FILE: 585-02-46

PUBLIC SERVICE LABOUR RELATIONS BOARD
BEFORE AN ARBITRATION BOARD

BETWEEN:

TREASURY BOARD OF CANADA

(the "Employer")

AND:

THE FEDERAL GOVERNMENT DOCKYARD TRADES AND LABOUR COUNCIL EAST

(the "Bargaining Agent")

(Ship Repair – East Group)

BOARD:	Vincent L. Ready Chairperson
	Jock Climie Member
	Howard Goldblatt Member
FOR THE EMPLOYER:	John Park and Maryse Bernier
FOR THE BARGAINING AGENT:	Ron Pink, Q.C. and Jillian Houlihan
HEARING:	May 16, 2013 Halifax, Nova Scotia
DECISION:	September 18, 2013

BACKGROUND

(1) This arbitration board was established under Section 148 of the *Public Service Labour Relations Act* to settle a Collective Agreement between the parties.

(2) A hearing was convened at Halifax, Nova Scotia on May 16, 2013, during which we heard extensive and well thought out briefs from both parties.

(3) The bargaining unit involved is known as the Ship Repair-East Group (SR-E), and is employed by the Department of National Defence at Fleet Maintenance Facility (FMF) Cape Scott in Halifax, Nova Scotia and the Canadian Forces Ammunitions Depot (CFAD) in Bedford, Nova Scotia.

(4) The FMF Cape Scott has been described as "…unique in Canada and they are the most modern ship repair facility in Canada. They operate at the highest level of modern technology and perform a role entirely different than any private sector shipyard in Canada" (see *Fed. Gov't. Dockyard Chargehands Assoc. and Treasury Board*, unreported, September 12, 1991 (Korngold Wexler)).

(5) Characteristics of the bargaining unit, as of June 20, 2011, include:

Number of Employees:	762
Average Salary:	$63,257
Payroll:	$48,202,005
Average Age:	43.5
Average Years of Service:	12.1 years

(6) SR-E Group members, working in a variety of trade classifications, are involved in the repair, modification and refitting of warships and other Naval vessels, as well as weapons systems and other related equipment.

BARGAINING HISTORY/ARBITRATION REFERRAL

(7) The current round of bargaining is effectively summarized in the Employer's submission as follows:

- The current round of negotiations was initiated October 6, 2011, when the Federal Government Dockyard Trades and Labour Council (East) filed notice to bargain.
- The collective agreement expired on December 31, 2011.
- Exploratory discussions took place from September 26 to September 30, 2011.
- The parties exchanged proposals on November 7, 2011.
- Bargaining sessions were conducted from November 7-9, 2011; and on January 10-11, 2012.
- While the negotiations sessions were productive and resulted in agreement on several issues, agreement on the outstanding pay issues was not possible.
- Consequently, on July 16, 2012, The Federal Government Dockyard Trades and Labour Council (East) filed a request for the establishment of an Arbitration Board.

GOVERNING PRINCIPLES

(8) In making its decision, this board is governed by Section 148 of the *Public Sector Labour Relations Act* (*PSLRA*):

> Factors to be considered
>
> *148. in the conduct of its proceedings and in making an arbitral award, the arbitration board must take into account the following factors, in addition to any other factors that it considers relevant:*
>
> (a) *the necessity of attracting competent persons to, and retaining them in, the public service in order to meet the needs of Canadians;*
>
> (b) *the necessity of offering compensation and other terms and conditions of employment in the public service that are comparable to those of employees in similar occupations in the private and public sectors, including*

any geographic, industrial or other variations that the arbitration board considers relevant;

(c) *the need to maintain appropriate relationships with respect to compensation and other terms and conditions of employment as between different classification levels within an occupation and as between occupations in the public service;*

(d) *the need to establish compensation and other terms and conditions of employment that are fair and reasonable in relation to the qualifications required, the work performed, the responsibility assumed and the nature of the services rendered; and*

(e) *the state of the Canadian economy and the Government of Canada's fiscal circumstances.*

REPLICATION

(9) In addition to the *PSLRA*, we must also consider the well-established arbitral principle of replication.

(10) Stated simply it is the task of an interest arbitrator to attempt, to the extent possible, to divine a collective agreement, that if left to their own devices, the parties themselves would have negotiated in the circumstances.

(11) The replication principle is further articulated in *Halifax (Regional Municipality) and I.A.F.F., Local 268 (*1998), 71 L.A.C. (4th) 129, wherein Arbitrator Kuttner states that:

> *…An interest arbitration board's impression of what the parties might have eventually settled for, must of necessity depend in large part on the evidence presented in the hearing. With respect to that evidence, the Board must take into account not only the "power" position of the parties and attempt to determine who might prevail if a [sic] unrestricted economic was permitted, but must be guided in large part by the "reasonableness" of the respective positions of the parties. Reasonableness is to be determined in the overall context*

and economic climate that prevails at the time the dispute is determined.

THE "PATTERN"

(12) At this point we pause to observe that the Treasury Board, through direct negotiations, Public Interest Commission or interest arbitration, has established what has been and will be referred to hereafter as the "pattern".

(13) The pattern is best described as consisting of:

- a general wage increase;
- the cessation of severance pay upon voluntary resignation or retirement of employees in return for an additional wage increase in the first and third year;
- incremental increases in certain classifications where circumstances warrant, and;
- items negotiated directly between the parties.

ISSUES IN DISPUTE

(14) Without getting into the specifics of individual demands, the parties propose various changes to the following Collective Agreement provisions:

- Rates of Pay
- Article 2 – Definitions
- Article 10 – Vacation Leave with Pay
- Article 12 – Sick Leave with Pay
- Article 13 – Other Types of Leave with or Without Pay
- Article 14 – Severance Pay
- Article 15 – Hours of Work and Overtime
- Article 17 – Travelling

- Article 23 – Allowances
- Article 34 – Duration and Renewal
- Appendix A, Pay Notes C

(15) For its part the Union points to three central areas of dispute that it argues are extremely important:

- a wage increase over and above pattern;
- rolling the Self-Directed Team Differential into the wage rate;
- increases to vacation leave entitlements.

(16) The Union also contends that there is no justification to grant any of the concessionary proposals sought by the Employer.

(17) The Employer, on the other hand, strongly asserts that:

- there is no justification for any wage rate increase beyond "pattern";
- severance upon voluntary resignation or retirement should be eliminated;
- the self-directed team differential should be eliminated, and
- certain other changes should be made to Articles 17 (Travelling Time), and 23 (Allowances).

AWARD

(18) This Board has dealt with outstanding issues within the statutory requirement set out in Section 148 of the *PSLRA*.

PATTERN & SEVERANCE

(19) Having taken into consideration the positions of the parties, and most noticeably the facts that freely negotiated "pattern" settlements were achieved

with fourteen groups in the Core Public Administration during 2011 and 2012, and that five arbitral awards between Treasury Board and various other Groups awarding the pattern were rendered in 2012, this board is satisfied that justification for wage increases of 1.5% per year are well-established. Therefore, the award of the board is as follows:

Effective January 1, 2012	1.5%
Effective January 1, 2013	1.5%
Effective January 1, 2014	1.5%

(20) The pattern of additional increases of an extra 0.25% in year one, and an additional 0.50% in year three, to compensate for the termination of further accumulation of severance payment for voluntary resignation and retirement, is similarly grounded in prior agreements and is so awarded, and indeed was recognized by the parties at hearing, resulting in agreed changes to the severance language set out in Appendix 1 attached to this award.

ADDITIONAL WAGE INCREASE

(21) Turning to the Union's demand for an additional wage increase beyond "pattern", we review each statutory factor below:

Attracting Competent Persons

(22) We are not convinced that the Union has established the existence of a significant problem with recruitment/retention.

(23) The strongest argument the Union can muster in this regard is that more than half of the bargaining unit have less than ten years' experience; a statistic of questionable direct relevance or significant import, and which pales in comparison to the Employer evidence indicating an abundance of applicants, and that external hiring is down.

Comparable to Employees in Private/Public Sectors

(24) The external comparators cited by the Employer (Kiewit, Verrault, Davie, etc.) are less than apt, and we find ourselves in agreement with the Union's description of those Employers as "small, unsophisticated, disparate shipbuilding facilities in Quebec and Newfoundland".

(25) Of more relevance is the historic entry level wage advantage of Ship Repair–East over Halifax Shipyard; a local wage comparator of longstanding, noted by Arbitrator Norman in 2005 in *Federal Government Dockyard Trades and Labour Council East and Treasury Board*, (unreported), and that stands to be upset by higher wage rates flowing from the recent Federal Government ship-building commitments to Halifax, if Ship Repair–East was held to the pattern increase only.

Relationships Between Classification Levels

(26) The principal internal relationship to be considered here is that between the Ship Repair–East bargaining unit, and the Chargehands. Historically belonging to the same unit, the wage differential with the Chargehands stood at approximately 20% from 1980 to 1991, but has increased to approximately 30% in the last decade.

(27) Of further note is the Federal Public Service wage differential between employees and their first level Supervisors is approximately 18%.

(28) Arbitrator Norman in *Federal Government Dockyard Trades, supra,* acknowledged the Council/Chargehands' relationship, and awarded a "structural equity adjustment" over and above pattern for that very reason:

> On top of these economic increases, the right thing for this board to do is to acknowledge the power of the internal equity comparison between the Council membership and the Chargehands by positing a 4.85% structural equity adjustment.

(29) Similarly, this board considers it important from an internal equity perspective to ensure this differential does not get out of hand.

(30) The Employer belatedly makes much of the West Coast comparator, but I find that geographical distance combined with differences in organizational, classification and compensation structures make a reliable East/West comparison problematic.

Fair and Reasonable re Qualifications, Work Performed, Responsibility Assumed, Nature of Services Rendered

(31) There can be little reasonable argument against the high level nature of the work performed by the members of this bargaining unit.

(32) The Employer quotes only from the Ship Repair–East Occupational Group Definitions when discussing the work of the bargaining unit, but such bare-bones review does not do justice to the complexity and sophistication of the work performed at SR-E, and which sets it apart from that done at other private Eastern shipyards.

(33) The extensive internal training on warships and associated weaponry, the mobile response teams operating independently, and often undercover, throughout the world, and the overall responsibility for the readiness of the Canadian fleet, all serve to justify the Union conclusion that workers at private shipyards cannot readily or effectively transfer to FMF Cape Scott and that SR-E members are “more skilled, better trained, and fundamentally more important to the defense of Canada than any ship repair workers in private industry.”

(34) The Employer also seeks to undermine the importance of Section 148 d) of the *PSLRA* by subsuming it within factors b) and c). That is not an interpretation of Section 148 apparent on the face of the statute, and we consider factor d) independent from, and equal in importance to, the other four factors.

State of Canadian Economy

(35) It is on this factor that the Employer focuses the majority of its evidence and argument, contending that the settlements reached with pattern increases only, are the most representative and appropriate indicator of the "state of the Canadian economy and the Government of Canada's fiscal circumstances", and establish the type of monetary settlements that should flow therefrom.

(36) The Employer augments this primary argument by attempting to incorporate its own Compensation Policy Framework, and the notion of "Individual Group Performance" (IGP), into the 148 e) analysis.

(37) As with the Employer's attempt to modify the 148 d) analysis (see above), a plain reading of 148 e) provides little or no support for the inclusion of the Employer's IGP methodology within a state of the economy/fiscal circumstances discussion.

CONCLUSION RE: ADDITIONAL WAGE INCREASE

(38) A collective consideration of all the factors in Section 148, undertaken with equal relative weight given to all factors, results in this board's finding that the SR-E bargaining unit is to be awarded an additional 2.0% increase effective January 1, 2012, 1.5% January 1, 2013, and 1.5% January 1, 2014.

(39) That determination falls between the pattern only increase proposed by the Employer and the pattern plus 5%/year proposed by the Union, and

primarily results from Section 148 factors b), c) and d) being supportive of the Union position, and factors a) and e) supporting the position of the Employer.

(40) It is so awarded.

(41) Our conclusion on this point is further confirmed by again considering replication. Noting other settlements beyond pattern including the Economics and Social Science Services, and the Research Groups, this board is hard pressed to conceive of a freely bargained, real life scenario that would result in a pattern only settlement to a bargaining unit with so many factors (skilled nature of the work, Federal Government monetary commitment to the ship building industry, Chargehands' differential, etc.) operating in its favour.

SELF-DIRECTED TEAM DIFFERENTIAL

(42) The Self-Directed Team Differential (SDTD) is an 11% premium over the regular wage rate, introduced in the late 1990's, and designed to compensate the Trades levels for taking more overall responsibility, within a team construct, for work performed, thereby reducing the need for supervisory/Chargehand coordination of daily tasks.

(43) The Employer contends that despite the original organizational intent, pre-SDTD supervisory positions and levels have been reintroduced, and the Employer is currently paying the SDTD premium without the corresponding benefit of an empowered work force.

(44) The Employer's argument regarding the lack of an intended benefit accruing to the Employer seems compelling on its face, but stands in stark contrast to the positive assessment of self-directed teams issued just four years ago in the "Program Evaluation of Self-Directed Teams" report, requested by the Commanding Officer of Fleet Maintenance Facility, Cape Scott:

> *At FMF CS the findings from this review indicate that there is a greater degree of cooperation between the teams and increased productivity as a result of the efforts of multi-functional teams since the Self-Directed Team concept was introduced.*

(45) When you add to the above the fact that the Employer has never, over the approximate 15 years of the MOU's existence, provided notice of an intention to delete the differential, and that the Employer currently treats the premium as a *de facto* component of the wage structure by including it within pension and other calculations, it makes little theoretical or practical sense to delete the differential now.

(46) Further, to do so would be antithetical to both effective labour relations between the parties going forward, and also to the principal of replication in that we find it most unlikely the Employer could divest itself, in free collective bargaining, of a differential the bargaining unit relies on, and decidedly intends to retain.

(47) The SDTD is to be rolled into the wage rate on date of implementation of this award. It is so awarded.

OTHER PROPOSALS

(48) Beyond the compensation issues dealt with above, and those issues withdrawn, and/or otherwise resolved between the parties, there remain four outstanding matters – the Council's proposal on Article 10 (Vacation Leave), and the Employer's proposals regarding Article 13 (Other Types of Leave with or Without Pay), Article 17 (Travelling Time) and Article 23 (Allowances – Dirty Work/Height Pay).

(49) Given the amount of relative time, effort and evidentiary input on compensation issues, as compared to Articles 10, 13, 17 and 23, the parties have effectively self-selected the matters of import, and we find it improbable

that these matters would have remained on the table if the parties, left to their own devices, reached agreement on compensation in free collective bargaining.

(50) Accordingly, this board rejects the parties' respective proposals regarding these outstanding matters, and maintains the current language status quo on Articles 10, 13, 17 and 23.

IMPLEMENTATION

(51) Implementation, as agreed between the parties, is effective 100 days following issuance of this award.

(52) As indicated at paragraph 18 above, this report is issued pursuant to Section 148 of the *Act*. During the board's deliberations Mr. Climie advised the majority of his intention to issue a dissent. Mr. Goldblatt submitted a concurring view which will follow Mr. Climie's dissent. Both of these, for convenience, are set out below.

> "Having reviewed the award issued by the Chair of the Arbitration Board, I must register my dissent. The Board is required to render a decision that is faithful to the factors set out in s.148 of the *Public Service Labour Relations Act*. This provision states the following:
>
> *Factors to be considered*
>
> ***148.*** *In the conduct of its proceedings and in making an arbitral award, the arbitration board must take into account the following factors, in addition to any other factors that it considers relevant:*
>
> (a) *the necessity of attracting competent persons to, and retaining them in, the public service in order to meet the needs of Canadians;*
>
> (b) *the necessity of offering compensation and other terms and conditions of employment in the public service that are comparable to those of employees in similar occupations in the private and public sectors, including any geographic, industrial or other variations that the arbitration board considers relevant;*

> (c) *the need to maintain appropriate relationships with respect to compensation and other terms and conditions of employment as between different classification levels within an occupation and as between occupations in the public service;*
>
> (d) *the need to establish compensation and other terms and conditions of employment that are fair and reasonable in relation to the qualifications required, the work performed, the responsibility assumed and the nature of the services rendered; and*
>
> (e) *the state of the Canadian economy and the Government of Canada's fiscal circumstances.*

These factors are mandatory and any decision rendered by the Board cannot depart from these elements. In my respectful opinion, the majority of the Board has exceeded its statutory authority and failed to abide by the factors set out above.

(a) *the necessity of attracting competent persons to, and retaining them in, the public service in order to meet the needs of Canadians;*

> The Chair recognized that there are no recruitment and retention challenges faced by this employer. While all factors under s.148 have been recognized to have equal importance, there can be no question that issues with recruitment/retention are often a symptom that one or more of the other factors are off kilter. The fact that this employer does not have any trouble recruiting or retaining its employees is evidence that it does not underpay its employees relative to any relevant comparator groups and that the pay for work performed is fair.

(b) *the necessity of offering compensation and other terms and conditions of employment in the public service that are comparable to those of employees in similar occupations in the private and public sectors, including any geographic, industrial or other variations that the arbitration board considers relevant;*

> The Chair rejected all of the private sector comparators presented by the employer.
>
> He similarly refused to consider the most relevant and compelling comparator; *viz.*, the Ship Repair West bargaining

unit. The evidence was clear that this group is, for all intents and purposes, identical to the Ship Repair East bargaining unit. In particular, these two bargaining units are almost the same size, they perform exactly the same work, on the same ships for the same employer. The employer's uncontradicted evidence was that since 2007 the East has been markedly ahead of the West. The West just reached a voluntary agreement with the employer that maintains the East's relative wage advantage. The most compelling piece of evidence to support the principle of replication was the fact that Ship Repair West just voluntarily accepted a wage package that would keep them behind the East from a wages standpoint. By awarding the Ship Repair East group 10.25% over three years, the majority of the Board has considerably widened the wage gap with the most relevant comparator that exists for this bargaining unit. This is being done without any evidence (or even argument) that the East needs or merits higher wages than the West.

Despite the presence of a viable comparator, the majority has elected to rely almost entirely on the Irving Shipyards as the justification for the increase being awarded. In particular, is the fact there was evidence that the bargaining unit for this employer recently received a significant increase in its last round of bargaining. The Union argued, and the Chair accepted, that the Ship Repair East bargaining unit should be able to maintain the large wage advantage it has historically enjoyed over this bargaining unit. However, the evidence demonstrated that the wage gap has gone through numerous fluctuations which is hardly surprising given this is a private company whose economic realities are going to be different from the federal government's. In addition, the most recent wage increase for Irving Shipyards came directly as a result of their having been awarded a $25 billion federal contract. To rely on the increase obtained by the Halifax Shipyard to justify the type of significant increase being awarded by the Chair is wholly unreasonable.

The majority has also referenced the gap between the Ship Repair East bargaining unit and the Chargehands (the Ship Repairs' supervisors). The Chair relies on the wage differential between these two bargaining units to support the increase he is awarding. In fact, the evidence clearly demonstrates that the historical wage gap supports the offer made by the employer. In 2001, the gap was 35%. The gap then fluctuated between 37% and 27% in every year except 2007 when it was at 20% for

one year only. The employer's proposal would have put the gap at 29%. This is almost exactly the historical average over the last 12 years. The Chargehand/Ship Repair East wage gap does not support the wages awarded by the majority of the Board.

(c) *the need to maintain appropriate relationships with respect to compensation and other terms and conditions of employment as between different classification levels within an occupation and as between occupations in the public service;*

Literally hundreds of thousands of other public servants have voluntarily agreed (or been awarded through arbitration) the "pattern" increases which have been eschewed by the majority of this Board. Despite the fact that the vast majority of public servants received "pattern" only (with a few select bargaining units receiving modest adjustments based on evidence demonstrating an adjustment was needed), the majority of this Board has made a monetary award that is simply unprecedented in this round of federal service bargaining (with perhaps the sole exception being the LA group where there was significant evidence that the wage adjustment agreed to during bargaining was warranted).

(d) *the need to establish compensation and other terms and conditions of employment that are fair and reasonable in relation to the qualifications required, the work performed, the responsibility assumed and the nature of the services rendered;*

The Ship Repair bargaining unit has been in existence for decades. There was no evidence they are performing different work than they have historically performed. There was no evidence that the wages that have historically been provided for the nature of the work they perform is inadequate. The fact that there are no recruitment and retention problems further substantiates this point. There is simply no evidence that the increase being awarded by the majority is justified under this factor.

(e) *the state of the Canadian economy and the Government of Canada's fiscal circumstances.*

The evidence was overwhelming that the state of the Canadian economy militates in favour of restraint from a wages

> perspective. This factor has been improperly ignored by the majority.
>
> In summary, it is my view that the wage increase of 10.25% over three years (which is 5% more than the employer's offer) cannot be justified under s.148. This is particularly so when you consider the majority has also rolled in the SDTD allowance. This was of significant benefit to the bargaining unit. However, the majority felt it necessary to also grant a sizeable wage increase. The majority's principle justification for doing so was the increase recently received by the Irving Shipyard bargaining unit. The majority placed undue reliance on this comparator and completely discounted or ignored all the other factors that form part of the statutory framework which we, as a Board, are bound by."

(53) As indicated earlier, Mr. Goldblatt's comments are included below:

> "In my view, the Chair has properly analyzed and applied the relevant statutory criteria as required by Section 148 of the Public Service Labour Relations Act. I agree, accordingly, with his conclusion that an increase above the "pattern" is necessary and justified objectively and having regard to those criteria. However, and with respect to the Chair, while I would have been inclined to award an increase above the "pattern" that is closer to that requested by the Union in its submissions, I accept the conclusion that he has reached."

(54) We retain jurisdiction to deal with any implementation matters arising from this award.

(55) All of which is respectfully submitted this 18th day of September, 2013.

Vincent L. Ready
Chairperson

APPENDIX 1

Effective the date of the arbitral award, clauses 14.03 and 14.04 are deleted from the Collective Agreement.

14.01 For the purpose of this Article, the terms:

(a) **"Employer"** includes any organization, service with which is included in the calculation of "continuous employment";

"weekly rate of pay" means the employee's hourly rate of pay as set out in Appendix "A" multiplied by forty (40) applying to the employee's classification, as shown in the instrument of appointment.

14.02 Lay-Off

Under the following circumstances and subject to clause 14.08, ~~A~~ an employee with one (1) or more years of continuous employment who is laid off after 7 April 1971, shall be paid severance pay based on completed years of continuous employment, less any period within the period of continuous employment in respect of which the employee was granted a termination of employment benefit paid by the Employer. It shall be calculated at the rate of:

(a) On the first (1st) lay-off ~~two (2) weeks' pay~~ for the first (1st) year of continuous employment, two (2) weeks' pay, or three (3) weeks' pay for employees with ten (10) or more and less than twenty (20) years of continuous employment, or four (4) weeks' pay for employees with twenty (20) or more years of continuous employment, plus ~~and~~ one (1) week's pay for each succeeding completed year of continuous employment, ~~on the first lay off~~ and ~~one (1) week's pay for each completed year of continuous employment on a subsequent lay off~~ in the case of a partial year of continuous employment, one (1) week's pay multiplied by the number of days of continuous employment divided by three hundred and sixty-five (365).

(b) On the second (2nd) or subsequent lay-off, one (1) week's pay for each complete year of continuous employment and, in the case of a partial year of continuous employment, one (1) week's pay multiplied by the number of days of continuous employment divided by three hundred and sixty-five (365), less any period in respect of which the employee was granted severance pay under subclause 14.02 (a).

14.03 Resignation

An employee who has ten (10) or more years of continuous employment on resignation shall be paid severance pay calculated by multiplying half the employee's weekly rate of pay on resignation by the number of completed years of continuous employment to a maximum of twenty-six (26) years, less any period within that period of continuous employment in respect of which the employee was granted a termination of employment benefit paid by the Employer.

14.04 Retirement

An employee who is entitled to an immediate annuity or an immediate annual allowance under the *Public Service Superannuation Act*, or who has five (5) years of continuous employment and who has attained the age of fifty-five (55) years and has resigned, shall be paid severance pay calculated by multiplying the employee's weekly rate of pay on termination of employment by the number of completed years of continuous employment to a maximum of thirty (30) years, less any period within that period of continuous employment in respect of which the employee was granted a termination of employment benefit paid by the Employer. In the case of a partial year of continuous employment, one (1) week's pay multiplied by the number of days of continuous employment divided by 365.

14.05 Death

If an employee dies, there shall be paid to the employee's estate a severance payment in respect of the employee's complete period of continuous employment, comprised of one (1) week's pay for each complete year of continuous employment and, in the case of a partial year of continuous employment, one (1) week's pay multiplied by the number of days of continuous employment divided by 365, to a maximum of thirty (30) weeks' pay, regardless of any other benefit payable.

14.06 Termination for Cause for Reasons of Incapacity

When an employee ceases to be employed by reason of termination for cause for reason of incapacity pursuant to Section 12(1)(e) of the *Financial Administration Act*, one week's pay for each complete year of continuous employment with a maximum benefit of twenty-eight (28) weeks.

14.07 Rejection on Probation

An employee with two (2) or more years of continuous employment who ceases to be employed for reasons of rejection during the employee's probationary

period immediately following a second or subsequent appointment shall be paid severance pay calculated by multiplying the employee's weekly rate of pay on rejection during probation by the number of completed years of continuous employment to a maximum of twenty-seven (27) years less any period within that period of continuous employment in respect of which the employee was granted a termination of employment benefit paid by the Employer.

14.08 Continuous Employment

The period of continuous employment used in the calculation of severance benefits payable to an employee under this Article shall be reduced by any period of continuous employment in respect of which the employee was already granted any type of termination benefit. Under no circumstances shall the maximum severance pay provided under this Article by pyramided.

For greater certainty, payments made pursuant to 14.10 to 14.13 or similar provisions in other collective agreements shall be considered as a termination benefit for the administration of 14.08.

14.09 Appointment to a Separate Agency

An employee who resigns to accept an appointment with an organization listed in Schedule V of the *Financial Administration Act* shall be paid all severance payments resulting from the application of 14.03 prior to the date of the arbitral award, or 14.10-14.13 commencing on the date of the arbitral award.

14.10 Severance Termination

(a) Subject to 14.08 above, indeterminate employees on the date of the arbitral award shall be entitled to a severance termination benefits equal to one (1) week's pay for each complete year of continuous employment and, in the case of a partial year of continuous employment, one (1) week's pay multiplied by the number of days of continuous employment divided by three hundred and sixty-five (365), to a maximum of thirty (30) weeks.

(b) Subject to 14.08 above, term employees on the date of the arbitral award shall be entitled to severance termination benefits equal to one (1) week's pay for each complete year of continuous employment, to a maximum of thirty (30) weeks.

Terms of Payment

14.11 Options

The amount to which an employee is entitled shall be paid, at the employee's discretion, either:

(a) as a single payment at the rate of pay of the employee's substantive position as of the date of the arbitral award, or

(b) as a single payment at the time of the employee's termination of employment from the core public administration, based on the rate of pay of the employee's substantive position at the date of termination of employment from the core public administration, or

(c) as a combination of (a) and (b), pursuant to 14.12 (c).

14.12 Selection of Option

(a) The Employer will advise the employee of his or her years of continuous employment no later than three (3) months following the date of signing of the arbitral award.

(b) The employee shall advise the Employer of the term of payment option selected within six (6) months from the date of the arbitral award.

(c) The employee who opts for the option described in 14.11 (c) must specify the number of complete weeks to be paid out pursuant to 14.11 (a) and the remainder shall be paid out pursuant to 14.11 (b).

(d) An employee who does not make a selection under 14.12 (b) will be deemed to have chosen option 14.11 (b).

14.13 Appointment from a Different Bargaining Unit

This clause applies in a situation where an employee is appointed into a position in the SR-E bargaining unit from a position outside the SR-E bargaining unit where, at the date of appointment, provisions similar to those in 14.03 and 14.04 are still in force, unless the appointment is only on an acting basis.

(a) Subject to 14.08 above, on the date an indeterminate employee becomes subject to this Agreement after the date of the arbitral award, he or she shall be entitled to severance termination benefits equal to one (1) week's pay for each complete year of continuous employment and, in the case of a partial year of continuous employment, one (1) week's pay multiplied by the number of days of continuous employment divided by three hundred and sixty-five (365), to a maximum of thirty (30) weeks, based on the employee's rate of pay of his substantive position on the day preceding the appointment.

(b) Subject to 14.08 above, on the date a term employee becomes subject to this Agreement after the date of the arbitral award, he or she shall be entitled to severance termination benefits equal to one (1) week's pay for each complete year of continuous employment, to a maximum of thirty (30) weeks, based on the employee's rate of pay of his substantive position on the day preceding the appointment.

(c) An employee entitled to severance termination benefits under paragraph (a) or (b) shall have the same choice of options outlined in 14.11, however the selection of which option must be made within three (3) months of being appointed to the bargaining unit.

(d) An employee who does not make a selection under 14.13 (c) will be deemed to have chosen option 14.11 (b).