arbitral award in respect of a bargaining unit or an employee therein, the board, on application to it by any employee organization affected, shall examine the question and may, in accordance with any regulations made by it in respect thereof, declare or determine what rights, privileges and duties, if any, have been acquired or are retained, as the case may be, by that employee organization.

[11] On the basis of the file before it, the Board recognizes that CUPTE and SSEA have merged and that the SSEA is now CAPE. Moreover, the Board agrees that CAPE is an employee organization within the meaning of section 3 of the Act.

[12] The CAPE has shown that a majority of SSEA members supported the merger. The merger agreement indicates that the bargaining rights of SSEA in respect of the bargaining unit, and all its rights, privileges and duties under any statute or agreement were transferred to CAPE.

[13] As a result of the foregoing, and without limiting the generality thereof, the Board makes the following determination:

CAPE is SSEA's successor with respect to the employees falling within the terms of bargaining certificate; and

CAPE acquires all of SSEA's rights, privileges and duties under the Act or under a collective agreement or arbitral award in respect of the bargaining unit or an employee therein.

[14] For these reasons, the application is allowed and CAPE is certified as the bargaining agent for the bargaining unit. The certificate will be amended accordingly.

**Yvon Tarte,
Chairperson**

OTTAWA, November 17, 2003.

