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*Federal Public Sector  
Labour Relations and  
Employment Board Act and  
Federal Public Sector  
Labour Relations Act*



Before a panel of the  
Federal Public Sector  
Labour Relations and  
Employment Board

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BETWEEN

**CANADIAN MERCHANT SERVICE GUILD**

Applicant

and

**TREASURY BOARD**

Respondent

Indexed as

*Canadian Merchant Service Guild v. Treasury Board*

In the matter of an application, under section 58 of the *Federal Public Sector Labour Relations Act*, for a determination of membership of an employee or a class of employees in a bargaining unit

**Before:** Marie-Claire Perrault, a panel of the Federal Public Sector Labour Relations and Employment Board

**For the Applicant:** Zulema Carranza Sanabria, Canadian Merchant Service Guild

**For the Respondent:** Toni Vincelli Mosley and Sean Kelly, counsel  
Treasury Board Secretariat

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Decided on the basis of written submissions,  
filed February 25, March 12, April 1 and 2, 2019.

## I Application before the Board

[1] On February 25, 2019, the Canadian Merchant Service Guild (CMSG) filed an application under s. 58 of the *Federal Public Sector Labour Relations Act* (S.C. 2003, c. 22, s. 2; “the Act”) for a determination of questions of membership in a bargaining unit. The application covers employees, other than those who are appointed to rank or reservists, employed at the Royal Canadian Mounted Police (RCMP), working as Marine Engineers aboard RCMP patrol vessels on the West Coast of Canada. They are part of the Marine (SPS-MA) occupational group within the RCMP. The CMSG applied to have them included in the “Ships’ Officers Group” bargaining unit.

[2] As the RCMP is listed in Schedule IV to the *Financial Administration Act* (R.S.C., 1985, c. F-11), the Treasury Board is the employer within the meaning of the Act. The employees covered by this application are currently unrepresented. Historically, they were excluded from collective bargaining; however, as a result of the Supreme Court of Canada’s decision in *Mounted Police Association of Ontario v. Canada (Attorney General)*, 2015 SCC 1, the definition of “employee” in the Act has changed, and this group of employees has the right to bargain collectively.

[3] The matter was heard by way of written submissions filed by the parties.

## II Background

[4] The CMSG is the certified bargaining agent of the bargaining unit composed of: “All employees of the Employer in the Ships’ Officers Group as defined in Part I of the *Canada Gazette* of March 27, 1999” (“the bargaining unit”).

[5] The Ships’ Officers work with the Canadian Coast Guard and aboard Department of National Defence vessels in a non-combat role. The employees covered by this application work as marine engineers aboard RCMP patrol vessels. The CMSG submits that they perform the same duties as the members of the Ships’ Officers Group.

[6] The group definition for the Ships’ Officers Group (SO) reads as follows:

### ***Ships’ Officers (SO) Group Definition***

*Pursuant to section 101 of the Public Service Reform Act, the Treasury Board of Canada hereby provides notice that the following definition shall apply to the Ships’ Officers Group effective March 18, 1999.*

The Ships' Officers Group comprises positions that are primarily involved in the on-board command and control of the operation of civilian vessels requiring a certificate of competency; the operation of floating plants; the operation and maintenance of radio equipment installed on vessels engaged in marine operations; and the instruction of Nautical Sciences and Marine Engineering at the Canadian Coast Guard College.

### **Inclusions**

Notwithstanding the generality of the foregoing, for greater certainty, it includes positions that have, as their primary purpose, responsibility for one or more of the following activities:

1. the on-board command and control of the deck, engine room, electronic or electrical, radio or supply operations on board civilian vessels, floating plants or submersibles on a continuous or relief basis;
2. the training and preparation for continuing employment as a Ships' Officer;
3. the piloting of military vessels in and about a harbour;
4. the instruction of cadets or other officers undergoing training in the knowledge and skills related to the officer activities referred to above; and
5. the performance of related activities on a rotational basis between ship and shore.

### **Exclusions**

Positions excluded from the Ships' Officers Group are those whose primary purpose is included in the definition of any other group or those in which one or more of the following activities is of primary importance:

1. the operation and servicing of vessels, floating plants and associated equipment in a capacity that does not require a certificate of competency unless the activities performed are as specified in the above inclusions and the position is designated as Dredgemaster, Electronic Officer, Submersible Officer, Assistant Watchkeeping Officer or Engineer or Mate on a towed dredge; and
2. the operation and servicing of vessels, floating plants and associated equipment that requires a certificate of competency other than a certificate of competency to take charge of a watch or be in a position designated as Electrical Officer or Officer of the Supply or Logistics Departments.

[7] The primary duties for the RCMP Marine (SPS-MA) occupational group are as follows:

- *Maintains all machinery and equipment on board police patrol vessels, from Main Propulsion Units, auxiliary generator Units and all other equipment/systems necessary for the safe operation of the vessels/associated Basic Water Transports during Routine Coastal Patrols.*
- *Implements, performs and maintains whilst on patrol and or during lay-up/Refit periods the prescribed Vessel maintenance program including Rigid Hull inflatable boats (RHIBS), other vessels and associated trailers and equipment held in inventory by RCMP West Coast Marine Services.*
- *Under direction of Supervisor assists in ongoing repairs and refits for Patrols vessels, and Basic Water Transports held by RCMP West Coast Marine Services.*
- *Participates in the development and implementation of operational, maintenance and repair standards to accepted Industry/RCMP standards for all RCMP vessels and associated equipment/machinery held by the West Coast Marine Services in accordance with the requirements of the Canada Shipping Act (CSA), Canada Labour Code, RCMP Administration and Operational Policy Manuals.*
- *Performs ship borne repair and complex maintenance work on RCMP patrol vessels/vehicles and Basic Water Transport where deemed feasible.*
- *Under Supervision established and maintains working relationship with West Coast Marine Services staff, other RCMP Units, outside Government departments, Clients, contractors and suppliers.*
- *Under direction of the Patrol NCO i/c, and or his delegate operates Basic/Advanced Water Transport.*
- *Under the direction of the NCO i/c WCMS, and/or his delegate, assists in direct support of Operational Police investigations/operations including, but limited to Canadian Criminal Code, Federal, Provincial, Municipal offences.*

[8] The employer agrees that employees, other than those who are appointed to rank or reservists, employed as marine engineers in the Marine (SPS-MA) occupational group perform the same functions as the federal public servants in the Ships' Officers - Marine Operations (SO-MAO) bargaining unit.

[9] The employer consents to this application.

### III. Reasons

[10] Section 58 of the Act provides the following:

*58 On application by the employer or the employee organization affected, the Board must determine every question that arises as to whether any employee or class of employees is included in a bargaining unit determined by the Board to constitute a unit appropriate for collective bargaining, or is included in any other unit.*

[11] Given the fact that the employees covered by this application perform the same duties as the members of the bargaining unit, the Federal Public Sector Labour Relations and Employment Board grants the application.

[12] For all of the above reasons, the Board makes the following order:

*(The Order appears on the next page)*

#### **IV. Order**

[13] The employees, other than those who are appointed to rank or reservists, occupying positions in the Marine (SPS-MA) occupational group and working as Marine Engineers aboard RCMP patrol vessels on the West Coast of Canada are included in the bargaining unit composed of all employees of the Employer in the Ships' Officers Group as defined in Part I of the *Canada Gazette* of March 27, 1999.

April 15, 2019.

**Marie-Claire Perrault,  
a panel of the Federal Public Sector  
Labour Relations and Employment Board**