

Date: 20231102

File: 485-SC-47964

Citation: 2023 FPSLREB 98

*Federal Public Sector
Labour Relations and
Employment Board Act and
Parliamentary Employment
and Staff Relations Act*



Before a panel of the
Federal Public Sector
Labour Relations and
Employment Board

IN THE MATTER OF
THE *PARLIAMENTARY EMPLOYMENT AND STAFF RELATIONS ACT*
and a dispute affecting
the Public Service Alliance of Canada, as bargaining agent,
and the Senate of Canada, as employer,
in respect of the employees of the employer in the Operational Group, except for
employees in the Protective Services Sub-group bargaining unit

Indexed as
Public Service Alliance of Canada and Senate of Canada

Before: Edith Bramwell, a panel of the Federal Public Sector Labour Relations
and Employment Board

To: Pierre-Marc Champagne, Joe Herbert and Steve Chaplin, deemed to
form the Federal Public Sector Labour Relations and Employment
Board

For the Bargaining Agent: Morgan Gay, Public Service Alliance of Canada

For the Employer: David Plotkin, Counsel

Issued on the basis of written submissions,
dated August 4, 17, 24, 28 and 30, 2023.

TERMS OF REFERENCE

[1] By letter of August 4, 2023, the Public Service Alliance of Canada (“the bargaining agent”) requested arbitration pursuant to section 50 of the *Parliamentary Employment and Staff Relations Act* (R.S.C., 1985, c. 33, the “Act”), in respect of the bargaining unit which is defined as “all employees of the employer in the Operational Group, except for employees in the Protective Services Sub-group”. Along with its request, the bargaining agent provided a list of the terms and conditions of employment that it wished to refer to arbitration. Those terms and conditions of employment and supporting material are attached as schedule 1.

[2] By letter of August 17, 2023, the Senate of Canada (“the employer”) provided its position on the terms and conditions of employment that the bargaining agent wished to refer to arbitration. The employer relied on sections 5(3) and 55(2) of the *Act* in support of its objection to Article 39 – Job Security and relied on *res judicata* and *stare decisis* in support of its objection to the (New) Appendix – Memorandum of understanding between the Senate of Canada and the Public Service Alliance of Canada with respect to Lump Sum Payment. The employer advised the Board that it did not intend to refer any additional matters to arbitration under section 51 of the Act. That letter and supporting material are attached as schedule 2.

[3] By letter of August 24, 2023, the employer stipulated a third objection regarding Article 20 of the collective agreement as the bargaining agent did not provide any proposed language for this and that this item was withdrawn during the negotiations. That letter is attached as schedule 3.

[4] By electronic mail of August 28, 2023, the bargaining agent submitted, with respect to the objections raised by the employer, that it stands by its proposals and believes them to be arbitrable. The bargaining agent provided additional comments on the Phoenix damages. That email is attached as schedule 4.

[5] By electronic mail of August 30, 2023, the bargaining agent informed the Board that it does not have any proposals concerning Article 20 and that the inclusion of this article was an oversight on their part. That email is attached as schedule 5.

[6] The jurisdictional objections raised will be addressed in due course by the Board. Accordingly, the matters in dispute on which the Federal Public Sector Labour

Relations and Employment Board shall make an arbitral award are, subject to section 52 of the *Act*, those set out in schedules 1 to 5 inclusive, which are attached to these terms of reference.

November 2, 2023.

**Edith Bramwell,
a panel of the Federal Public
Sector Labour Relations
and Employment Board**