

Date: July 25, 2012

File: 585-02-37

Public Service Labour  
Relations Board

Before an Arbitration Board

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BETWEEN

THE INTERNATIONAL BROTHERHOOD OF ELECTRICAL  
WORKERS, LOCAL 2228

Bargaining Agent

and

THE TREASURY BOARD OF CANADA

Employer

Re: Request for Arbitration  
Electronics (EL) Group

Before: Yvon Tarte, Chairperson and  
Fazal Bhimji and Jock Climie

For the Bargaining Agent: James Shield

For the Employer: Ted Leindecker

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Heard at Ottawa, Ontario  
June 26 and 27, 2012

(1) The EL collective agreement expired on August 31, 2010. The group is composed of some 1,114 electronics technologists who are specialists in the installation and maintenance of electronics equipment for weather facilities, radio frequency allocation and monitoring, as well as air, land and marine transportation systems.

(2) The members of the bargaining unit work in all parts of the country. Ninety percent of the bargaining unit works at National Defence, Fisheries and Oceans, Industry Canada and Transport Canada.

(3) The International Brotherhood of Electrical Workers, Local 2228 ("the Bargaining Agent") filed notice to bargain on May 10, 2010.

(4) The Bargaining Agent and the Treasury Board of Canada ("the Employer") exchanged proposals on October 15, 2010.

(5) Following what can only be described as an unproductive round of negotiating, the Bargaining Agent requested arbitration on October 31, 2011, pursuant to section 136 of the Public Service Labour Relations Act ("the Act"). Along with its request, the Bargaining Agent provided a list of the terms and conditions of employment that it wished to refer to arbitration.

(6) By letter of November 8, 2011, the Employer expressed the view that negotiations between the parties had not reached an impasse and requested the appointment of a mediator. The Employer nevertheless provided its position on the terms and conditions of employment that the Bargaining Agent wished to refer to arbitration as well as a list of the terms and conditions of employment that it wished to refer to arbitration.

(7) By letter of November 10, 2011, the Bargaining Agent provided its position on the additional terms and conditions of employment that the employer wished to refer to arbitration and reiterated its request for the appointment of an Arbitration Board.

(8) The Terms of Reference of this Arbitration Board were set by the Chairperson of the Public service Labour Relations Board ("the PSLRB") on February 7, 2012.

(9) Prior to the hearings in this matter, the parties exchanged briefs which were submitted to the Arbitration Board.

(10) Pursuant to section 146 of the Act the parties were both given a full opportunity to present evidence and make representations at the hearings held in Ottawa on June 26 and 27, 2012.

(11) Following the hearings, the Arbitration Board met to discuss and consider the evidence and submissions of the parties as well as the factors enumerated in section 148 of the Act.

(12) The Arbitration Board believes that all the factors listed in section 148 of the Act must be considered in making its award and that none of the factors has more importance than the other. Each factor must be looked at and applied to the circumstances of any given case by an arbitration board on the basis of the evidence presented to it.

(13) In this case there does not appear to be recruitment and retention problems for employees in the EL group nor were there issues with internal and external comparators.

(14) The factor contained in subsection 148(e) dealing with the state of the Canadian economy and the Government's fiscal circumstances is somewhat more problematic since the political voices on this issue give us a mixed message.

(15) In any event, the factors enunciated in section 148 must be taken into account by an Arbitration Board. They are not however shackles which take away the independence of this or any other Arbitration Board.

#### The Issues in Dispute and the Award

##### Article 17 - Vacation Leave With Pay

(16) The Bargaining Agent proposes that clause 17.02 be amended to provide twenty days vacation for new employees.

(17) The Employer objects on the basis that this would go beyond what has been granted to other groups in the core public administration.

**(18) The Arbitration Board determines that clause 17.02 shall be renewed without change.**

(19) The Employer proposes the addition of a new clause 17.04 to prevent the pyramiding of benefits and to be consistent with other collective agreements.

**(20) The Arbitration Board determines that the changes to clause 17.04 proposed by the Employer shall be incorporated into the new collective agreement. As a consequence of this change, other clauses in Article 17 will have to be renumbered.**

(21) The Employer proposes changes to clause 17.08 limiting to 25 days the amount of unused vacation leave which can be carried over.

(22) The Bargaining Agent wishes to keep the existing carry-over maximum of 35 days.

**(23) The Arbitration Board determines that clause 17.08 shall be renewed without change.**

(24) The Employer proposes the elimination of clause 17.22 which provides for the advance payment of salary for vacation periods. The Employer submits that the clause is outdated and not used since the vast majority of employees are on direct deposit.

**(25) The Arbitration Board determines that clause 17.22 shall be deleted from the new collective agreement.**

(26) The Employer argues that sub-clause 17.24(b) dealing with transitional provisions going back to 2005 is now obsolete and should be deleted.

**(27) The Arbitration Board determines that sub-clause 17.24(b) shall be deleted from the new collective agreement. As a consequence the paragraphs of clause 17.24 will have to be renumbered.**

#### Article 18 - Other Leave With or Without Pay

(28) The Bargaining Agent proposes that clause 18.12 be amended to remove the two day cap available for needs directly related to the birth or adoption of a child.

**(29) The Arbitration Board determines that the changes to clause 18.12 proposed by the Bargaining Agent shall be incorporated into the new collective agreement.**

(30) The Employer proposes that the reference to a “grand jury” in clause 18.13 be removed since there has been no grand jury in Canada since 1976. The Employer further states that the revised language would cover situations where an employee might be required to attend before a grand jury in the United States of America.

**(31) The Arbitration Board determines that the reference to a “grand jury” in clause 18.13 shall be removed in the new collective agreement.**

#### Article 19 - Sick Leave

(32) Both the Bargaining Agent and the Employer propose changes to the clause.

(33) The Employer’s proposals seek to clarify the language of the clause and remove its obligation to provide written statements of sick leave balances.

(34) The Bargaining Agent proposes that the cost of obtaining a medical certificate pursuant to this clause be borne by the Employer.

**(35) The Arbitration Board determines that Article 19 shall be renewed without change.**

## Article 20 - National Joint Council Agreements

(36) The Employer proposes that clauses 20.01 and 20.02 be amended by adding the words “and as amended from time to time” in reference to National Joint Council (the “NJC”) agreements which by ruling of the Board have been incorporated into the collective agreement. The Employer has also proposed the elimination of clause 20.03 which lists the NJC agreements incorporated into the collective agreement and refers to the grievance process for grievances under these agreements.

**(37) The Arbitration Board determines that the changes requested by the Employer in clauses 20.01 and 20.02 shall be incorporated into the new collective agreement. The Arbitration Board further determines that the remainder of Article 20 shall be renewed without change.**

## Article 22 - Severance Pay

(38) The Employer proposes the deletion of severance pay provisions for cases of voluntary resignation and retirement. Severance pay would continue to accumulate for reasons of death, lay-off and termination for incapacity or incompetence.

(39) Under the Employer’s proposal, employees would have certain options as to cash out of accumulated severance benefits. Finally the employer offers additional increases of .25% in year two and .5% in year four of a 4-year agreement in exchange for the elimination of severance pay in resignation and retirement cases.

(40) The Employer points out that in the present round of bargaining, 9 collective agreements, covering more than 100,000 unionized employees have been ratified, all of which have included the elimination of severance pay in resignation and retirement cases. Furthermore, the same severance benefits were eliminated for approximately 13,000 executives and non-represented employees. At the hearing in this matter, the Employer indicated that the Computer Science (CS) Group of approximately 13,000 employees had recently agreed to these changes to their severance pay provisions.

(41) The Bargaining Agent opposes these changes and argues that such important changes should only be made through free collective bargaining. Interest arbitration is not the place to do it.

**(42) The Arbitration Board determines that the Employer’s proposal relative to severance pay shall be incorporated into the new collective agreement.**

## Article 23 - Hours of Work

(43) The Employer proposes that the language of clause 23.15 be amended to more clearly define its management rights.

**(44) The Arbitration Board determines that the clause will be renewed without change.**

#### Article 24 - Days of Rest

(45) The Bargaining Agent proposes that clause 24.06 be amended to allow for the payment of twice an employee's regular rate of pay when the employee is required to work on a second or subsequent day of rest. Under the old collective agreement, double time is only available on a second or subsequent day of rest if the first day of rest has been worked.

**(46) The Arbitration Board determines that the language proposed by the Bargaining Agent shall be incorporated into the new collective agreement.**

#### Article 25 - Overtime

(47) The Bargaining Agent proposes that clause 25.02 be amended to provide overtime payment whenever an employee works outside the employee's headquarters area.

**(48) The Arbitration Board determines that clause 25.02 shall be renewed without change.**

(49) The Bargaining Agent proposes that meal allowances provided for in clause 25.05 be increased incrementally from the present \$10.50 to \$12.50 over the life of the new agreement.

(50) The Employer objects to the proposal since it represents an increase of \$2.00 or approximately 20% over the current meal allowance over the life of the agreement.

**(51) The Arbitration Board determines that meal allowances referred to in sub-clause 25.05 (a) (b) and (c) shall be set at \$12.00.**

(52) The Employer proposes that clause 25.07 be amended to impose a cap on the total number of kilometers which can be compensated under the clause.

**(53) The Arbitration Board determines that clause 25.07 shall be renewed without changes.**

(54) Both the Employer and the Bargaining Agent propose changes to clause 25.08.

**(55) The Arbitration Board determines that clause 25.08 shall be renewed without change.**

## Article 27 - Travel

(56) The Employer proposes that clause 27.05 be amended to clarify that travel time is paid at the double time rate on a second and subsequent day of rest only if the employee worked at the time and a half rate on his or her first day of rest.

**(57) The Arbitration Board determines that clause 27.05 shall be renewed without change.**

(58) The Bargaining Agent proposes changes to clause 27.10 dealing with overnight stays outside of the employee's headquarters area.

**(59) The Arbitration Board determines that clause 27.10 shall be amended as follows:**

**27.10(a) An employee who is required to travel outside his or her headquarters area on government business, as these expressions are defined by the Employer, and is away from his permanent residence for twenty (20) nights during a fiscal year shall be granted seven decimal five (7.5) hours off with pay. The employee shall be credited with three decimal seventy-five (3.75) hours off for each additional ten (10) nights that the employee is away from his permanent residence up to an additional eighty (80) nights during the fiscal year.**

**Furthermore, the existing sub-clause 27.10(b) shall be deleted. The remaining two subclauses shall be renumbered and incorporated without change into the new collective agreement.**

## Article 28 - Call Back Pay

(60) The Employer proposes changes to article 28 to clarify the minimum payment as compensation for multiple call-backs and to amend the minimum payment available in cases when the call-back work is performed from a remote location.

(61) The Employer points out that language similar to its proposal can be found in the Technical Services (TC) group, the Foreign Service (FS) group, the Financial Management (FI) group, the Ships Officers (SO) group and the Ship Repair Chargehands (SR-C) group collective agreements.

(62) The Bargaining Agent argues that the changes proposed by the Employer would have serious negative impact on their employees and that since call-backs are not very common, the Article should be renewed without change.

**(63) The Arbitration Board determines that clauses 28.01 and 28.03 shall be amended as follows. The remainder of Article 28 shall be renewed without change:**

**28.01 If,**

**(a) on a designated holiday or a day of rest, or**

**(b) after he or she has completed his or her work period and has left his or her place of work and prior to reporting for his or her next regular scheduled work period,**

**an employee is called back to work and returns to work prior to his or her next regular scheduled work period for a period of overtime, the employee shall be entitled to the greater of:**

**(i) compensation at the applicable overtime rate for any time worked**

**or**

**(ii) compensation equivalent to four (4) hours' pay at the straight-time rate.**

**In the case of multiple calls, no further compensation will be paid under 28.01(b)(ii) within any given four hour time period.**

**28.03**

**An employee who is called to duty or responds to a telephone or data line call at any time outside of his scheduled hours of work may, at the discretion of the Employer, work at the employee's residence or at another place to which the Employer agrees. In such instances, the employee shall be paid the greater of:**

**(a) compensation at the applicable overtime rate for any time worked,**

**or**

**(b) compensation equivalent to two (2) hour's pay at the straight-time rate.**

**In the case of multiple calls, no further compensation will be paid under 28.03(b) within any given two hour time period.**

Article 31 - Sea Duty



(64) The Bargaining Agent proposes that Sea Duty allowances under clauses 31.01 and 31.02 of the old collective agreement be increased incrementally over the life of the new agreement from \$19 to \$29 and from \$25 to \$35 respectively.

(65) The Employer believes that the existing allowances are reasonable.

**(66) The Arbitration Board determines that the amount of \$19 in clause 31.01 shall be increased to \$29, and the amount of \$25 in clause 31.02 shall be increased to \$35 in the new collective agreement.**

#### Article 32 - Sea Trials' Allowance

(67) The Employer proposes changes to article 32 to clarify its intent. The Employer argues that once an employee has boarded a vessel/ship, the employee should no longer be deemed to be in travel status for the purpose of being entitled to reasonable expenses under the Travel Directive.

**(68) The Arbitration Board determines that clause 32.02 of the old collective agreement shall be replaced in the new collective agreement by the following language:**

**32.02 When an employee is at sea pursuant to 32.01, the employee will be considered to be at his or her workplace and not on Travel Status.**

**The remainder of Article 32 shall be renewed without change except for re-numbering as is required by the inclusion of the new clause 32.02 above.**

#### Article 35 - Working Conditions

(69) The Bargaining Agent proposes the addition of a new clause to Article 35 dealing with the handling of dangerous goods by employees certified pursuant to the Transportation of Dangerous Goods Act. The new clause would provide a daily allowance of \$3.50 for each day a certified employee is required to package and label dangerous goods shipping to a maximum of \$75 in any given month.

**(70) The Arbitration Board determines that the new clause dealing with the handling of dangerous goods proposed by the Bargaining Agent shall be incorporated into the new collective agreement.**

#### Article 43 - Training

(71) The Bargaining Agent proposes that additional compensation be provided to employees who attend courses at the Canadian Coast Guard College in Sydney, Nova Scotia.

(72) Because the college is isolated the Bargaining Agent proposes that employees required to remain at the college over a complete weekend be compensated in an amount equal to three hours pay, in accordance with Note 6 of Appendix B of the old collective agreement.

**(73) The Arbitration Board determines that article 43 shall be renewed without change.**

Article 61 - No Discrimination

(74) The Bargaining Agent proposes the addition of a new article dealing with discrimination and sexual harassment.

**(75) The Arbitration Board determines that the changes proposed by the Bargaining Agent, except for the last sentence of the proposed clause 61.04 shall be incorporated into the new collective agreement.**

Memorandum of Understanding - Leave for Union Business

(76) The Employer proposes changes to clause 15.09 of the Memorandum of Understanding between the parties dealing with leave for union business.

**(77) The Arbitration Board determines that clause 15.09 of the Memorandum of Understanding dealing with leave for union business shall be renewed without change.**

Rates of Pay and Duration

**(78) The Arbitration Board determines that the duration of the new collective agreement shall be from September 1, 2010 until August 31, 2014.**

**(79) The Arbitration Board further determines that the economic increases for the EL group during the life of the agreement shall be:**

- (a) Effective September 1, 2010 : 1.5%**
- (b) Effective September 1, 2011 : 1.5%**
- (c) Effective September 1, 2012 : 1.5%**
- (d) Effective September 1, 2013 : 1.5%**

**Given the Arbitration Board's determination in paragraph 42 of this award, the effective economic increases for the EL group will be 1.75% on September 1, 2011 and 2% on September 1, 2013.**

**(80) All changes made by this award to the EL collective agreement, other than the economic increases determined in paragraph 79 above, shall come into effect on the date of the award.**

**(81) The Arbitration Board shall remain seized of this matter for a period of two weeks from the date of this award in the event the parties encounter difficulties in its implementation. In such case, the Arbitration Board shall be advised forthwith of the difficulty and shall deal with the matter as expeditiously as possible.**

**Yvon Tarte,  
for the Arbitration Board**

**Ottawa July 25, 2012.**