

**Date:** 20201126

**File:** 547-02-41

**Citation:** 2020 FPSLREB 109

*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 an application, 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 and August 31, 2020

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**REASONS FOR DECISION**

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**I. Application 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 one of those applications, which is for an RCMP occupational sub-group, part of which is proposed for inclusion in the Program and Administrative (PA) Services Group bargaining unit represented by the bargaining agent and the other part for inclusion in the Technical Services (TC) 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 PA Group bargaining unit: *Public Service Alliance of Canada and Treasury Board*, PSSRB File No. 142-02-337 (19990607); *Treasury Board (Canada Border Services Agency) v. Public Service Alliance of Canada*, 2007 PSLRB 22; *Treasury Board v. Public Service Alliance of Canada*, 2019 FPSLREB 91.

[4] The Board or its predecessors have also confirmed the certification of the bargaining agent for the TC Group bargaining unit: *Public Service Alliance of Canada and Treasury Board*, PSSRB File No. 142-2-339 (19990610); *Treasury Board v. Public Service Alliance of Canada*, 2019 FPSLREB 14.

[5] The employees covered by this application 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*.

[6] 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.

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

[8] In January 2020, the employer contacted the Board to inquire on the status of the application. I was then appointed a panel of the Board to hear it. 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 application.

[9] The application is decided on the basis of the parties’ written submissions.

## **II. Summary of the facts**

[10] This summary is based on materials included in the application 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-group covered by this application, the parties agree that its duties match the definitions of existing public service occupational groups 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] This application concerns employees in the Forensic Identification Technician sub-group of the RCMP’s Forensic Laboratory and Identification occupational group (FLI-FIT).

[14] The evidence submitted by the employer was that RCMP civilian members’ positions classified at the FLI-FIT-01 level have been matched to the Clerical and Regulatory (CR) public service classification. The primary purpose of the jobs classified at the FLI-FIT-01 level is focused on data entry and information management.

[15] The CR public service classification applies to the PA public service occupational group as defined in the *Canada Gazette*, Part I, Vol. 140, No. 10, at pages 513 to 515, on March 11, 2006. That definition was in effect as of the date of application. A new definition of the PA public service occupational group was published in the *Canada Gazette*, Part I, Vol. 153, No. 10, at page 559, on March 9, 2019. Those definitions are reported in the first companion decision to this one, *Public Service Alliance of Canada v. Treasury Board*, 2020 FPSLREB 105 (case file Nos. 547-02-38, 40, 45, 46 and 51), and inform my conclusions in the present decision.

[16] The evidence submitted by the employer was that RCMP civilian members’ positions classified at the FLI-FIT-02 to FLI-FIT-04 levels have been matched to the General Technical (GT) public service classification. The primary purpose of the jobs at the FLI-FIT-02 to FLI-FIT-04 levels involves fingerprint analysis or its oversight, requiring specific technical skills or certification.

[17] The GT public service classification applies to the TC public service occupational group as defined in the *Canada Gazette*, Part I, Vol. 133, No. 13, at pages

807 to 809, on March 27, 1999. That definition was in effect as of the date of application. A new definition for the TC public service occupational group was published in the *Canada Gazette*, Part I, Vol. 152, No. 22, at pages 1732 to 1734, on June 2, 2018. Those definitions are reported in the third companion decision to this one, *Public Service Alliance of Canada v. Treasury Board*, 2020 FPSLREB 107 (in case file Nos. 547-02-39, 44, 47 and 49), and inform my conclusions in the present decision.

[18] The bargaining agent agreed with matching the FLI-FIT-01 positions to the CR public service classification and therefore the PA occupational group, and matching the FLI-FIT-02 to -04 positions to the GT public service classification and therefore the TC occupational group.

### III. Reasons

[19] 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.*

[20] I must consider this application in relation to the bargaining units described by the Board in *Treasury Board v. Public Service Alliance of Canada*, 2019 FPSLREB 91, which refers to the PA public service occupational group definition published in the *Canada Gazette*, Part I, Vol. 153, No. 10, at page 559, on March 9, 2019, and in *Treasury Board v. Public Service Alliance of Canada*, 2019 FPSLREB 14, which refers to the TC public service occupational group definition published in the *Canada Gazette*, Part I, Vol. 152, No. 22, at pages 1732 to 1734, on June 2, 2018.

[21] In the first companion decision to this one, *Public Service Alliance of Canada v. Treasury Board*, 2020 FPSLREB 105 (in case file Nos. 547-02-38, 40, 45, 46 and 51), the Board set out its reasons for including RCMP civilian members matched to the CR public service classification in the PA Group bargaining unit and quoted in detail from the relevant public services occupational group definitions. Those reasons inform my conclusions in the present decision.

[22] In the third companion decision to this one, *Public Service Alliance of Canada v. Treasury Board*, 2020 FPSLREB 107 (in case file Nos. 547-02-39, 44, 47 and 49), the

Board set out its reasons for including RCMP civilian members matched to the GT public service classification in the TC Group bargaining unit and quoted in detail from the relevant public service occupational group definitions. Those reasons inform my conclusions in the present decision.

[23] There is no dispute between the parties that the employees occupying positions at Level 01 of the FLI-FIT RCMP occupational sub-group perform duties that fall within the PA public service occupational group definition.

[24] There is also no dispute between the parties that the employees occupying positions at Levels 02 to 04 of the FLI-FIT RCMP occupational sub-group perform duties that fall within the TC public service occupational group definition.

[25] Accordingly, I find that the employees occupying positions at Level 01 of the FLI-FIT RCMP occupational sub-group are included in the PA Group bargaining unit.

[26] I also find that the employees occupying positions at Levels 02 to 04 of the FLI-FIT RCMP occupational sub-group are included in the TC Group bargaining unit.

[27] The bargaining agent requested that as part of its order allowing the application, 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.

[28] 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 this application, once the Board orders them included in the PA or TC Groups bargaining units. It took the position that there is no need for an order from the Board in this respect.

[29] The employer has taken a clear position that it intends to provide the bargaining agent with the contact information of the employees covered by this application once they are included in the PA or TC Group bargaining units. 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.

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

*(The Order appears on the next page)*

#### **IV. Order**

[31] The Board declares that the employees, other than those appointed to rank or reservists, occupying positions at Level 01 of the Royal Canadian Mounted Police's Forensic Identification Technician (FLI-FIT) occupational sub-group are included in the bargaining unit composed of "[a]ll employees of the Employer in the Program and Administrative Services group as defined in Part I of the Canada Gazette of March 9, 2019."

[32] The Board declares that the employees, other than those appointed to rank or reservists, occupying positions at Levels 02, 03, and 04 of the Royal Canadian Mounted Police's Forensic Identification Technician (FLI-FIT) occupational sub-group are included in the bargaining unit composed of "[a]ll employees of the Employer in the Technical Services Group as defined in Part I of the *Canada Gazette* of June 2, 2018."

[33] 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 this application.

November 26, 2020.

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