

Board file: 590-18-45752

**IN THE MATTER OF a Public Interest Commission
UNDER THE *FEDERAL PUBLIC SECTOR LABOUR RELATIONS ACT***

BETWEEN:

PUBLIC SERVICE ALLIANCE OF CANADA

(the "Alliance")

-and-

Staff of the Non- Public Funds, Canadian Forces - Bagotville

("SNPF")

Before: Christine Schmidt, Chairperson
Sebastien Huard, SNPF Nominee
Katty Duranleau, Alliance Nominee

For the Applicant: Natalie Rainville, Negotiator
Sarah Allen, Research Officer

For the Respondent: Amy Lecompte, National Manager, Employment and Labour
Relations
Kassandra Shushack, Senior Labour Relations and Employment
Officer

Hearing held in Ottawa on September 19, 2023 and Executive Session via
videoconference on December 1, 2023.

[1] This is a Report of a Public Interest Commission (“Commission”) established under the *Federal Public Sector Labour Relations Act* (the “Act”) relating to the renewal of the collective agreement between the Public Service Alliance of Canada, Local 10583 (“Alliance”) and the Staff of the Non-Public Funds, Canadian Forces, Bagotville Base (“SNPF-Bagotville”). The collective agreement between the parties expired on November 30, 2022. The parties are agreed that the renewal agreement will be for a three-year term.

[2] The Staff of the Non-Public Funds (“SNPF”) has approximately 4000 employees located in 48 Bases, Wings and Units across Canada and in Europe to assist the military internationally. In Canada, SNPF has 22 bargaining units, 10 of which are represented by the Public Service Alliance of Canada. Three of the 10 units are located in Quebec (the Quebec units), of which the Alliance is one. The other 12 bargaining units in Canada are represented by the United Food and Commercial International Union (“UFCW”).

[3] The SNPF is a unique organization within the public service. Its mission is to enhance the morale and welfare of the military community, thereby contributing to the operational readiness and effectiveness of the Canadian Forces (“CF”). The SNPF is a separate agency within the federal public administration and its employees are excluded from the application of the *Public Service Employment Act*. The SNPF fulfills its mandate through the delivery of programs in three areas. First, there is the Canadian Forces Exchange System (“CANEX”), a system of retail and food service outlets operated on CF Bases, run for the benefit and convenience of the military and their families. Secondly, SISIP offers financial services, including financial planning, as well as life and disability insurance to Canadian Armed Forces members, former members and their spouses/partners. Thirdly, Personnel Support Programs (“PSP”) include the mess and programs related to community service, physical fitness and recreation.

[4] The Alliance bargaining unit is comprised of approximately 20 employees, 12 of whom are employed full-time and 8 of whom are employed on a part-time basis. These employees belong to the operational and administrative support categories of the SNPF.

[5] The services provided by the SNPF at Canadian Forces' bases vary. According to the briefs submitted, in this bargaining unit employees hold 10 positions which include: Fitness and Training Instructor, Sales Clerk, Store Clerk, Administrative Assistant, Mess Clerk, Accounting Clerk among others.

[6] The Alliance was certified as the exclusive bargaining agent on June 30, 1997. It served notice to bargain on September 9, 2022. The parties engaged in collective bargaining on September 26, 27 and 28, 2022, following which the Alliance declared an impasse and filed for conciliation. On October 3, 2022, it filed a request to the Federal Public Sector Labour and Employment Board to establish a Public Interest Commission, and as a result this Commission was established.

[7] Pursuant to section 172 of the Act, the Commission is mandated to endeavour to assist the parties to enter into a renewal collective agreement. Accordingly, we make the recommendations set out in this Report.

Framework of Recommendations of the Commission

[8] Together with the two other Alliance bargaining units in Quebec, specifically, Local 10581 representing operational category employees of the SNPF who work in outlets in the Montreal region, and Local 10580 representing operational and administrative support categories of employees who work at the Valcartier CF Base, the three Quebec units and the SNPF (collectively the "Quebec parties") agreed to meet in an attempt to mediate the many outstanding issues in dispute between them, the most contentious being wages.

[9] The Quebec parties met for four days between August 21 and August 24, 2023. The SNPF anticipated being in a position to increase the wage proposals it had previously tabled. The proposals were identical for all Quebec units. The SNPF proposed a general wage increase of 3.5% for 2022, a general wage increase of 3.0% and a market adjustment of 2.5% for 2023, and a general wage increase of 2% for 2024.

[10] The SNPF's proposed general wage increase over the period of three years mirrored the negotiated wage increases as reflected in the collective agreement

reached between the Alliance and the Treasury Board of Canada (“TB”) for the bargaining unit of the Core Public Administration referred to as “Program and Administrative Services” (“PA”). The wage adjustments for the PA group totalled 2% (1.25% in 2022, 0.5% in 2023 and 0.25% in 2024) and included a \$2,500 one-time pensionable lump sum to be paid to all employees.

[11] Some progress on wages by the Quebec parties was made at mediation. The SNPF was prepared to move the market adjustment of 2.5% from the second to the first year and the Quebec Units made a counter offer with a view to integrating the equivalent of the lump sum payment to the PA group into the first year of the term. However, the SNPF was not able to enhance its wage proposal by the end of day on August 24, 2023. The Commission anticipated, however, that there would be a revised proposal by September 19, 2023, the date scheduled for the Quebec parties’ hearings.

[12] The week of August 21 to 24, 2023 was productive to the extent that the parties were able to resolve nearly all of the many items in dispute between them other than the Quebec Units’ proposals on retroactivity and hours of work for PSP Fitness and Sports Instructors.

[13] On September 19, 2023, three separate hearings for the Quebec parties were held. The proceedings were not consolidated; however, oral submissions were made efficiently in that the spokespersons for the Quebec Units and those for the SNPF made one presentation each.

[14] As anticipated, on September 19, 2023, the SNPF enhanced its wage proposal, offering a further 1% wage adjustment in the third year.

[15] Between the August mediation with the Quebec parties, and the hearings held on September 19, 2023, separate Public Interest Commissions held hearings pertaining to the Alliance bargaining units in Petawawa (the “Kaplan Commission”) and Kingston (the “Kugler Commission”). In those proceedings, the SNPF asked the two Commissions to recommend the same wage proposal that they asked us to recommend: a three-year term with wage increases of 3.5%, 3%, 2% and additional wage adjustments of 2.5% in the first year and 1% in the third.

[16] On September 19, 2023, the Alliance informed the Commission that it was reverting to its initial wage proposal (as did the other Quebec Units). The initial wage proposal included a grid restructure with a starting rate of \$18.00 per hour effective November 1, 2022, then additional wage adjustments of 4.5% for each of the three years effective November 1, 2022.

[17] The Reports from the Kaplan and Kugler Commissions were issued on October 31, 2023 and November 21, 2023, respectively. Beyond what SNPF-Petawawa and SNPF-Kingston employers asked those Commissions to recommend on wages, both the Kaplan Commission and the Kugler Commission recommended a further 1.75% wage adjustment for the second year (2023). Other than recommending language on retroactivity, and in the case of the Kaplan Commission an amendment to the unique Pay Note concerning minimum wage, neither the Kaplan Commission nor the Kugler Commission recommended any other monetary or non-monetary proposals.

The Criteria

[18] Section 175 of the Act prescribes the factors that the Commission must consider in its deliberations. Section 175 of the Act provides as follows:

175. In the conduct of its proceedings and in making a report to the Chairperson, the public interest commission must take into account the following factors, in addition to any other factors that it considers relevant:

(a) the necessity of attracting competent persons to, and retaining them in, the public service in order to meet the needs of Canadians;

(b) the necessity of offering compensation and other terms and conditions of employment in the public service that are comparable to those of employees in similar occupations in the private and public sectors, including any geographic, industrial or other variations that the public interest commission considers relevant;

(c) the need to maintain appropriate relationships with respect to compensation and other terms and conditions of employment as between different classification levels within an occupation and as between occupations in the public service;

(d) the need to establish compensation and other terms and conditions of employment that are fair and reasonable in relation to the qualifications required, the work performed, the responsibility assumed and the nature of the services rendered; and

(e) the state of the Canadian economy and the Government of

Canada's fiscal circumstances.

[19] The parties made lengthy and comprehensive written submissions, followed by oral submissions, on the application of the factors to be considered as set out above. The Commission has carefully considered both the written and oral submissions made. It is fair to say, with minor differences to address specifics pertaining to the different Quebec units, the submissions made to us on wages and retroactivity were essentially the same submissions advanced before the Kaplan Commission and the Kugler Commission.

[20] The Commission is required to consider both the private and public sector comparators, to take into account any recruitment or retention issues, to review relationships as between different classification levels within occupations and between them in the public service, and to take into account the state of the economy, which includes consideration of the impact of inflation for the three years at issue, among other factors. The Kaplan Commission Report, and in particular the commentary made in the discussion section and the portion that addresses retroactivity, is on point and applicable to the circumstances in this proceeding.

[21] On December 1, 2023, the Commission held its executive session. Both nominees made submissions on the relevance and application of the Kaplan Commission recommendations as well as the Kruger Commission recommendations, which follow those of the Kaplan Commission.

[22] The Commission's mandate is to endeavour to assist the parties to enter into a renewal collective agreement. On this point, despite the nominees' respective views of a more ideal "landing point" as Chair Kaplan referred to it in paragraph 16 of the Report of the Kaplan Commission, this Commission is of the view that in following the Kaplan Commission and Kugler Commission Report recommendations, it is best able to assist the parties in fulfilling its mandate.

[23] Having said that, other than wages and retroactivity, the only outstanding proposal before the Commission is the Alliance's proposed language on hours of work for PSP Fitness and Sports Instructors. To recommend this proposal would be non-

normative and there was no evidence of demonstrated need advanced by the Alliance before the Commission.

[24] The only issues left between these parties are wages and retroactivity. Chair Kaplan's comments bear repeating as it relates to wages:

[16] ... We are, however, not recommending a lump sum as has occurred elsewhere because the pressing and demonstrated need is to improve compensation for a group of employees who are not, on the evidence before us, highly paid. Accordingly, we have followed the same architecture as the core public administration and agencies such as the CRA by recommending general wage increases and wage adjustments. The amounts partially reflect the fact that no lump sum is proposed, and also reflect the corrosive impact of inflation, especially on those who are less well paid. There is no intention to split the difference in the second year, but to arrive at a possible landing point, one that both parties may ultimately accept.

Recommendations

1. The agreed to items are to be incorporated into the renewal collective agreement.
2. Wages:

Effective July 1, 2022: 3.5% GWI + 2.5% Wage Adjustment
Effective July 1, 2023: 3% GWI + 1.75% Wage Adjustment
Effective July 1, 2024: 2% GWI + 1% Wage Adjustment
3. Retroactive pay will be provided to all Employees who were on strength for any period during the life of the Collective agreement.

Dated at Toronto this 28th day of December 2023.



Christine Schmidt, Chair

“I dissent, see attached”

Sebastien Huard, SNP Nominee

“addendum attached”

Katty Duranleau, Alliance Nominee

EMPLOYER REPRESENTATIVE DISSENT

I am unable to endorse two aspects of the Chair's final recommendations: the additional 1.75% wage adjustment effective July 1, 2023, and the application of retroactive pay to all former employees.

Wage Adjustment

My view is that any additional adjustment would need to be supported by clear evidence of a demonstrated need. We were not provided with such evidence. I cannot therefore support the recommendation of the additional 1.75% wage adjustment effective July 1, 2023.

Contrary to the Union's assertion, the Federal public service is not an appropriate comparator. The parties' own bargaining history does not support such a position.

Previous PIC reports for other locations also do not support the conclusion that there should be comparability between SNPF employees and core public administration employees. During the last round of bargaining, after hearing similar arguments to those made to this Commission with respect to appropriate comparators, Chairperson Flaherty stated in unanimous PIC reports for CFB Valcartier and CFB Bagotville that it was appropriate to consider similar positions in both the private and public sectors and ultimately recommended wage improvements that did not replicate the wage increases negotiated for the core public administration.

I would have accorded more weight to comparison to internal groups in other bases, where the same or similar positions provide similar programs and services, with similar duties and within the same legislative and financial frameworks, whether or not they are represented by PSAC.

The Employer had presented settlements with three different UFCW bargaining units that were ratified at the end of the summer. While PSAC and UFCW settlements do not necessarily follow each other between locations, it remains a persuasive indication of what these parties could agree for themselves.

Retroactive Pay

I also diverge from the Chair's view with respect to the appropriateness of retroactive pay. The parties in this instance have an accepted practice to limit retroactive pay to active employees at the time of ratification. The recent UFCW settlements provide that former employees will receive retroactive pay only if they have left because of the posting of a family member to another base. And unanimous PIC reports for Bagotville and Valcartier during the last round of bargaining did not address retroactive pay.

For these reasons, I do not concur with the Chair's recommendation regarding retroactive pay.

ADDENDUM FROM THE ALLIANCE REPRESENTATIVE

A Public Interest Commission's task is to guide the parties to a settlement for a renewed collective agreement. In doing so, the relevant criteria set out in section 175 of the *Federal Public Sector Labour Relations Act* must be considered. The parties had the opportunity to make written and oral representations on the different applicable factors.

I believe that the salary data that the PSAC presented shows substantial differences between the salaries paid to SNPF employees and those offered throughout the federal public service.

Despite the Public Interest Commission's role, I cannot support the Chair's final recommendation on salary-grid adjustments. For the following reasons, personally, I would have recommended higher adjustments, to reduce the income disparities with employees of other agencies and the central public administration.

I believe that Chair Kaplan was right to conclude, "[translation] The SNPF is a public service for the people serving our country... These are important public functions that are partly reflected in the government's significant monetary contributions to complement those of the members themselves."

Thus, the federal public service is an appropriate comparator. The economic increases recommended in this case are lower than those that the Treasury Board granted recently for the same years.

This situation differs from the one in which, like the matters before the Kugler Commission for the Kingston SNPF, the parties agreed to the economic increases for the three years and to the grid adjustments for two of the three years. Thus, the Chair recommended a percentage adjustment to the salary grid for 2023 that was midway between the parties' positions. In this case, the parties' positions differed on both the economic increases and the grid adjustments for each year in question.

The PSAC submitted that all groups of federal public service employees, including those employed by employers listed in Schedule V to the *Financial Administration Act*, of which it is a part, received a \$2500.00 lump sum, with the exception of the SNPF.

I agree with the comments of Chair William Kaplan of the Public Interest Commission for the Petawawa SNPF, who does not recommend a lump-sum payment since "the urgent and demonstrated need for SNPF employees is to improve the pay of a group of employees that is not very well paid". This is all the more important in an economic context in which these lower-paid employees face the adverse impacts of inflation.

Therefore, I believe that any salary-grid adjustment that the Commission recommends should reflect the payment of such a lump sum to employees in other groups.

Written at Montréal

Katty Duranleau