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145-11-210

Citation: 2001 PSSRB 6



Public Service Staff  
Relations Act

Before the Public Service  
Staff Relations Board

BETWEEN

**PUBLIC SERVICE ALLIANCE OF CANADA**

Applicant

and

**CANADIAN INSTITUTES OF HEALTH RESEARCH**

Respondent

**RE: Application for Review under section 27  
of the Public Service Staff Relations Act**

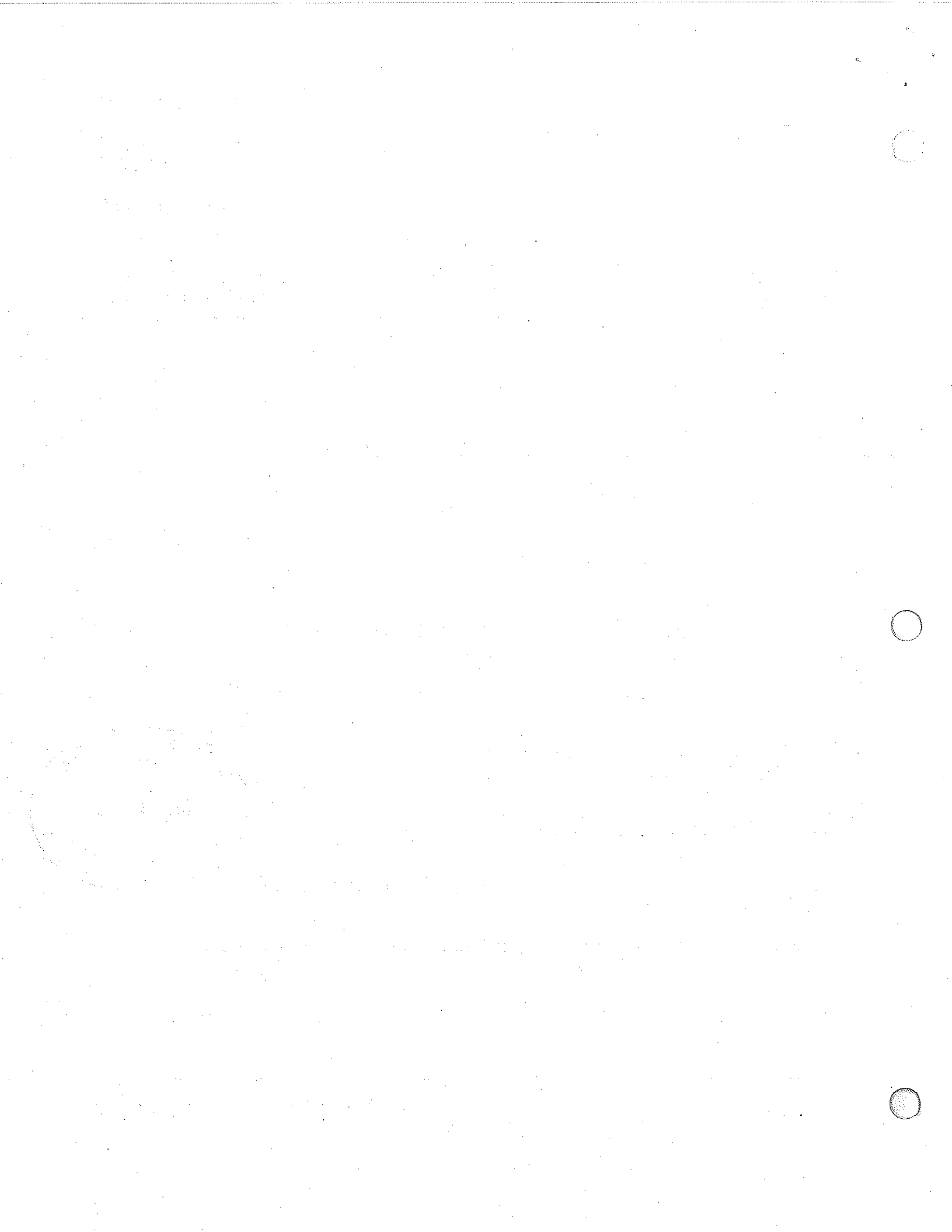
**Before: Yvon Tarte, Chairperson**

**For the Applicant: Alain Piché, Public Service Alliance of Canada**

**For the Respondent: Gloria A. Tatone Blaker, Canadian Institutes of Health  
Research**



(Decided without an oral hearing)



## DECISION

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[1] This is an application under s. 27 of the *Public Service Staff Relations Act* (PSSRA) by which the Public Service Alliance of Canada (PSAC) requests the Board to amend its decision of October 12, 1983 (Board file 145-11-210) by deleting the Medical Research Council, as employer, and substituting therefor the Canadian Institutes of Health Research (CIHR).

[2] By its decision of October 12, 1983 the Board certified the PSAC as the bargaining agent for all employees of the employer, the Medical Research Council, in the Administrative Support Category.

[3] In accordance with section 3 of the *Canadian Institutes of Health Research Act*, S.C. 1999-2000 c. 6, (CIHRA), the CIHR was created on June 7, 2000 as a separate employer under Part II of Schedule I of the PSSRA.

[4] Subsections 36(1), (2) and (3) of the CIHRA provide as follows:

*36. (1) Every person employed by the Medical Research Council who is appointed for an indeterminate period is deemed to have received an offer of employment from the CIHR.*

*(2) An employee who does not notify the CIHR in writing within 30 days after the day subsection (1) comes into force that the employee refuses the offer from the CIHR is deemed to have accepted it.*

*(3) An employee who accepts or is deemed to have accepted an offer begins their employment with the CIHR, and has their employment with the Medical Research Council terminated, on the day agreed to by the Medical Research Council and the CIHR but, in any event, no later than the day on which section 51 comes into force.*

Also, subsection 38(1) of the CIHRA states:

*38. (1) Any collective agreement or arbitral award that, after this subsection comes into force and before section 51 comes into force, applies to an employee of the Medical Research Council who becomes an employee of the CIHR continues to apply with respect to that employee with the CIHR as the separate employer for the purposes of the agreement or award until its term expires.*

[5] All sections of the CIHRA, with the exception of sections 40, 41, 43, 45, 47, 49 and 51 came into force on June 7, 2000 (SI/2000-46).

[6] In its application, the PSAC indicated that, pursuant to section 36 of the CIHRA, the employees in question ceased to be employees of the Medical Research Council and commenced their employment with the CIHR on October 25, 2000.

[7] In response to the application, the CIHR stated that it was taking no position with respect to the application, other than that set out in the Memorandum of Agreement entered into by the parties on October 25, 2000 and entitled *Joint Submission to the Public Service Staff Relations Board*, which the PSAC submitted in support of its application. In that Memorandum the parties confirmed that the statutory responsibilities of the Medical Research Council were being transferred to the CIHR. Also, in that Memorandum the parties agreed as follows:

...

1. *A certificate be issued by the Public Service Staff Relations Board determining that a bargaining unit for the Canadian Institutes of Health Research as follows:*

*"All employees of the Employer in the Administrative Support Category"*

2. *The Public Service Alliance of Canada be certified as the Bargaining Agent for the employees of the Canadian Institutes of Health Research in the bargaining unit determined in paragraph 1.*
3. *In addition to those employees referred to in section 38, or section 39, of the Canadian Institutes of Health Research Act, S.C. 2000, c.6, the collective agreement reached August 4, 2000 shall apply to all employees after section 51 of the Canadian Institutes of Health Research Act, S.C. 2000, c.6 comes into force, and shall remain in force for the duration of that collective agreement.*

...

[8] On the basis of all the above the Board is satisfied that the CIHR has replaced the Medical Research Council as the employer of the employees in the Administrative Support Category.

[9] Accordingly, the Board's decision of October 12, 1983 (Board file 145-11-210) is hereby amended by deleting therefrom the name of the Medical Research Council, as employer, and substituting therefor the name of the Canadian Institutes of Health Research. An amended certificate will issue.

**Yvon Tarte  
Chairperson**

Ottawa, January 24, 2001

