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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

CANADIAN UNION OF PUBLIC EMPLOYEES

and

CANADIAN UNION OF PUBLIC EMPLOYEES, LOCAL 104

Applicants

and

TREASURY BOARD

Respondent

Indexed as

*Canadian Union of Public Employees v. Treasury Board*

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*, and of an application, under subsection 79(2), for a determination of the rights, privileges and duties of an employee organization

**Before:** Marie-Claire Perrault, a panel of the Federal Public Sector Labour Relations and Employment Board

**For the Applicants:** Amy Kishek, counsel

**For the Respondent:** Richard Fader, counsel

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Decided on the basis of written submissions,  
filed April 21 and May 11 and 19, 2022.

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## REASONS FOR DECISION

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### I. Matter before the Board

[1] On April 21, 2022, the Canadian Union of Public Employees (CUPE) and the Canadian Union of Public Employees, Local 104 (“CUPE, Local 104”) (“the applicants”), applied to the Federal Public Sector Labour Relations and Employment Board (“the Board”) to obtain an amendment to decision *Canadian Union of Public Employees v. Treasury Board (Royal Canadian Mounted Police)*, 2018 FPSLREB 17, which was itself amended by *Treasury Board v. Canadian Union of Public Employees*, 2019 FPSLREB 96, and by which the Board certified the CUPE as the bargaining agent for the bargaining unit composed of “[a]ll employees in the Intercept Monitoring and Telecommunications Operations sub-groups of the Law Enforcement Support Group and in the Police Operations Support Group defined in Part I of the Canada Gazette of March 9, 2019.” (“the bargaining unit”).

[2] The applicants also seek a declaration that the CUPE, Local 104 is the successor to the CUPE, thus acquiring all its rights, privileges, and duties with respect to the bargaining unit and an employee in the bargaining unit.

[3] The employees in the bargaining unit work at the Royal Canadian Mounted Police (RCMP). The legal employer is the Treasury Board of Canada (“the employer”).

[4] The employer provided its consent to the request and the application.

### II. Context

[5] In 2016 and 2017, the CUPE filed three applications to be certified as the bargaining agent for three bargaining units of employees working at the RCMP in four occupational sub-groups: Law Enforcement Support -Telecom Operations (LES-TO) occupational sub-group, Police Operations Support-Telecommunications Operations occupational subgroup (“PO-TCO”), Law Enforcement Support – Intercept Monitors (“LES-IM”) occupational subgroup, and Police Operations – Intercept Monitoring and Analysis (“PO-IMA”) occupational subgroup.

[6] In *Canadian Union of Public Employees v. Treasury Board (Royal Canadian Mounted Police)*, 2017 FPSLREB 36, the Board determined that a single bargaining unit was appropriate for collective bargaining. A vote was conducted, and a majority of the employees in the bargaining unit voted to be represented by the CUPE as their

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bargaining agent. This was recorded in decision 2018 FPSLREB 17, as amended by 2019 FPSLREB 96, and the Board certified the CUPE as the bargaining agent for the bargaining unit.

[7] On May 9, 2018, the CUPE gave a notice to bargain collectively to the employer with respect to the bargaining unit. The parties first met to bargain collectively on July 26, 2021. They have met on 19 occasions, but no collective agreement has yet been reached.

[8] In the course of the collective bargaining, it became necessary to clarify the respective roles of the CUPE and the CUPE, Local 104. As stated in correspondence from Mark Hancock, the CUPE National President, to the employer:

*When CUPE is certified to represent a defined bargaining unit, it creates a Local Union and assigns to that local the bargaining rights associated with this certification by issuing it a charter. Subject to the National Constitution, the Local has its own governance structure and bylaws and is responsible for bargaining and administering the collective agreement for its bargaining unit.*

...

[9] Thus, it is clear that the employer is bargaining collectively with the CUPE, Local 104 to arrive at a collective agreement for the bargaining unit. The employer stated that it would not oppose an amendment to decision 2018 FPSLREB 17, as amended by 2019 FPSLREB 96, to reflect that fact.

[10] According to its practice, the CUPE chose to transfer its jurisdiction in respect of the bargaining unit and an employee in the bargaining unit to the CUPE, Local 104. The CUPE, Local 104 was formed on the day the certificate was issued, March 12, 2018. It has its own elected officials and carries out the duties of a bargaining agent. It directs the collective bargaining team. It has voted its own by-laws. It meets the definition of an employee organization in s. 2(1) of the *Federal Public Sector Labour Relations Act* (S.C. 2003, c. 22, s. 2; “the Act”), which read as follows at all relevant times:

...

...

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| <p><i>(a) in respect of employees who are not RCMP members or reservists, an organization of employees that has as one of its purposes the regulation</i></p> | <p><i>a) S’agissant de fonctionnaires qui ne sont pas des membres de la GRC ni des réservistes, organisation qui les regroupe en vue, notamment, de</i></p> |
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*of relations between the employer and its employees for the purposes of Parts 1 and 2 ....*

*réglementer les relations entre eux et leur employeur pour l'application des parties 1 et 2;*

### **III. Decision**

[11] Pursuant to s. 43 of the *Act*, the Board may amend any of its orders and decisions.

[12] Pursuant to s. 79(1) of the *Act*, the employee organization that, by reason of a transfer of jurisdiction, succeeds another employee organization that is a bargaining agent is deemed to have acquired the rights, privileges, and duties of its predecessor in respect of the bargaining unit and an employee in the bargaining unit.

[13] The applicants have demonstrated to the Board's satisfaction that the CUPE, Local 104 is an employee organization to which jurisdiction has been transferred from the CUPE predecessor in respect of the bargaining unit and an employee in the bargaining unit, and that decision 2018 FPSLRB 17, as amended by 2019 FPSLRB 96, should be further amended to reflect the transfer of jurisdiction. The Board notes that the employer consents to this amendment.

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

*(The Order appears on the next page)*

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**IV. Order**

[15] The Board declares that the Canadian Union of Public Employees, Local 104 is the successor to the Canadian Union of Public Employees as the bargaining agent for the following bargaining unit:

All employees in the Intercept Monitoring and Telecommunications Operations sub-groups of the Law Enforcement Support Group and in the Police Operations Support Group defined in Part I of the *Canada Gazette* of March 9, 2019.

*Tous les fonctionnaires des sous-groupes professionnels Monitoring des interceptions et Opérations des télécommunications faisant partie du groupe professionnel Soutien aux opérations policières, définis dans la Partie I de la Gazette du Canada du 9 mars 2019.*

[16] The Board declares that the Canadian Union of Public Employees, Local 104 has acquired all the rights, privileges, and duties of the Canadian Union of Public Employees, whether under Part 1 of the *Federal Public Sector Labour Relations Act* or under a collective agreement, an arbitral award, an essential services agreement or otherwise, in all regards in respect of the bargaining unit mentioned at paragraph 15 of this decision and an employee in that bargaining unit.

[17] Decision *Canadian Union of Public Employees v. Treasury Board (Royal Canadian Mounted Police)*, 2018 FPSLRB 17, as amended by *Treasury Board v. Canadian Union of Public Employees*, 2019 FPSLRB 96, is further amended so that the Canadian Union of Public Employees, Local 104 replaces the Canadian Union of Public Employees as the bargaining agent for the bargaining unit mentioned at paragraph 15.

[18] A new certificate will be issued.

June 15, 2022.

**Marie-Claire Perrault,  
a panel of the Federal Public Sector  
Labour Relations and Employment Board**