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File: 525-02-42262

XR: 142-02-338

Citation: 2020 FPSLREB 104

*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

TREASURY BOARD

Applicant

and

PUBLIC SERVICE ALLIANCE OF CANADA

Respondent

Indexed as

Treasury Board v. Public Service Alliance of Canada

In the matter of a request for the Board to exercise any of its powers under section 43
of the *Federal Public Sector Labour Relations Act*

Before: David Orfald, a panel of the Federal Public Sector Labour Relations and
Employment Board

For the Applicant: Stefan Kimpton, counsel

For the Respondent: Andrew Raven, counsel

Decided on the basis of written submissions,
Files November 10 and 17, 2020.

Federal Public Sector Labour Relations and Employment Board Act and
REASONS FOR DECISION

I. Request before the Board

[1] This decision concerns an application under s. 43 of the *Federal Public Sector Labour Relations Act* (“the Act”). The applicant, which is the Treasury Board (“the employer”), requests a review of the decision of the former Public Service Staff Relations Board in *Public Service Alliance of Canada v. Treasury Board*, PSSRB File No. 142-02-338 (19990616). The applicant has requested that the description of the Operational Services Group bargaining unit (“the bargaining unit”) at para. 8 of that decision be amended to reflect the Operational Services occupational group definition published in Part I of the *Canada Gazette* of February 16, 2008.

[2] *Public Service Alliance of Canada v. Treasury Board*, PSSRB File No. 142-02-338 (19990616), defined the bargaining unit as follows at para. 8:

*All employees of the Employer in the Operational Services Group
as defined in Part I of the Canada Gazette of March 27, 1999.*

*Tous les fonctionnaires de l'employeur compris dans le groupe
Services de l'exploitation, tel que défini dans la Partie I de la
Gazette du Canada du 27 mars 1999.*

[3] The respondent, the Public Service Alliance of Canada (PSAC), consented to the application.

II. The applicant's submission

[4] The current bargaining unit was defined by the Board on June 16, 1999, and refers to the Operational Services occupational group definition as published in Part I of the *Canada Gazette* of March 27, 1999 (*Canada Gazette*, Part I, Vol. 133, No. 13, at pages 814 to 816).

[5] On February 16, 2008, an amended Operational Services occupational group definition was published in Part I of the *Canada Gazette*, retroactive to February 1, 2006 (*Canada Gazette*, Part I, Vol. 142, No. 7, at pages 371 to 373).

[6] Due to an administrative oversight, the employer did not submit an application for decision review to reflect the change in the Operational Services occupational

Federal Public Sector Labour Relations and Employment Board Act and group definition in 2008. This oversight came to light in the context of applications made pursuant to s. 58 of the Act, which are currently before the Federal Public Sector Labour Relations and Employment Board (“the Board”) in Board file numbers 547-02-43, 48, and 50.

[7] The applicant submitted that the change in the Operational Services occupational group definition published in Part I of the Canada Gazette on February 16, 2008, was minor and that all employees of the employer covered by the current Operational Services occupational group definition continue to form a unit appropriate for collective bargaining. The applicant requested that the definition of the bargaining unit be amended.

III. Reasons

[8] Section 43 of the Act provides that the Board may review, rescind, or amend any of its orders or decisions.

[9] Section 70(2) of the Act requires that a bargaining unit be co-extensive with an occupational group established by an employer unless defining a unit in this way would not permit the satisfactory representation of employees. In the latter case, the unit would not be appropriate for collective bargaining.

[10] The employer’s application proposes to modify the definition of the bargaining unit to make it co-extensive with the current Operational Services occupational group definition established by the employer. The employer submitted that the proposed bargaining unit would permit the satisfactory representation of the employees to be included in it, and the respondent consented to the application. Therefore, the Board finds that amendment sought by the employer would result in a unit appropriate for collective bargaining.

[11] As the applicant’s request meets the requirements of s. 70(2) of the Act, it is granted.

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

(The Order appears on the next page)

Federal Public Sector Labour Relations and Employment Board Act and

IV. Order

[13] The description of the bargaining unit, as set out in *Public Service Alliance of Canada v. Treasury Board*, PSSRB File No. 142-02-338 (19990616) para. 8, is modified to read as follows:

All employees of the Employer in the Operational Services Group as defined in Part I of the Canada Gazette of February 16, 2008.

Tous les fonctionnaires de l'employeur compris dans le groupe Services de l'exploitation, tel que défini à la Partie I de la Gazette du Canada du 16 février 2008.

[14] A new certificate will be issued

November 25, 2020.

**David Orfald,
a panel of the Federal Public Sector
Labour Relations and Employment Board**