

Date: 20040910

File: 181-2-491

Citation: 2004 PSSRB 135



Public Service Staff
Relations Act

Before the Public Service
Staff Relations Board

BETWEEN

Public Service Alliance of Canada

Bargaining Agent

and

Treasury Board

Employer

RE: Designated Positions
Operational Services Group

Before: Joseph W. Potter, Vice Chairperson

(Decided without an oral hearing)

[1] In *Public Service Alliance of Canada v. Treasury Board*, 2004 PSSRB 119, the Board designated positions in the Operational Services Group bargaining unit pursuant to subsection 78.1(6) of the *Public Service Staff Relations Act* (the *Act*). Diskette *TABLENUM = 2* (the “old diskette”) contains the list of all of the positions which the parties agreed had safety or security duties as of that date.

[2] On September 8, 2004, the employer advised the Board that the parties had agreed to amend the list on the old diskette. Enclosed with the employer’s letter was a Memorandum of Agreement, by which the parties agreed to amend the list on the old diskette, together with a new diskette bearing identification *September 8, 2004 TABLENUM = 2* (the “new diskette”). The employer advised the Board that the bargaining agent had been provided with a true copy of the new diskette. The new diskette is accepted by the Board as containing the list of all of the positions which the parties now agree have safety or security duties.

[3] On the basis of the agreement of the parties, the Board hereby revokes the designation of any positions that appeared on the old diskette and that do not appear on the new diskette. The Board also revokes the Forms 13 issued for those positions. The Board directs the employer to return forthwith any Forms 13 still in its possession and that have not been distributed to employees in those positions. Furthermore, the employer is to make every reasonable effort to obtain any Forms 13 that may have been so distributed to employees in those positions. The bargaining agent is to cooperate in this regard. The Board will destroy the Forms 13 when returned by the employer.

[4] On the agreement of the parties and pursuant to subsection 78.1(6) of the *Act*, the Board hereby designates any positions that appear on the new diskette and that did not appear on the old diskette.

[5] Pursuant to section 78.5 of the *Act*, the Board hereby authorizes the employer to inform the employees occupying the positions designated above. For this purpose, the Board will provide the employer with a Form 13 for each of those positions, containing all the information required, with the exception of the name of the employee occupying the designated position and the “Dated at...” portion of the Form, which is to be completed by the employer prior to notification.

[6] On June 16, 2004, the parties applied for an extension of the time limit set out in section 60 of the *P.S.S.R.B. Regulations and Rules of Procedure, 1993* (the *Regulations*), to August 9, 2004. Pursuant to section 6 of the *Regulations*, this request was granted by the Board, on June 18, 2004, 2004 PSSRB 69.

[7] Since the Board did not receive the employer's letter prior to the expiry of the extension of time granted in this file, the above timeline cannot apply in the instant case. In these circumstances, the persons who occupy the positions designated above are to be so informed within 30 days from the date of this decision. Thereafter, future occupants of a designated position during this round of bargaining shall be notified within 30 days of the date on which they first occupy the position.

[8] Finally, the Board draws the employer's attention to its responsibility under subsection 60(2) of the *Regulations* that, on the notification of an employee who occupies a designated position, it is to provide forthwith a copy of the notice referred to in subsection 60(1) to the bargaining agent.

Joseph W. Potter
Vice Chairperson

OTTAWA, September 10, 2004.