

**Date:** 20250328

**File:** 561-02-45948

**Citation:** 2025 FPSLREB 31

*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

**KEN CARTER**

Complainant

and

**UNION OF CANADIAN CORRECTIONAL OFFICERS - SYNDICAT DES AGENTS  
CORRECTIONNELS DU CANADA - CSN (UCCO-SACC-CSN)**

Respondent

Indexed as

*Carter v. Union of Canadian Correctional Officers - Syndicat des agents correctionnels  
du Canada - CSN (UCCO-SACC-CSN)*

In the matter of a complaint made under section 190 of the *Federal Public Sector  
Labour Relations Act*

**Before:** Amélie Lavictoire, a panel of the Federal Public Sector Labour Relations  
and Employment Board

**For the Complainant:** Himself

**For the Respondent:** François Ouellette, counsel

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Decided on the basis of written submissions,  
filed November 9 and 14, 2022, and November 25 and December 9, 2024.

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## REASONS FOR DECISION

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### I. Complaint before the Board

[1] In October 2022, Ken Carter (“the complainant”) made a complaint with the Federal Public Sector Labour Relations and Employment Board (“the Board”) in which he alleged that his bargaining agent, the Union of Canadian Correctional Officers - Syndicat des agents correctionnels du Canada - CSN (UCCO-SCC-CSN) (“the respondent” or “the bargaining agent”), failed its duty of fair representation.

[2] Shortly after that, the respondent asked the Board to dismiss the complaint on a preliminary basis, without a hearing on the merits. It relied on three grounds. It argued that the complaint pertains to internal bargaining agent matters over which the Board does not have jurisdiction. It also argued that the Board does not have jurisdiction to order the corrective action that the complainant seeks, namely, removing the local union treasurer from his position and providing the local union president an explanation of his responsibilities and obligations. Lastly, it argued that the complaint should be dismissed without an oral hearing because it is frivolous, was made in bad faith, and seeks to discredit it in the context of another complaint, specifically one made by someone for whom the complainant acts as a representative.

[3] An oral hearing of this matter was scheduled for November 2024. Following a prehearing conference held in October 2024, the hearing was adjourned. The Board directed that the respondent’s objection that the complaint’s subject matter is beyond its jurisdiction would be decided based on the parties’ written submissions, as authorized under s. 22 of the *Federal Public Sector Labour Relations and Employment Board Act* (S.C. 2013, c. 40, s. 365). It invited the parties to file written submissions on the issue of the Board’s jurisdiction; i.e., whether the complaint pertains to the representation that the respondent offered. I did so because were I to conclude that the Board does not have jurisdiction over that subject matter, the respondent’s other grounds of objection would be moot.

[4] A schedule was set out for filing written submissions. The complainant filed a response to the objection, and the respondent filed a reply shortly after that. Although the complainant was provided with the opportunity to file a written rebuttal, he did not file one.

[5] These reasons pertain only to the issue of the Board's jurisdiction over the complaint's subject matter.

[6] For the reasons that follow, I conclude that the Board does not have jurisdiction. The complaint is dismissed.

## **II. Summary of the parties' written submissions**

[7] In the following paragraphs, I will briefly summarize the parties' written submissions to the extent that those submissions shed light on the complaint's nature and are relevant to the Board's determination of the respondent's jurisdictional objection.

[8] The complaint filed in 2022 pertains to allegations that the respondent took an excessive amount of time to reimburse the complainant for expenses that he incurred related to activities organized in the context of an awareness week with respect to critical-incident stress management.

[9] The complaint indicates that in April 2022, the local union executive adopted a motion authorizing a monetary contribution to support activities held in the context of the awareness week. The only person to vote against the motion was the local union treasurer.

[10] After the motion passed, the complainant was advised that he could make purchases to support the awareness week. He would be reimbursed by cheque. He made purchases. He requested reimbursement. He was not reimbursed until October 2022. His complaint indicates that the treasurer's "... decision not to write a cheque for something that was rightfully passed by the executive is unacceptable ...".

[11] Under the heading "Other matters relevant to the complaint" in the complaint form, the complainant refers to his concern with respect to an alleged misuse of the bargaining agent's funds in the context of a file that involved a third party. That other matter is unrelated to the subject matter of this complaint, although it is tangentially related to an overall theme related to the local union executive's — and particularly its treasurer's — management of those funds.

[12] The corrective action sought in the complaint includes having the Board explain to the local president his responsibilities and obligations. The complainant also asks that the local union treasurer be required to step down.

[13] On November 9, 2022, the respondent replied to the complaint. As previously indicated, it asked the Board to dismiss the complaint without an oral hearing, arguing that — among other things — it pertains to internal bargaining agent matters, over which the Board does not have jurisdiction. According to the respondent, the complaint's subject matter pertains to how long it took for the complainant to receive a cheque from the bargaining agent after the local union executive passed the motion. Its subject matter falls squarely under the heading of internal bargaining agent affairs, and is entirely unrelated to the relationship between employees and their employers or to the complainant's representation before his employer. It falls outside the scope of the respondent's duty of fair representation.

[14] The respondent relied on *Elliott v. Canadian Merchant Service Guild*, 2008 PSLRB 3, *Bernard v. Professional Institute of the Public Service of Canada*, 2020 FPSLRB 11, *White v. Public Service Alliance of Canada*, 2000 PSSRB 62, and *Gilkinson v. Professional Institute of the Public Service of Canada*, 2018 FPSLRB 62.

[15] Shortly after that, the complainant filed a written response, in which he described his complaint as being related to the denial of the reimbursement of expenses that the bargaining agent's local executive had authorized. He suggested that the local union's treasurer disagreed with the motion authorizing the expenses and intentionally delayed reimbursing him until external pressure was brought to bear on the treasurer. Referring to the treasurer, the complainant indicated that it was "... in bad faith to not fulfill one's duties as an elected executive union member".

[16] As previously indicated, in October 2024, the parties were invited to file written submissions about whether the complainant made out an arguable case that the subject matter of his complaint is within the Board's jurisdiction.

[17] The complainant's written submissions, filed on November 25, 2024, are brief.

[18] He submits that his complaint is not about internal bargaining agent matters. Although he does not state it in those words, he suggests that his complaint is about the personal vendetta of a local union executive member (i.e., the treasurer) against

him and a colleague. He appears to argue that that vendetta resulted in the arbitrary decision not to reimburse him in a timely manner. The respondent's failure to reimburse him in a timely manner impacted him financially.

[19] Were the Board to find that his complaint pertains to internal bargaining agent matters, the complainant asks it to recognize that some such matters must be subjected to oversight by a higher authority. According to him, oversight is required, to maintain proper decorum within the bargaining agent and to ensure that its executives are held to account for their actions.

[20] In its written submissions of December 9, 2024, the respondent argues that the complaint is not about his representation in his relationship with his employer or for an issue covered by the *Federal Public Sector Labour Relations Act* (S.C. 2003, c. 22, s. 2; "the Act"). It submits that the Board's jurisprudence has recognized two criteria for the duty of representation to apply (see *Serediuk v. Union of Canadian Correctional Officers - Syndicat des agents correctionnels du Canada - CSN (UCCO-SACC-CSN)*, 2023 FPSLREB 71, at para. 3) and that this case meets neither. According to the respondent, if the complainant's allegations are considered true, they tend to demonstrate only that members of the local union executive had an interpersonal conflict, which resulted in the delay to reimburse the complainant.

### III. Reasons

[21] The respondent argues that the complaint should be dismissed without an oral hearing. According to it, the Board does not have jurisdiction, as the complaint does not relate to a bargaining agent's representation in the context of employee-employer relations; nor does it relate to an issue subject to the *Act*.

[22] I agree. The wording of the complaint and of the complainant's subsequent written submissions is clear. He disagrees with the local union executive's — particularly, the local union treasurer's — management of the local union's finances and feels that he was financially prejudiced, in his capacity as a member of the bargaining unit, by the treasurer's actions.

[23] The duty of fair representation applies only when a bargaining agent represents an employee with respect to an issue covered by a collective agreement or the *Act* and

when that representation is about an issue between the employee and their employer (see *Serediuk*, at paras. 3 and 20).

[24] Personal disagreements with respect to financial management and so-called vendettas among members of a local union executive can be disruptive and can lead to dysfunction within that executive. However disruptive and difficult such situations may be for those involved, such matters fall outside the scope of the respondent's duty of fair representation. The Board does not have jurisdiction to intervene, and a duty-of-fair representation complaint is not the vehicle by which those issues can be addressed.

[25] It is well established in the Board's jurisprudence that issues that pertain to a bargaining agent's inner workings do not engage representational rights with respect to an employer. As such, internal bargaining agent affairs or interpersonal disputes do not fall under the scope of the duty of fair representation (see, for example, *Gilkinson*, at para. 20). For that reason, the Board has repeatedly held that it does not have jurisdiction over internal bargaining agent affairs (see, among others, *Sahota v. The Professional Institute of the Public Service of Canada*, 2012 PSLRB 114, *Sturkenboom v. Professional Institute of the Public Service of Canada*, 2012 PSLRB 81, *Hancock v. Professional Institute of the Public Service of Canada*, 2023 FPSLRB 51, and *Serediuk*).

[26] That is not to say that the Board has no jurisdiction whatsoever over internal bargaining agent affairs. Parliament has given it a very narrow jurisdiction. The only matters that the Board can intervene in are those in which it is alleged that disciplinary actions that a bargaining agent took against one of its members were tainted by discrimination or constituted the denial of rights protected by the *Act* (see s. 188(e) of the *Act*; see also, for example, *Gilkinson*, at para. 16). In this case, the complainant alleged neither.

[27] Since I have decided that the Board does not have jurisdiction to deal with this complaint as it relates to internal bargaining agent matters, I will not address the respondent's objection with respect to the Board's remedial jurisdiction or its argument according to which the complaint is frivolous or was made in bad faith.

[28] I will close by addressing the complainant's plea that the Board provide oversight over the matters that he describes in his complaint. The Board has only the powers conferred on it by the *Act*. Those powers do not include oversight or enforcing

decorum and financial accountability within the respondent's local union executives. The complainant may well find this response to his plea unsatisfactory; however, it is the only response possible, considering the Board's jurisdiction and powers under the Act.

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

*(The Order appears on the next page)*

**IV. Order**

[30] The respondent's preliminary objection is allowed.

[31] The complaint is dismissed.

March 28, 2025.

**Amélie Lavictoire,  
a panel of the Federal Public Sector  
Labour Relations and Employment Board**