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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

**SYNDICAT GENERAL DU CINEMA ET DE LA TELEVISION,  
LOCAL 4835 (CANADIAN UNION OF PUBLIC EMPLOYEES)**

Applicant

and

**NATIONAL FILM BOARD**

Respondent

Indexed as

*Syndicat général du cinéma et de la télévision, Local 4835 (Canadian Union of Public Employees) v. National Film Board*

In the matter of an application for determination of successor rights and obligations under section 79 of the *Federal Public Sector Labour Relations Act*

**Before:** Chantal Homier-Nehmé, a panel of the Federal Public Sector Labour Relations and Employment Board

**For the Applicant:** Chantal Bourgeois, Syndicat général du cinéma et de la télévision, Local 4835 (Canadian Union of Public Employees)

**For the Respondent:** Arlette Boghoskhan, National Film Board

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Decided on the basis of written submissions,  
filed July 11, September 16, and October 23, 2019.  
(FPSLREB Translation)

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**REASONS FOR DECISION****FPSLRB TRANSLATION**

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**I. Application before the Board**

[1] On July 11, 2019, the Syndicat général du cinéma et de la télévision, Local 4835 (Canadian Union of Public Employees) (“the Syndicat général”) made an application under s. 79 of the *Federal Public Sector Labour Relations Act* (S.C. 2003, c. 22, s. 2; “the Act”) to consolidate three bargaining units at the National Film Board (“the respondent”), including all personnel in the following categories:

- administrative support, represented by the Canadian Union of Public Employees, Local 2656 (CUPE); see *Canadian Union of Public Employees, Local 2656 v. National Film Board*, PSSRB File No. 145-08-228 (19850131);
- operational, represented by CUPE; see *Canadian Union of Public Employees, Local 2656 v. National Film Board*, PSSRB File No. 146-08-229 (19850131); and
- technical, represented by the Syndicat général; see *Syndicat général du cinéma et de la télévision, section locale 4835 (Canadian Union of Public Employees) v. National Film Board*, 2007 PSLRB 117.

[2] The Syndicat général and the respondent agree that a unit appropriate for collective bargaining includes all employees in the technical category as well as those in the administrative support and operational categories.

**II. Procedural history**

[3] On August 12, 2019, the Federal Public Sector Labour Relations and Employment Board (“the Board”) ordered the respondent to provide it with a full and up-to-date list of all employees affected by the application, along with each employee’s home and personal email addresses.

[4] On August 15, 2019, the Board issued a notice to the employees with respect to an application to determine successor rights (“the notice”). It informed the employees affected by the application of their right to file a notice of objection before 4:00 p.m. on September 13, 2019. Also on August 15, 2019, the Board ordered that the respondent take the following steps:

- that until September 13, 2019, it post a message on its intranet home page and prominently at a location where the employees affected by the application would be most likely to see it informing those employees that the Board had ordered posted a digital copy of the notice on the respondent’s intranet home page, along with a digital copy of the notice; and
- that it send an email to the work email address of each employee affected by the application informing them that the Board had ordered that a digital copy of

the notice be emailed to each one's work email address, along with a digital copy of the notice.

[5] No employee affected by the application in this case filed a notice of objection, and no other employee or employee representative intervened.

[6] On September 16, 2019, the respondent filed a list of employees affected by the application, along with their home and personal email addresses, and confirmed its compliance with the Board's orders issued on August 15, 2019.

[7] On October 1, 2019, the Board requested written submissions from the Syndicat général, the respondent, and CUPE about a unit appropriate for collective bargaining. On October 23, 2019, the Syndicat général and the respondent filed joint written submissions.

[8] The Canadian Union did not file any written submissions.

### **III. Summary of the arguments**

[9] The Syndicat général wishes to integrate the employees in the administrative support and operational categories into the bargaining unit made up of all employees of the respondent in the technical category.

[10] It maintains that the group composed of all the respondent's employees in the technical category, in the administrative support category, and in the operational category constitutes a unit appropriate for collective bargaining.

[11] In support of its application, the Syndicat général submits that the three collective agreements for the employees affected by the application are almost identical and that their interests and concerns are similar. In addition, the bargaining to renew the collective agreements for the three bargaining units mentioned earlier is managed by the same union representative.

[12] The technical, administrative support, and operational categories are clearly defined and read as follows:

***Technical category:***

*All employees concerned with the production of films, film strips and photographs; the processing, manufacture, maintenance and handling of motion-picture or audio-visual equipment and materials; and auxiliary services attached to the above*

*In addition, includes positions involving creation, analysis or experimentation or providing technical expertise and/or research, design, construction, operation, inspection, evaluation and/or maintenance of equipment, processes and facilities related to audiovisual productions and execution of similar or related technical work. For further clarification, this definition includes directors and producers of films and/or audiovisual productions.*

Tous les employés qui s'occupent de la production des films, des bandes pour projections fixes de photographies, du traitement, de la fabrication, de l'entretien et de la manutention de l'équipement et des matériels de film ou audio-visuels, et les employés des services auxiliaires rattachés à ce qui précède.

De plus, comprend les postes dont les titulaires créent, analysent, expérimentent, fournissent une expertise technique et /ou font de la recherche dans le domaine des sciences, des arts et des communications; recherchent, conçoivent, construisent, font fonctionner, inspectent, évaluent et/ou entretiennent, des équipements, des processus et leur organisation matérielle relativement aux communications audio-visuelles et/ou productions audio-visuelles et à l'exécution d'un travail technique similaire ou connexe. Pour plus de clarté, cette définition inclut les réalisateurs et les producteurs de films et/ou de productions audio-visuelles.

***Administrative support category:***

*Positions involving the preparation, transcription, transmission, organization and filing of records, reports and communications manually or by operating various machines and equipment, or the direct application of rules and regulations.*

Comprend les postes dont les titulaires préparent, transcrivent, transmettent, organisent et classent des documents, des rapports et des communications au moyen de procédés de manuels ou par l'utilisation de divers appareils ou machines, ou appliquent formellement des règles et règlements.

***Operational category:***

*Positions involving maintenance or repairs to keep machines or equipment in proper working order, and the provision of Stores services.*

Comprend les postes reliés aux travaux d'entretien ou de réparation qu'exige le fonctionnement de machines ou d'appareils et aux services des magasins.

[Emphasis in the original]

[13] The Syndicat général proposes that the definition of a unit appropriate for collective bargaining read as follows:

*All employees of the National Film Board in the Technical Category and the Operational Category, except those who are already covered by another accreditation certificate.*

Toutes les personnes salariées au service de l'Office national du film compris dans la Catégorie technique, la Catégorie du soutien administratif et de la Catégorie de l'exploitation, sauf celles déjà couvertes par un autre certificat d'accréditation.

[14] The respondent agrees with the application and the Syndicat général's position with respect to the definition of the unit appropriate for collective bargaining.

#### **IV. Reasons**

[15] The Syndicat général is an employee organization within the meaning of s. 2 of the *Act*, and the written submissions were signed by the persons representing the Syndicat général and the respondent who were duly authorized to submit the application.

[16] Based on the arguments mentioned earlier, the Board is of the view that the group composed of all the respondent's employees in the technical category, all those in the administrative support category, and all those in the operational category constitutes a unit appropriate for collective bargaining.

[17] The employees in each of the three groups in question have the same community of interest. Their collective agreements are almost identical, and their renewals are negotiated jointly with the same advisor from the Syndicat général, who acts as the spokesperson for the three groups. The three groups' interests and concerns are similar.

[18] As the three groups have the same community of interest, the same collective-bargaining history, and the respondent's consent, the Board defines the unit appropriate for collective bargaining as follows:

*all employees of the Employer in the Technical Category, as well as those in the Administrative Support Category and those in the Operational Category.*

tous les fonctionnaires de l'employeur compris dans la catégorie technique, ainsi que ceux compris dans la catégorie du soutien administratif et ceux compris dans la catégorie de l'exploitation.

[19] The Board received no objection from CUPE, no notice of an objection from an employee affected by the application, and no intervention by any other employee or employee representative.

[20] As the documentation submitted in support of the request is insufficient to determine whether a majority of the employees in the new bargaining unit want the Syndicat général to represent them as the bargaining agent, the Board orders that a representation vote be held.

[21] A representation vote is required to determine whether a majority of the employees in the new bargaining unit want the Syndicat général to represent them as the bargaining agent.

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

*(The Order appears on the next page)*

## V. Order

[23] The Board orders that the Administrative Tribunals Support Service of Canada make the necessary arrangements, as of a date to be determined by the Board, to hold a representation vote in accordance with s. 65(2)(b) of the *Act* by electronic means with all employees of the respondent in the technical, administrative support, and operational categories who are not in a management position or a position of trust.

[24] The Boards appoints the director of the Federal Public Sector Labour Relations and Employment Board Secretariat Registry as the director of the representation vote.

[25] The ballot shall ask the following question:

*Do you wish the Syndicat général du cinéma et de la télévision,  
Local 4835 (Canadian Union of Public Employees) to represent you  
as your bargaining agent?*

Yes     No

Souhaitez-vous que le Syndicat général du cinéma et de la  
télévision, section locale 4835 (Syndicat canadien de la fonction  
publique) vous représente à titre d'agent négociateur?

Oui     Non

March 26, 2020.

FPSLREB Translation

**Chantal Homier-Nehmé,  
a panel of the Federal Public Sector  
Labour Relations and Employment Board**