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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

**PUBLIC SERVICE ALLIANCE OF CANADA**

Applicant

and

**TREASURY BOARD**

Respondent

Indexed as

*Public Service Alliance of Canada v. Treasury Board*

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

**For the Applicant:** Andrew Raven and Morgan Rowe, counsel

**For the Respondent:** Stefan Kimpton, counsel

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Decided on the basis of written submissions,  
filed November 30, 2017, January 15, 2018, June 12 and 26, August 31, and  
September 24, 2020.

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## REASONS FOR DECISION

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### I. Applications before the Board

[1] On November 30, 2017, the Public Service Alliance of Canada (“the bargaining agent”) filed 14 applications for the determination of questions of membership in bargaining units under s. 58 of the *Federal Public Sector Labour Relations Act* (S.C. 2003, c. 22, s. 2; “the *FPSLRA*”) concerning certain employees or classes of employees working at the Royal Canadian Mounted Police (“RCMP”), other than employees appointed to rank or reservists.

[2] This decision concerns three of those applications, which are for RCMP occupational sub-groups proposed for inclusion in the Operational Services Group bargaining unit represented by the bargaining agent. The remaining applications are addressed in four companion decisions.

[3] The Federal Public Sector Labour Relations and Employment Board (“the Board”) or its predecessors have confirmed the certification of the bargaining agent for the Operational Services Group bargaining unit: *Public Service Alliance of Canada and Treasury Board*, PSSRB File No. 142-2-338 (19990616). That decision confirmed the definition of the bargaining unit based on the Operational Services public service occupational group definition published in Part I of the *Canada Gazette* of March 27, 1999.

[4] The employees covered by these applications were appointed as civilian members of the RCMP under the *Royal Canadian Mounted Police Act* (R.S.C., 1985, c. R-10). They are currently unrepresented, as historically this group was 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 (“*Mounted Police Association of Ontario*”), the definition of “employee” in the *FPSLRA* changed. 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 (“the employer”) of these employees within the meaning of the *FPSLRA*.

[5] Before the Supreme Court of Canada’s decision in *Mounted Police Association of Ontario*, the federal government had indicated an intention to eliminate the civilian member category. In June of 2013, Parliament enacted the *Enhancing Royal Canadian*

*Mounted Police Accountability Act* (S.C. 2013, c. 18). Section 86 of that legislation provided the employer with the power to publish in the *Canada Gazette* a date on which the RCMP civilian members would be “deemed” to have been appointed to a position under the *Public Service Employment Act* (S.C. 2003, c. 22, ss. 12, 13). Originally, the deeming date was scheduled as April 26, 2018 (*Canada Gazette*, Part I, Vol. 151, No. 6, p. 672) and later scheduled as May 21, 2020 (*Canada Gazette*, Part I, Vol. 152, No. 14, p. 1134), but it has since been delayed and has yet to be determined (*Canada Gazette*, Part I, Vol. 154, No. 18, p. 869). The transition from civilian members to public service employees is referred to in this decision as the “Categories of Employees” project.

[6] The employer provided its initial response to these applications on January 15, 2018, consenting to them in principle. Between March and May of 2018, another panel of the Board sought the parties’ clarification on a number of aspects of the applications. In May of 2018, that panel placed the applications in abeyance but invited the parties to contact it to propose dates for a teleconference, should they wish one.

[7] In January 2020, the employer contacted the Board to inquire on the status of the applications. I was then appointed a panel of the Board to hear them. An in-person case conference was held on February 13, 2020, at which time I determined that the parties would provide updated written submissions with respect to the applications.

[8] In the context of these applications, it came to light that no application to amend the Operational Services Group bargaining unit definition had been made following the publication of a revised public service occupational group definition in Part I of the *Canada Gazette* of February 16, 2008, due to administrative oversight. The employer indicated it would make an application to amend *Public Service Alliance of Canada and Treasury Board*, PSSRB File No. 142-2-338 (19990616), pursuant to s. 43 of the *FPSLRA*, and the bargaining agent indicated it would consent to that application. The Board issued its decision regarding that application in *Treasury Board v. Public Service Alliance of Canada*, 2020 FPSLRB 104.

[9] The applications are decided on the basis of the parties’ written submissions.

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## II. Summary of the facts

[10] This summary is based on materials included in the applications and the written submissions.

[11] Some 4000 RCMP civilian members are affected by the Categories of Employees project. They have been structured into a number of RCMP occupational groups and sub-groups. In preparation for the deeming date, the employer engaged in a process of “matching” the RCMP sub-groups to existing public service occupational groups, as possible. A match to a represented occupational group was communicated to the affected bargaining agent.

[12] For the RCMP occupational sub-groups covered by these applications, the parties agree that their duties match the definition of an existing public service occupational group and classifications. The parties also note that the Categories of Employees project involved “pay-matching” the salaries of RCMP civilian members to their equivalent public service classifications.

[13] The following two applications concern employees in the noted RCMP occupational groups and sub-groups, which have been matched to the indicated public service classifications:

- 547-02-48 covers employees in the Store Attendant sub-group of the RCMP's Special Police Services occupational group (SP-SAT), which has been matched to the General Services - Store Services (GS-STS) public service classification; and
- 547-02-50 covers employees in the Trades Master sub-group of the RCMP's Special Police Services occupational group (SP-TM), which has been matched to the General Labour and Trades - Precision Working (GL-PRW) public service classification.

[14] Application 547-02-43 concerns the Environmental Operator sub-group of the RCMP's Special Police Services occupational group (SP-EVO), which has been matched to the Heating, Power and Stationary Plant Operations (HP) public service classification. The employer reported that currently, this sub-group covers no positions.

[15] The GS-STS, GL-PRW, and HP public service classifications apply to the Operational Services public service occupational group as defined in the *Canada Gazette*, Part I, Vol. 142, No. 7, at pages 371 to 373, on February 16, 2008.

[16] The February 16, 2008, definition for the Operational Services public service occupational group is as follows:

***Operational Services Group Definition***

*The Operational Services Group comprises positions that are primarily involved in the fabrication, maintenance, repair, operation and protection of machines, equipment, vehicles, government facilities and structures such as buildings, vessels, stationary and floating plants, stores, laboratories, and equipment; and the provision of food, personal or health support services.*

***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 cleaning and servicing of buildings and adjacent grounds, including housekeeping and janitorial services, and the cleaning of laboratory equipment;*
- 2. the patrolling, observing, checking and taking of preventive action in protecting property from damage or loss and providing for the well-being of people;*
- 3. the receipt, storage, manual or mechanical handling of equipment, and the recording of transactions in an equipment or supplies stores context;*
- 4. the provision of food, laundry and messenger services, and other services, such as tailoring, to accommodate passengers, clients, patients, guests or tourists;*
- 5. the provision of patient care and health care support services not requiring the qualifications of a registered nurse, occupational therapist or physical therapist;*
- 6. the provision of routine assistance to pathologists, dentists, nurses, therapists and laboratory technicians;*
- 7. the performance of fire protection, fire prevention and/or airport rescue activities by active members of fire-fighting forces;*
- 8. the inspection, installation, operation, maintenance or repair of specialized and non-specialized instruments, equipment and machinery used in or related to: the generation of heat, electricity, refrigeration, or air conditioning; sewage treatment and disposal; water supply and treatment; marine navigation; and the handling and storage of fuels and lubricants;*
- 9. the operation and maintenance of light-station equipment and the upkeep of the light-station buildings, landing facilities or grounds;*
- 10. the operation and servicing of vessels staffed by civilians, including floating plants and associated equipment, and*

activities performed in support of programs such as buoy tending, fisheries enforcement and rescue operations;

11. the fabrication, alteration, maintenance or repair of buildings, structures, roads or other installations;

12. the installation, operation, maintenance or repair of equipment, distribution systems or vehicles;

13. the production of parts, prototypes or other items;

14. the cultivation of grounds, gardens and other land or the propagation of plants;

15. the care and feeding of animals;

16. the performance of leadership activities that require the inspection of construction work for conformity to prescribed standards or specifications where the following are of primary importance:

(a) acting as the architect's or engineer's representative on the construction site of work being performed under contract, with responsibility to ensure that work proceeds according to an agreement and that all statutory requirements are met by the contractor before progress payments are released; and

(b) performing the functions of an inspector on behalf of a property manager, with responsibility for examining and recommending work that should be done to properly maintain structures, and for recommending the acceptance or rejection of work;

17. the weighing and sampling of grain, the operation of agricultural equipment and machinery and associated activities;

18. the leadership of any of the above activities; and

19. the leadership of printing services pertaining to the production and binding of text material and illustrations by the various techniques used in the printing industry and directly related printing environments.

### **Exclusions**

Positions excluded from the Operational Services 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 custody and control of inmates in institutions of Correctional Service Canada;

2. the custody and control of detainees held under the Immigration and Refugee Protection Act (IRPA) Security Certificates in federal holding centres or detention facilities;

3. the planning, development, co-ordination or monitoring of fire prevention programs on a national, regional or district basis;
4. the development and writing of specifications for the acquisition of resources, material and equipment for rescue and fire prevention and protection services;
5. the study of potable water supply problems, sewage treatment methods, the mechanics and efficiency of heat-engines, the comparable thermal efficiencies of fuels, or the technical aspects of the purification, handling and storage of liquid fuels and lubricants;
6. the developmental testing of pressure vessels, pumps, compressors, heat-engines, turbines or other stationary mechanical plants;
7. the planning of the general practices and procedures to be followed at light-stations;
8. the repair, modification and refitting of naval vessels and their equipment;
9. the on-board command and control of the operation of civilian vessels, floating plants and associated equipment requiring a certificate of competency; and
10. the provision of printing services that also requires a limited degree of leadership.

[17] On November 25, 2020, the Board modified the description of the Operational Services Group bargaining unit to reflect the February 16, 2008, definition of the Operational Services public service occupational group: *Treasury Board v. Public Service Alliance of Canada*, 2020 FPSLREB 104.

### III. Reasons

[18] Section 58 of the *FPSLRA* 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.*

[19] I must consider these applications in relation to the bargaining unit described by the Board in *Public Service Alliance of Canada and Treasury Board*, 2020 FPSLREB 104, which refers to the Operational Services public service occupational group definition published in the *Canada Gazette*, Part I, Vol. 142, No. 7, at pages 371 to 373, on February 16, 2008.

[20] There is no dispute between the parties that the employees occupying positions in the SP-SAT and SP-TM RCMP occupational sub-groups perform duties that fall within the Operational Services public service occupational group definition.

[21] Although there are currently no employees occupying positions in the Environmental Operator sub-group of the RCMP's Special Police Services occupational group (SP-EVO), I find that, were such positions staffed, their incumbents would form a class of employees for the purpose of section 58 of the *FPSLR*A, as long as they met the definition of "employee" in subsection 2(1). I make this finding recognizing the parties' mutual agreement and desire for certainty regarding their dealings with respect to the Operational Services Group bargaining unit, as incidental to the attainment of the following objects in the preamble to the *FPSLR*A: effective labour-management relations; the collaborative efforts between the parties; the fair, credible and efficient resolution of matters arising in respect of terms and conditions of employment; and harmonious labour-management relations. This finding is also supported by policy considerations regarding the efficient administration of quasi-judicial resources. Finally, as the parties pointed out, the Board followed a similar approach in *Professional Institute of the Public Service of Canada v. Treasury Board*, 2018 FPSLR 26 at para. 12.

[22] I therefore find that the employees and classes of employees covered by the applications are included in the Operational Services Group bargaining unit.

[23] The bargaining agent requested that as part of its order allowing the applications, the Board make an order for the disclosure of employee contact information. It argued that bargaining agents have a well-established right to such information, citing *Bernard v. Canada (Attorney General)*, 2014 SCC 13 at paras. 24 to 33 and 40. It proposed that the Board remain seized of any issues encountered in disclosing it.

[24] For its part, the employer did not dispute that a bargaining agent has the right to employee contact information. It committed to providing that information for the employees covered by these applications, once the Board orders them included in the Operational Services Group bargaining unit. It took the position that there is no need for an order from the Board in this respect.



[25] The employer has taken a clear position that it intends to provide the bargaining agent with the contact information of the employees covered by these applications once they are included in the Operational Services Group bargaining unit. If the bargaining agent encounters any difficulties in this regard, it has legal recourses available. I do not believe that an order to provide employee contact information is required at this time but I do confirm the commitment made by the employer.

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

*(The Order appears on the next page)*

**IV. Order**

[27] The Board declares that the employees, other than those appointed to rank or reservists, occupying positions in the Royal Canadian Mounted Police's Store Attendant (SP-SAT) and Trades Master (SP-TM) occupational sub-groups are included in the bargaining unit composed of "[a]ll employees of the Employer in the Operational Services Group as defined in Part I of the *Canada Gazette* of February 16, 2008."

[28] The Board also declares that the class of employees, other than those appointed to rank or reservists, who may be employed in the Royal Canadian Mounted Police's Environmental Operator (SP-EVO) occupational sub-group and who meet the definition of "employee" in subsection 2(1) of the *FPSLRA*, form a class of employees included in the bargaining unit composed of "[a]ll employees of the Employer in the Operational Services Group as defined in Part I of the *Canada Gazette* of February 16, 2008."

[29] The Board confirms the Treasury Board's commitment to providing the Public Service Alliance of Canada with employee contact information for the employees covered by these applications.

November 26, 2020

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