

Date: 20041025

File: 181-26-496

Citation: 2004 PSSRB 154



Public Service Staff
Relations Act

Before the Public Service
Staff Relations Board

BETWEEN

Professional Institute of the Public Service of Canada

Bargaining Agent

and

National Energy Board

Employer

RE: Designated Positions

All employees of the NEB save and except those who are specifically excluded
from collective agreement by operation of law or determination of the Board

Before: Joseph W. Potter, Vice Chairperson

(Decided without an oral hearing)

DECISION

[1] In *National Energy Board v. Public Service Alliance of Canada and Professional Institute of the Public Service of Canada*, 2004 PSSRB 6, the Board certified the Professional Institute of the Public Service of Canada as the bargaining agent for the following bargaining unit:

All employees of the NEB save and except those who are specifically excluded from collective agreement by operation of law or determination of the Board.

[2] Pursuant to subsection 78.1(4) of the *Public Service Staff Relations Act* (the *Act*), the parties met to review the position of each employee in the bargaining unit, to determine whether any of them have safety or security duties as specified in subsection 78.1. By letter dated October 12, 2004, the employer, pursuant to subsection 78.1(6), provided the Board with a statement of the positions that the parties had determined have safety or security duties. Enclosed with the employer's letter was a diskette bearing identification *NATIONAL ENERGY BOARD POSITION DESIGNATIONS LIST* (the "diskette"), together with a Memorandum of Agreement, by which the parties agreed to the designation of the positions on the diskette. The employer advised the Board that the bargaining agent had been provided with a true copy of the diskette. The diskette is accepted by the Board as containing the list of all of the positions that the parties agree have safety or security duties.

[3] Consequently, 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 diskette that the parties agree have safety or security duties.

[4] 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.

[5] Furthermore, the persons who occupy the positions designated above are to be so informed within the time limit and pursuant to the procedure specified in subsection 60(1) of the *P.S.S.R.B. Regulations and Rules of Procedure, 1993* (the

Regulations). Thereafter, future occupants of a designated position shall be notified within 30 days of the date on which they first occupy the position.

[6] 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, October 25, 2004.