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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

BETWEEN

PROFESSIONAL INSTITUTE OF THE PUBLIC SERVICE OF CANADA

Bargaining Agent

and

CANADIAN FOOD INSPECTION AGENCY

Employer

Indexed as

Professional Institute of the Public Service of Canada v. Canadian Food Inspection Agency

In the matter of a policy grievance referred to adjudication

Before: Linda Gobeil, a panel of the Federal Public Sector Labour Relations and Employment Board

For the Bargaining Agent: Sandra Guéric, counsel

For the Employer: Cristina St-Amant-Roy, counsel

Heard at Montreal, Quebec ,
June 11 and 12, 2019.
(FPSLREB Translation)

REASONS FOR DECISION (FPSLREB Translation)

I. Policy grievance referred to adjudication

[1] On July 27, 2015, the Professional Institute of the Public Service of Canada (PIPSC or “the bargaining agent”) filed a policy grievance under s. 220 of the *Public Service Labour Relations Act*. The grievance contested the Canadian Food Inspection Agency’s (CFIA or “the employer”) decision to not pay a 4% allowance (“the allowance”) to veterinarian employees in substantive animal-health positions classified at the VM-01 or VM-02 group and levels with meat-hygiene duties carried out in an abattoir. Specifically, the employer refused to pay the allowance when those employees performed their duties outside an abattoir. According to the employer, the allowance was payable to employees only for hours worked in an abattoir. The bargaining agent alleged that the employer violated clause G2.01 of their collective agreement for the Veterinary Medicine Group bargaining unit, which expired on September 30, 2014 (“the collective agreement”).

[2] On June 19, 2017, *An Act to amend the Public Service Labour Relations Act, the Public Service Labour Relations and Employment Board Act and other Acts and to provide for certain other measures* (S.C. 2017, c. 9) received Royal Assent, changing the name of the Public Service Labour Relations and Employment Board and the titles of the *Public Service Labour Relations and Employment Board Act* and the *Public Service Labour Relations Act* to, respectively, the Federal Public Sector Labour Relations and Employment Board (“the Board”), the *Federal Public Sector Labour Relations and Employment Board Act*, and the *Federal Public Sector Labour Relations Act* (“the Act”).

II. Summary of the evidence

[3] The parties submitted the following joint agreed statement of facts, in addition to other attachments:

[Translation]

...

1. Article G2, entitled “Meat Hygiene Allowance”, of the collective agreement between the CFIA and PIPSC for the Veterinary Medicine (VM) Group bargaining unit came into force on January 1, 2006. The collective agreement expired on September 30, 2014, and is the subject of the policy grievance attached as Appendix A.

2. When article G2 came into force on January 1, 2006, a functional supervisory differential (G3) also came into force, as mentioned in the September 16, 2005, email. The September 16, 2005, email is attached as Appendix B.
3. Veterinarians who are not entitled to the meat-hygiene allowance received a one-time payment of \$1300.00, as mentioned in the document between the CFIA and PIPSC establishing the guidelines related to the two new allowances. The guidelines document is attached as Appendix C, and an email dated March 17, 2006, and dealing with this payment, as Appendix D.
4. At that time, veterinarians in the VM-01 and VM-02 group and classifications with substantive positions in animal health had no meat-inspection duties in abattoirs in their job descriptions, contrary to the veterinarians in the VM-01 and VM-02 group and classifications with substantive positions in meat hygiene.
5. On January 31, 2006, the CFIA put out a procedural bulletin to inform compensation advisors about the process to follow to apply the meat-inspection allowance and the functional supervisory differential. The procedural bulletin is attached as Appendix E.
6. Since January 1, 2007, the employer has paid the meat-inspection allowance on all hours worked by meat-hygiene veterinarians. A memo from Ms. Nathalie Boucher, the compensation and benefits manager in the Quebec Region, dated February 2, 2007, is attached as Appendix F.
7. On March 25, 2011, a new generic job description for the VM-01s was given to the meat-hygiene and animal-health veterinarians, and another generic job description for the VM-02s was given to the meat-hygiene and animal-health veterinarians. The veterinarians with substantive positions in animal health now have meat-inspection duties in an abattoir in their job descriptions. The employer determined the in-force date of the generic VM-01 and VM-02 job descriptions, retroactive to May 1, 2001. The job descriptions are attached as Appendix G.
8. In 2012, management developed a document on the terms and conditions for veterinarians transferring from animal health (AH) to meat hygiene (MH). See the attached document in Appendix H (email from Ms. Johanne Riendeau, the Quebec Region's director at that time, dated January 12, 2012).
9. In 2013, the CFIA created "questions and answers" related to article G2. See the email dated May 3, 2013, in Appendix I.
10. In 2013, during a meeting held on a Saturday at the employer's request, grievances were filed by veterinarians classified VM-01 and VM-02 with substantive positions in meat hygiene who had not received the meat-inspection allowance for hours worked one day when they were in a team meeting and/or information session at the CFIA's offices. The Vice President of Operations allowed the grievances at the final level of the

grievance process in letters dated September 10, 2014, which are attached in Appendix J.

11. On June 8, 2015, Ms. Isabelle Vaillancourt, a VM-01 with a substantive position in animal health at the Victoriaville district office, emailed her supervisor, claiming that she was entitled to the meat-inspection allowance for all hours worked, as provided in article G2, not just for hours devoted solely to meat-inspection duties in an abattoir, and on June 29, 2015, her supervisor, Dominique Cécyre, refused to grant her request. See the email exchange in Appendix K.

12. On July 27, 2015, PIPSC filed a policy grievance alleging a violation of article G2 of the collective agreement between the CFIA and PIPSC for the Veterinary Medicine (VM) Group bargaining unit. The grievance is attached as Appendix L.

13. On December 15, 2015, the employer denied the grievance. The decision, signed by Ms. Chantale Seeton, is attached as Appendix M.

14. On September 1, 2018, the meat-inspection allowance was removed from the collective agreement. Appendix A of the collective agreement between the CFIA and PIPSC for the Veterinary Medicine (VM) Group bargaining unit that expired on September 30, 2018, provided a 4% increase to all VM-01 and VM-02 levels, with the subsequent elimination of the meat-inspection allowance.

...

A. For the bargaining agent

[4] In her opening statement, counsel for the bargaining agent stated that the VM-01 and VM-02 veterinarians have substantive positions in meat hygiene or animal health.

[5] According to counsel, VM-01 and VM-02 veterinarians with substantive positions in meat hygiene received the allowance provided in clause G2.01 of the collective agreement. VM-01 and VM-02 veterinarians with substantive positions in animal health received it only when they carried out meat inspections in a given abattoir. They did not receive it at all times, as did their colleagues with substantive positions in meat hygiene. According to counsel, clause G2.01 makes no distinction between the substantive positions. According to her, the clause should have applied the same way to everyone, whether the substantive positions of the VM-01 and VM-02 veterinarians were in meat hygiene or animal health. Counsel emphasized that the generic job description in effect since March 25, 2011, retroactive to May 1, 2001,

applies to everyone, without distinction, and provides that all veterinarians, whatever their substantive positions, have meat-hygiene duties.

[6] Counsel specified that from when it came into force in 2006, clause G2.01 of the collective agreement did not change during subsequent collective bargaining rounds until it ceased to exist in September 2018.

[7] Dr. France Boily was called to testify for the bargaining agent. She is a veterinarian classified at the VM-01 group and level in Rimouski. She has held a permanent position with the employer since June 2011. Although her substantive position is in the animal-health area, she stated that she worked in two areas of activity.

[8] She explained that since being hired, she has taken a variety of training, including in meat hygiene.

[9] First, Dr. Boily explained what meat-hygiene work involves. She testified that her work includes conducting ante-mortem and post-mortem inspections, with the goal of ensuring that the animals' meat is fit for consumption. If she sees that an animal presents a risk, she must issue a condemnation certificate for it. Her work also requires inspecting the employer's different facilities to ensure that everything complies with hygiene standards. She explained that ante-mortem animal inspections are important, to detect diseases that would no longer be detectable once the animal dies. The post-mortem inspection takes place after the animal's death and is necessary for detecting other types of disease.

[10] According to Dr. Boily, although a good part of meat-hygiene work occurs in abattoirs, for example, animal autopsies, a number of meat-hygiene follow-ups are carried out at district offices. For example, in a case of lung damage, a follow-up with a pathologist is required that is conducted by telephone at a district office and not in an abattoir.

[11] Sometimes, Dr. Boily also has to find animal parts and ensure that they are sent to the appropriate laboratory. She also has to travel between abattoirs, the district office, and other locations, again to perform duties or follow-ups related to meat hygiene. Dr. Boily stated that she spends significant time in her office on those follow-ups; so does her supervisor.

[12] With respect to her training, Dr. Boily explained that the vast majority of the training she received (Exhibit BA-3) is required for both meat-hygiene and animal-health duties. On that point, she specified that her colleagues with substantive positions in meat hygiene were still entitled to the allowance provided in clause G2.01 of the collective agreement when they took training, no matter the training or its location, while she and her colleagues, with substantive positions in animal health, were entitled to it only if the activity took place in an abattoir. For example, veterinarians with substantive positions in meat hygiene were entitled to the allowance for taking driver training for the employer's vehicles, while VM-01 and VM-02 veterinarians with substantive positions in animal health were not entitled to it.

[13] Dr. Boily explained that she took the required training for performing meat-hygiene duties in April 2013. The training was theoretical and included several modules dealing with such subjects as pathology and the anatomies of animals to be tested.

[14] As for animal-health duties, Dr. Boily explained that that part of her work often occurs on farms, where samples are taken from animals and where it is sometimes necessary to order quarantines or slaughters.

[15] With respect to the allowance provided by clause G2.01 of the collective agreement, Dr. Boily explained that VM-01 and VM-02 employees with substantive positions in animal health began receiving it in 2014. Since the employer agreed to pay it to veterinarians in animal health only for work performed in an abattoir, thus, they had to submit application forms each time.

[16] In cross-examination, Dr. Boily agreed that abattoir work often involves an animal carcass, but she stated that always, a follow-up has to be conducted, which is often carried out outside the abattoir and involves meat hygiene.

B. For the employer

[17] Dr. Sonia Poisson was called to testify for the employer. She has been a veterinarian and inspection manager since 2006. She is in charge of the animal-health district for the Quebec Region and of inspecting all the abattoirs there. She held VM-01 and VM-02 positions from 1998 to 2006.

[18] During her testimony, Dr. Poisson explained that the employer has two distinct programs for its veterinarians, which are meat hygiene or inspection, and animal health. According to her, animal-health and meat-hygiene work are different. For example, veterinarians with substantive positions in animal health are attached to a given district and look after the animals' states of health. Thus, for example, they perform animal inspections at auctions and on farms. As for veterinarians in meat hygiene or inspection, their substantive positions are in abattoirs and not in districts. Their work is always performed in abattoirs.

[19] Dr. Poisson explained that since March 2011, and retroactive to 2001, the veterinarians have had a generic job description, whether their substantive positions are in meat hygiene or animal health (Exhibit EC, tab G). According to her, a generic job description is easier, even if the veterinarians do not carry out all the activities listed in that type of job description.

[20] Thus, when she reviewed the different parts of the job description, Dr. Poisson clarified that some were more the responsibility of meat-hygiene veterinarians, for example the first paragraph on page 3 of the job description, while others are not, for example paragraph 6 on that page, which states that animal-health veterinarians are responsible for the duty to recommend animal import and export certificates (Exhibit EC, tab G).

[21] According to Dr. Poisson, veterinarians working in meat hygiene in an abattoir can encounter working conditions more difficult than those of their animal-health colleagues. For example, the temperatures that they are exposed to inside abattoirs are dictated by hygiene standards; therefore, the work environment is cold, damp, and noisy. Their work schedules are also fixed, which can sometimes be constraining. According to Dr. Poisson, indeed, recruiting a meat-hygiene veterinarian is more difficult, given the abattoirs' more difficult work environment.

[22] With respect to the work performed by veterinarians with substantive positions in animal health, Dr. Poisson stressed that they follow a district office's schedule. According to her, they have more latitude organizing their work than their meat-hygiene colleagues who, in effect, are required to respect the fixed hours of the abattoirs they work in. Dr. Poisson stated that occasionally, animal-health veterinarians

helped their meat-hygiene colleagues, as it was easier for them to get away. Although the inverse was also possible, Dr. Poisson emphasized that it was uncommon.

[23] When she was asked about the origin of clause G2.01 of the collective agreement, Dr. Poisson stated that it was introduced in 2006 specifically for abattoir work. She stated that in practice, applying it proved difficult. For example, training and cleaning time had to be deducted. To address this issue, the employer issued a directive stating that the allowance applied to all functions performed, but only for veterinarians with substantive positions in meat hygiene. Dr. Poisson referred to the case of a meat-hygiene veterinarian whose grievance was allowed after requesting the allowance following an information session on a Saturday (Exhibit EC, tab J). For veterinarians with substantive positions also in animal health, they could also receive the allowance, but only if they carried out meat-hygiene work in an abattoir. They then had to complete an application form to receive it, while their meat-hygiene colleagues did not have that obligation; they received it for all hours worked, including overtime.

[24] Nathalie Boucher was also called to testify for the employer. She has been a compensation advisor since 1997. She started with the employer in 2007 as a compensation manager. Her duties at that time were to analyze and interpret compensation and benefit information and provide it to employees.

[25] Ms. Boucher explained that clause G2.01 of the collective agreement came into force on January 1, 2006, and that it then applied to veterinarians working in abattoirs. Veterinarians not working in abattoirs were then entitled to a lump sum of \$1300.

[26] Ms. Boucher stated that in 2006, the allowance was also not paid to meat-hygiene veterinarians working in abattoirs for other activities, such as travel time, holidays, or conference participation. Nevertheless, in 2007, the employer decided to broaden the application of the allowance to those activities, but still only for meat-hygiene veterinarians working in abattoirs (Exhibit EC, tab G). In 2009, the employer included cleaning time in the activities covered by the allowance, but once again, only for veterinarians with substantive positions in meat hygiene.

[27] Ms. Boucher stated that clause G2.01, which came into force in 2006, remained unchanged until it was removed on September 1, 2018. She explained that she was not made aware of the new job description in March 2011. She concluded by stating that from a compensation standpoint, clause G2.01 had been difficult and problematic to

apply, that Human Resources had to be consulted constantly to ensure her interpretation, and that sometimes, it was necessary to amend that interpretation. She mentioned that she had to assign two full-time compensation staff to administer the clause.

III. Summary of the arguments

A. For the bargaining agent

[28] According to the bargaining agent's counsel, clause G2.01 of the collective agreement makes no distinction between veterinarians with substantive positions in meat hygiene and those in animal health. Therefore, the employer violated the clause's requirements when it decided to pay the allowance to veterinarians with substantive positions in animal health only when they carried out duties in an abattoir.

[29] In effect, counsel argued that veterinarians with substantive positions in animal health should be treated like their colleagues working in meat hygiene and that they should have received the allowance for all their duties, whether or not they were carried out in an abattoir. Counsel also insisted that the allowance should have been paid for all duties carried out at the employer's request including, for example, as it was for their animal-hygiene colleagues, overtime and travel time, as well as participating in meetings.

[30] According to counsel, the fact that clause G2.01 has not existed since 2018 does not make the grievance null and void. According to her, approximately 70 individual grievances are on hold pending the outcome of this policy grievance, which was filed in July 2015.

[31] According to counsel, clause G2.01 contained two prerequisites for obtaining the allowance, namely, being a VM-01 or VM-02 veterinarian, and having abattoir meat-inspection duties.

[32] Counsel insisted that nowhere did clause G2.01 refer to a veterinarian's substantive position. Therefore, had the negotiating parties wished to link the allowance to the veterinarian's substantive position, they would have done so. Counsel referred me to clauses C2.07(a), (b), and (c) of the collective agreement, in which the parties clearly refer directly to substantive positions. In clause G2.01, no distinction was made. Counsel referred me to other clauses, which specifically refer to substantive

positions, namely, clauses C5.02(h), F1.09(a) and (b), and F1.11. According to counsel, this confirms the parties' intention not to consider the VM-01 and VM-02 veterinarians' substantive positions when granting the allowance in clause G2.01.

[33] Counsel also insisted that nothing in clause G2.01 stated that one had to work solely in abattoirs and exclusively carry out meat-hygiene work. Counsel also referred me to clauses B1.08 and B2.06, which specify that the payment of premiums, in the context of those clauses, is reserved for veterinarians **“working in Slaughter Establishments only”** [emphasis added].

[34] Counsel also stressed that unlike clause B2.12 of the collective agreement, clause G2.01 did not specify that the hours had to be worked in an abattoir. Therefore, the employer was not justified paying the allowance to animal-health veterinarians only for hours worked in an abattoir.

[35] In that respect, counsel compared clauses G2.01 and G3.01 of the collective agreement. She argued that contrary to clause G3.01, in which a given event must occur, namely, a VM-02 veterinarian must be absent for an evening or night shift so that the VM-01 veterinarian can receive the functional supervision differential, clause G2.01 contained no specific or other requirements. According to counsel, to receive the allowance provided in clause G2.01, being a VM-01 or VM-02 and having meat inspection as a duty was sufficient.

[36] Counsel reiterated that VM-01 and VM-02 veterinarians in meat hygiene and animal health have been covered by the same generic job description since 2011. Both Dr. Boily and Dr. Poisson testified that animal-health veterinarians are called on to inspect meat in abattoirs. The evidence also demonstrated that there is mobility between the two substantive positions and that efforts have been made to encourage exchanges between the two areas (Exhibit EC, tab H).

[37] Counsel also argued that clause G2.01 of the collective agreement had existed since 2006 and that during the negotiation round that led to the collective agreement, the parties did not see fit to amend the clause, even if, since 2011, the job description has been generic, and VM-01 and VM-02 veterinarians with substantive positions in animal health have been required to perform meat-hygiene functions.

[38] According to counsel, extrinsic evidence can be relevant and admissible if I find the wording of clause G2.01 unclear. She referred me to Brown and Beatty, *Canadian Labour Arbitration*, 5th edition, Volume 1, April and May 2019, at paragraphs 4:2100, 4:2110, 4:2120, and 4:2150; *United Brotherhood of Carpenters and Joiners of America, Local 579 v. Bradco Construction Ltd.*, [1993] 2 S.C.R. 316; *Union of Canadian Correctional Officers - Syndicat des agents correctionnels du Canada - CSN v. Treasury Board*, 2016 PSLREB 47; and *Canada (National Revenue) v. Clough*, 2016 FCA 148.

[39] According to counsel, the lump-sum payment of \$1300 in 2006 to veterinarians with animal-health functions is explained by the fact that in 2006, they did not have meat-hygiene duties.

[40] Counsel also argued that clause G2.01 of the collective agreement was clear and that one cannot, as the employer did, add words like “in Slaughter Establishments only” and “substantive position”. That clause had to be applied the same way for VM-01 and VM-02 veterinarians carrying out meat-inspection duties in abattoirs, no matter their substantive positions.

[41] In her conclusion, counsel asked me to declare that the employer violated clause G2.01 of the collective agreement by differentiating with respect to granting the allowance between VM-01 and VM-02 veterinarians occupying substantive positions in meat hygiene and animal health. She also asked that the employer be required to pay the VM-01 and VM-02 veterinarians with substantive positions in animal health and who had meat-hygiene duties in abattoirs the 4% allowance provided in clause G2.01 at their straight-time hourly rate of pay for all hours worked, including overtime, whether or not those hours were worked in an abattoir.

B. For the employer

[42] Counsel for the employer noted that the employer has two distinct programs to administer, namely, meat hygiene and animal health. According to her, clause G2.01, which came into force in January 2006 and was removed in September 2018, was always applied differently based on the substantive positions of the VM-01 or VM-02 veterinarians. According to her, it should be remembered that until 2011, veterinarians had specific job descriptions, and that although they were replaced by a generic one, it remains true that VM-01 and VM-02 veterinarians still have different substantive positions, in meat hygiene and in animal health.

[43] Counsel argued that the working conditions are different depending on the substantive position. For example, in the case of meat-hygiene work, inspections are carried out solely in abattoirs. If instead the issue is animal-health duties, the work is done from a district office, and veterinarians have to travel within their districts to, for example, visit farms and auctions. They are not required to work in an abattoir.

[44] In her arguments, counsel noted the changes to the employer's interpretation of clause G2.01 of the collective agreement, for example in 2007, when it decided to pay the meat-inspection allowance for all hours veterinarians worked in meat hygiene. Later, in 2013, it again broadened the application of the allowance to situations in which veterinarians, including those in animal health, had meat-inspection duties in an abattoir. In 2014, it granted the allowance to meat-hygiene veterinarians who attended a meeting on a Saturday (Exhibit EC, tab J).

[45] According to counsel, the evidence demonstrated that the allowance was intended to acknowledge hygiene work in an abattoir. Veterinarians with substantive positions in animal health have different working conditions. Counsel referred to the testimony of Dr. Poisson, who spoke about the abattoirs' more difficult working conditions.

[46] According to counsel, veterinarians with substantive positions in animal health were entitled to receive the allowance but only when they worked in an abattoir. Pursuant to clause G2.01 of the collective agreement, they were not entitled to the allowance when worked as animal-health veterinarians.

[47] Counsel argued that clause G2.01 dates to 2006. According to her, when the parties negotiated the collective agreement in 2011, there was no evidence of an unresolved issue with respect to applying that clause.

[48] As for clauses C2.07, C5.02, F1.09, and F1.11 of the collective agreement and the bargaining agent's argument that they demonstrate that had the parties wished to limit the allowance to a given substantive position, they would have so specified, counsel replied that instead, those clauses demonstrate that compensation can vary, depending on the substantive position.

[49] According to counsel, the fact that the veterinarians have had a generic job description since 2011 in no way changes the situation. On one hand, as Dr. Poisson

stated, veterinarians do not perform all the duties listed in that description; therefore, one cannot conclude that they largely perform meat inspections. On the other hand, despite the generic job description now in place, the veterinarians still retain their substantive positions, in either meat hygiene or animal health, and in that respect, the employer has always maintained that those two activity areas are distinct. The generic job description has not changed the duties; instead, it has allowed for flexibility. Counsel referred me to *Duffield v. Treasury Board (Department of Employment and Social Development)*, 2016 PSLREB 7 at para. 69; and *Allard v. Canadian Food Inspection Agency*, 2012 FC 979 at paras. 5, 24, and 25.

[50] According to counsel, clause G2.01 of the collective agreement was clear that the duties had to be performed in an abattoir, and s. 229 of the *Act* does not allow an adjudicator to amend a collective agreement. Counsel referred me to *Chafe v. Treasury Board (Department of Fisheries and Oceans)*, 2010 PSLRB 112 at paras. 50 and 51. According to her, the rules of interpretation must be applied, and thus, one cannot, as the bargaining agent suggested, ignore the words “in an abattoir” in clause G2.01. In that respect, counsel referred me to *Lessard v. Treasury Board (Department of Transport)*, 2009 PSLRB 34 at paras. 32 and 42.

[51] Counsel emphasized that the collective agreement recognizes the more difficult working conditions for veterinarians with substantive positions in meat hygiene and thus provided them with special premiums. As an example, counsel referred me to clauses B1.08, B2.06, and B2.12 of the collective agreement.

[52] Counsel maintained that the wording of clause G2.01 of the collective agreement did not allow an interpretation that the requested allowance could be paid for duties performed outside an abattoir. She referred me to *Lamothe v. Canada (Attorney General)*, 2009 FCA 2 at para. 16. According to her, the allowance must be explicit; the collective agreement must be clear. She added that that is not so in this case (see *Wamboldt v. Canada Revenue Agency*, 2013 PSLRB 55 at para. 28; and *Wallis v. Treasury Board (Correctional Service of Canada)*, 2004 PSSRB 180 at para. 20).

[53] Counsel invited me to consider the title of clause G2.01, which was “Meat Hygiene Allowance”. According to her, if, as the bargaining agent claimed, the allowance was paid to all the VM-01s and VM-02s, whatever their substantive positions, it was no longer an allowance but rather a salary. Counsel asked me to consult the

English version of clause G2.01, which was more restrictive and clearly indicated that the work had to be done in an abattoir because of the following words: “who performs meat inspection duties”. This version should be preferred, as decided in *Professional Institute of the Public Service of Canada v. Canada Revenue Agency*, 2015 PSLREB 65 at para. 63.

[54] Finally, counsel mentioned that it should not be forgotten that a lump sum of \$1300 was paid in 2006 to veterinarians who had no meat-hygiene duties.

C. Reply

[55] Counsel for the bargaining agent insisted that veterinarians in animal health have no choice but to perform meat-hygiene tasks when the employer asks them to. Meat hygiene has been a part of their generic job description since March 2011, and since 2014, the duties of both areas have been combined.

[56] As for the lump sum of \$1300 paid to veterinarians in 2006 who did not have meat-hygiene duties, counsel argued that the allowance had been paid in 2006 and that the payment did not occur during the period covered by this grievance.

IV. Reasons

[57] The bargaining agent filed this policy grievance in July 2015. It alleged that the employer violated clause G2.01 of the collective agreement for the Veterinary Medicine Group that expired on September 30, 2014. Specifically, it alleged that by refusing to pay the allowance provided in clause G2.01 to veterinarians with substantive positions in animal health when they performed duties outside an abattoir, the employer violated the requirements of clause G2.01.

[58] The following paragraphs contain points I noted from the evidence.

[59] The employer has two distinct programs for veterinarians, meat hygiene and animal health. VM-01 and VM-02 veterinarians hold substantive positions in one of those two areas. Until 2011, each area had a specific job description. In 2011, two generic job descriptions, one for VM-01 veterinarians and one for VM-02 veterinarians, replaced the two specific job descriptions.

[60] Despite that the duties were grouped under one generic job description, the veterinarians retained their substantive positions in either meat hygiene or animal health.

[61] Clause G2.01 of the collective agreement, which provided the 4% allowance, came into force on January 1, 2006, and was removed on September 1, 2018. It remained unchanged during the collective bargaining rounds that preceded its removal on September 1, 2018 (Exhibit EC, agreed statement of facts, paragraph 14).

[62] Before March 2011, veterinarians in animal health did not have meat-hygiene duties and therefore could not receive the allowance. Clause G2.01 was in fact clear that to be entitled to it, one had to have meat-inspection duties in an abattoir. That point is uncontested.

[63] Still in 2006, a lump sum of \$1300 was paid to all veterinarians who were not eligible for the allowance. Nevertheless, considering that that sum was paid in 2006 to veterinarians without meat-hygiene duties, it does not seem relevant to this case to me, since the issue is whether veterinarians with substantive positions in animal health and meat-hygiene duties were entitled to the allowance if they performed their duties outside an abattoir.

[64] In March 2011, the generic job descriptions for VM-01 and VM-02 veterinarians specified that all veterinarians in the two areas, whatever their substantive positions, now had meat-hygiene duties, which was not so before then for veterinarians with substantive positions in animal health. The evidence also demonstrated that from then on, the employer sought to encourage work exchanges between the meat-hygiene and animal-health areas. Occasionally, animal-health veterinarians will assist their meat-hygiene colleagues (Exhibit EC, tab H).

[65] The evidence also demonstrated that the employer's interpretation changed several times with respect to clause G2.01 of the collective agreement for the allowance for veterinarians with substantive positions in meat hygiene. In effect, over the years, particularly in 2007 and 2014, the employer broadened the situations in which the allowance was paid to meat-hygiene veterinarians, which meant that in 2015, it was applied to all the work hours of veterinarians with substantive positions in meat hygiene.

[66] The evidence also demonstrated that over the years, clause G2.01 proved difficult for the employer to interpret and apply.

[67] According to the evidence, once Dr. Boily, with a substantive position in animal health, completed her meat-hygiene training, she was entitled to the allowance as of 2014 but only when she performed her functions in an abattoir, while her meat-hygiene colleagues received it for almost all activities, including a team meeting on a Saturday (Exhibit EC, tab J).

[68] Basically, the employer's position is that veterinarians with substantive positions in animal health received the allowance provided in clause G2.01 only for hours worked in an abattoir when they performed meat-hygiene duties. If, for example, an animal-health veterinarian carried out a meat-hygiene follow-up but outside an abattoir, he or she was not entitled to the allowance. The same is true, for example, for travel time between abattoirs, time spent on farms, and training time; the animal-health veterinarians would not be entitled to the allowance.

[69] Clause G2.01 reads as follows in both official languages:

Meat Hygiene Allowance

Indemnité pour l'inspection des viandes

À compter du 1^{er} janvier 2006

G2.01 Effective January 1st, 2006, an employee at the VM-01 or VM-02 level who performs meat inspection duties in an abattoir will receive a meat hygiene allowance for all hours worked, including overtime hours, at the rate of 4% of his straight time hourly rate of pay.

G2.01 Un employé de niveau VM-01 ou VM-02 ayant pour tâches l'inspection des viandes dans un abattoir, recevra une indemnité pour l'hygiène des viandes représentant quatre pour cent (4 %) de son taux de rémunération horaire pour toutes les heures de travail, y compris les heures supplémentaires.

[70] On one hand, I note that nothing in the clause stated that the allowance would be paid to veterinarians working solely in abattoirs, as do clauses B1.08 and B2.06. In addition, I must also consider the evidence and how the employer interpreted and applied the clause over the years. I note Ms. Boucher's testimony that it was particularly difficult for the employer to apply, to the point that two full-time Human Resources employees had to be assigned to interpret it until it disappeared in 2018.

[71] Thus, it appears clear to me that with the coming into force of the generic job description in 2011 for VM-01 veterinarians and the other one for VM-02 veterinarians, the specific meat-inspection duty no longer belonged strictly to the meat-hygiene area. In addition, the employer sought greater integration, as possible, between the two areas (Exhibit EC, tab H). This state of affairs is uncontested, and it appears that from the time that animal-health veterinarians received the required training, they received the 4% allowance, but only if the work was carried out in an abattoir and if a written application was made each time.

[72] As is known, the requirement that the work had to be done in an abattoir to receive the allowance did not apply to veterinarians with substantive positions in meat hygiene. In fact, the evidence demonstrated that for them, the allowance also covered travel time, cleaning up, travel, conference participation, and other things.

[73] The following question arises. Was the employer justified in refusing to pay the 4% allowance to veterinarians with substantive positions in animal health when they performed their duties outside an abattoir? I do not believe so.

[74] On one hand, I agree that clause G2.01 of the collective agreement did not distinguish between the substantive positions. All it required to justify paying the allowance was that the veterinarian had meat-inspection duties in an abattoir. Yet, based on both generic job descriptions for VM-01 and VM-02 veterinarians, since 2011, meat inspection has been part of the duties not only of meat-hygiene veterinarians but also of animal-health veterinarians. On this point, I agree with the assertion that had the parties to the collective bargaining wished to limit the allowance to a specific substantive position, they would have done so, as they did with clauses C5.02(h), F1.09(a) and (b), and F1.11.

[75] And had the parties wished to limit the application of the allowance in clause G2.01 only to veterinarians working exclusively in abattoirs, they would no doubt have done so, as they did for clauses B1.08 and B2.06, in which the payments of the allowances in question are reserved for veterinarians “working in Slaughter Establishments **only**” [emphasis added].

[76] In addition, I do not see how the employer could require that the work be done solely in an abattoir for animal-health veterinarians, when the allowance was already paid to meat-hygiene veterinarians when they were outside the abattoir, on leave,

participating in training sessions or conferences, or engaged in any other development activity (Exhibit EC, tabs F and J).

[77] Dr. Boily testified that sometimes, after visiting an abattoir, she continues her meat-hygiene-related work at her office, including completing her analysis or following up with a pathologist. According to her, the employer refused to pay the allowance for that portion of the work, which is related to meat hygiene but performed outside an abattoir. In my opinion, the employer's position on this is difficult to reconcile with the position taken for paying the allowance to meat-hygiene veterinarians, who received it for all their activities.

[78] The employer argued that the distinction between the two areas of activity with respect to paying the allowance was due to the fact that the working conditions in the meat-hygiene area are more difficult. That is quite possible. Nevertheless, clause G2.1 made no such distinction. Once again, no differentiation or reference was made to the meat-inspection or animal-health areas with respect to applying the clause. It is different, for example, in clauses C2.07 and C5.02(h), in which the parties saw fit to refer to the substantive position.

[79] It was likely motivated by a desire to acknowledge certain issues specific to the work that the meat-hygiene VM-01s and VM-02s performed. Nevertheless, the employer interpreted clause G2.01 of the collective agreement and its allowance differently based on the veterinarians' substantive positions. In my view, nothing in clause G2.01 or in the evidence allowed for that different interpretation.

[80] Nevertheless, as I stated, animal-health veterinarians were entitled to the allowance for work performed in a given abattoir. Therefore, the amounts that were already paid will have to be deducted from the adjustments that will arise from this decision.

[81] The grievance was filed on July 27, 2015. Taking into account the decision in *Canada (National Film Board) v. Coallier*, [1983] F.C.J. No. 813 (C.A.)(QL), the scope of this decision is limited to 35 days before the grievance was filed. And recall that clause G2.01 of the collective agreement was removed on September 1, 2018.

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

(The Order appears on the next page)

Order

[83] The grievance is allowed.

[84] The employer violated clause G2.01 of the collective agreement.

[85] Therefore, the employer must pay the VM-01 and VM-02 veterinarians with substantive positions in animal health and with abattoir meat-inspection duties a meat-hygiene allowance equivalent to four percent (4%) of their straight-time hourly rate for all hours worked, including overtime. The scope of the allowance is limited to 35 days before the grievance was filed. Recall that clause G2.01 was removed on September 1, 2018. However, the amounts already paid when the allowance was applied must be deducted.

[86] I will remain seized of all questions related to calculating the amounts owed under paragraph 85 of this decision for a period of 120 days after the date of this decision in the event that the parties cannot agree.

June 15, 2020.

FPSLREB Translation

**Linda Gobeil,
a panel of the Federal Public Sector
Labour Relations and Employment Board**