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File: 425-HC-40507
XR: 442-H-8 and 442-H-11

Citation: 2019 FPSLREB 109

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



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

BETWEEN

PUBLIC SERVICE ALLIANCE OF CANADA

Bargaining Agent

and

HOUSE OF COMMONS

Employer

Indexed as
Public Service Alliance of Canada v. House of Commons

In the matter of a request for the Board to exercise any of its powers under section 17 of the *Parliamentary Employment and Staff Relations Act*

Before: Margaret T.A. Shannon, a panel of the Federal Public Sector Labour Relations and Employment Board

For the Bargaining Agent: Tiffani Tyner

For the Employer: Noémie Boivin

Decided on the basis of written submissions

REASONS FOR DECISION

I. Application before the Board

[1] This decision concerns a joint application by the Public Service Alliance of Canada (PSAC) and the House of Commons (“the employer”) under s. 17 of the *Parliamentary Employment and Staff Relations Act* (PESRA). The PSAC and the employer have requested a review of two decisions of the former Public Service Staff Relations Board: *Public Service Alliance of Canada v. House of Commons* (Board File No. 442-H-8, dated May 8, 1987) and *Public Service Alliance of Canada v. House of Commons* (Board File No. 442-H-11, dated September 30, 1987) (“the decisions under review”). The application was made with respect to two bargaining units for which the PSAC is the bargaining agent. They were described as (i) the Operational Group, except for part-time cleaners classified at the OP A level, and (ii) the Postal Services Sub-Group in the Administrative Support Group. The PSAC and the employer have requested that the descriptions of the bargaining units be amended to effectively merge them into a single bargaining unit, for which the PSAC would continue to be the bargaining agent.

II. Summary of the submissions

[2] The PSAC is the bargaining agent for both bargaining units subject to this application. It was submitted that the bargaining units share common collective bargaining aspirations. This was evidenced by the fact that in the previous collective bargaining round, the employer and the PSAC participated in a joint hearing (see 2018 FPSLREB 30) before the Federal Public Sector Labour Relations and Employment Board (“the Board”) to resolve outstanding issues between the employer and the two bargaining units. It was also noted that in 2016, at the conclusion of that round, the employer and PSAC agreed to be bound by a single collective agreement for both bargaining units.

[3] There are approximately 20 employees in the Postal Services Sub-Group in the Administrative Support Group bargaining unit and approximately 282 employees in the bargaining unit described as the Operational Group, except for part-time cleaners classified at the OP A level. Members of Postal Services Sub-Group have voted in favour of a merger with the latter bargaining unit. Furthermore, the Postal Services Sub-Group voted in favour of negotiating one collective agreement between the employer and the two bargaining units in the 2019 round of collective bargaining.

[4] Accordingly, the House of Commons and the PSAC have requested that the Board modify the decisions under review so that the description of the bargaining unit in each decision would read as follows:

All employees of the Employer [House of Commons] in the Operational Group, except for part-time cleaners classified at the CSG-K level and all employees of the Employer [House of Commons] in the Postal Services Sub-Group in the Administrative Support Group.

[5] The proposed definition is essentially a combination of the two separate descriptions from the former decisions, with one small exception. Part-time cleaners were excluded from the definition of the Operational Group and remain excluded from the proposed description; however, following a conversion process in 2004 by the House of Commons administration, all part-time cleaners at the OP A level were converted to the CSG-K level. This new classification is reflected in the proposed description.

III. Reasons

[6] The *PESRA* sets out as follows for the Board when it determines an appropriate bargaining unit:

...
...the Board shall take into account, having regard to the proper functioning of this Part, the duties and classification of the employees in the proposed bargaining unit in relation to any plan of classification as it may apply to the employees in the proposed bargaining unit.

[7] I have compared the duties of the two bargaining units and note that they do not share similarities; neither are they subject to a common classification.

[8] However, having regard to “the proper functioning of this Part”, I find that the Board has an overarching duty to promote harmonious labour relations between the parties. They made a joint application to the Board, the bargaining units at issue have the same bargaining agent and the same employer, the bargaining units share common aspirations, and the employees within the smaller bargaining unit have demonstrated that they wish to be part of the larger bargaining unit.

[9] It is also of note that the parties have submitted the memorandum of agreement from 2016 by which the employer and the PSAC — as the representative of each of the two bargaining units — agreed to be bound by a single collective agreement.

Furthermore, I take note that since this application was filed, the PSAC made a single arbitration request with respect to the two bargaining units subject to this application (see 2019 FPSLREB 60).

[10] In fact, the parties asked the Board to formally recognize what they have put into practice already — and the practice has been working well. I find that it would be in the parties' interests and in accordance with the principles of the *PESRA* to grant the application.

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

(The Order appears on the next page)

IV. Order

[12] The description in the certification of the Public Service Alliance of Canada for the Operational Group bargaining unit, except for part-time cleaners classified at the OP A level, as set out in *Public Service Alliance of Canada v. House of Commons* (Board File No. 442-H-8, dated May 8, 1987), and the description in the certification of the Public Service Alliance of Canada for the Postal Services Sub-Group in the Administrative Support Group bargaining unit, as set out in *Public Service Alliance of Canada v. House of Commons* (Board File No. 442-H-11, dated September 30, 1987), shall each be modified to read as follows:

All employees of the Employer [House of Commons] in the Operational Group, except for part-time cleaners classified at the CSG-K level and all employees of the Employer [House of Commons] in the Postal Services Sub-Group in the Administrative Support Group.

[13] A new certificate will be issued.

November 8, 2019

**Margaret T.A. Shannon,
A panel of the Federal Public Sector
Labour Relations and Employment Board**