

Date: 20250507

File: 566-02-38919

Citation: 2025 FPSLREB 51

*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

GURUPKAR SINGH

Grievor

and

TREASURY BOARD

(Department of Employment and Social Development)

Employer

Indexed as

Singh v. Treasury Board (Department of Employment and Social Development)

In the matter of an individual grievance referred to adjudication

Before: Bryan R. Gray, a panel of the Federal Public Sector Labour Relations and
Employment Board

For the Grievor: Pamela Sihota, Public Service Alliance of Canada

For the Employer: Adam Feldman, counsel

Decided on the basis of written submissions,
filed September 11, October 18, November 1 and 15, 2024,
and January 13 and 31, 2025.

I. Summary

[1] The Public Service Alliance of Canada (“the bargaining agent”) referred a pay-related grievance to adjudication before the Federal Public Sector Labour Relations and Employment Board (“the Board”) on behalf of Gurupkar Singh (“the grievor”). It is not contested that in 2016, the grievor was owed salary of \$1005 that should have been paid to him on May 4, 2016, but instead was paid 9 days later, on May 13.

[2] The grievor alleges that this caused a loss of approximately \$33,000 due to higher borrowing costs, loan penalties, etc., for which he made a claim under the process for damage claims related to the Phoenix pay system (“Phoenix”) (“the specialized process”) set out in the “Phoenix pay system damages agreement (2020)” (“MOA”) agreement that was signed by his bargaining agent and employer (the Treasury Board of Canada).

[3] The bargaining agent requests that the Board hold the grievance in abeyance, pending the outcome of the specialized process. The employer opposes the request and argues that the MOA requires that the grievance be withdrawn, pending the disposition of the claim now before the employer.

[4] For the reasons set out as follows, the grievance is deemed withdrawn, and the file is ordered closed, as the MOA requires.

II. Summary of the submissions

A. For the employer

[5] In its submissions, the employer stated that the specialized process was put in place to deal with Phoenix-related damage claims and that it entirely captures the grievance. The Board has nothing residual to consider.

[6] The specialized process provides potential compensation for severe Phoenix impacts. If the grievor is unsuccessful in that process, then, and only then, he may make an appeal to the Board. The employer submits that this is more than a technicality. Allowing the grievance to remain in abeyance would equate to allowing the bargaining agent to forum-shop, which would force duplicating the litigation and adjudicative efforts. The impact of the Board’s decision is not only retrospective.

[7] The Board already dealt with this issue in *Qasim v. Canadian Food Inspection Agency*, 2020 FPSLREB 95, in which it rejected a bargaining-agent request to hold a referral of a grievance to adjudication in abeyance.

[8] The parties signed the MOA, which, along with the specialized process, overlap entirely with the damages and the process that the grievor seeks in the grievance.

[9] The parties agreed that grievances about Phoenix damages that were filed both before and after the MOA's coming-into-force date would be processed under the MOA.

[10] Allowing the grievance to remain in abeyance would create a shortcut to the Board, which would be contrary to the MOA. It would drain Board and Crown resources unnecessarily. The parties designed the specialized process under the MOA to compensate all affected employees expeditiously.

[11] It is clear from the MOA that the parties agreed to the specialized process, which provides comprehensive compensation for Phoenix losses. The MOA ensures that no additional claims for damages that were already covered can be made elsewhere — except when a claim is denied.

[12] The employer asks that the bargaining agent follow through with its commitment under the MOA. Asking that the grievance remain in abeyance goes against the MOA. Specifically, at its clause 39, the bargaining agent agreed to withdraw all grievances related to Phoenix damages.

B. For the bargaining agent

[13] The bargaining agent submitted that it acknowledges the existence of and its participation in the specialized process, as established under the MOA.

[14] The MOA requires handling Phoenix grievances through the specialized process; however, the bargaining agent respectfully requests that the Board exercise its discretion to retain jurisdiction over the grievance, as the grievor has already faced a delay of over eight years seeking a resolution. The grievance was filed in 2016.

[15] In the event that the specialized process does not lead to a satisfactory outcome for him, the grievor may still need to refile the grievance with the Board, possibly resulting in delays resolving it. This case is distinguished from *Qasim*, where the time between the grievance's filing and the Board's decision was only about three years.

[16] Rather than seek an immediate adjudication, the bargaining agent respectfully requests that the Board hold the grievance in abeyance, pending the outcome of the specialized process. Doing so would preserve the grievor's rights without duplicating administrative processes or circumventing the MOA. Holding it in abeyance would provide a safeguard against further delays, should the specialized process not deliver a resolution for the grievor.

[17] In the alternative, if the Board finds holding the grievance in abeyance unsuitable and requires the grievor to file a new grievance after the specialized process concludes, the bargaining agent requests that the grievance remain in abeyance and that any future grievance that the grievor files, should the process yield an unsatisfactory outcome, be allowed to replace this grievance, as any new one would be substantively the same as this one, which would thus help prevent further delays.

[18] The bargaining agent's request is intended to respect, rather than bypass, the specialized process and MOA. It seeks to advance the MOA's core objective — to provide swift and fair compensation. The MOA was created to streamline grievance processing, not to obstruct claims requiring special handling due to length and complexity. Holding the grievance in abeyance, or, alternatively allowing substituting the grievance, would align with the MOA's intent by ensuring a fair outcome for the grievor while respecting the specialized process.

[19] The bargaining agent's request safeguards the grievor's right to a comprehensive resolution and does not constitute forum-shopping, as the employer suggests. Instead, it respects the specialized process while providing a necessary safeguard against further procedural delays. The employer's suggestion that the bargaining agent's approach conflicts with the MOA overlooks the MOA's goal of expediting, not obstructing, resolution in cases of an exceptional delay.

III. Reasons

[20] While I am sympathetic to the practicality of the grievor seeking to remain in the Board's hearing queue, to mitigate delays if he is unsatisfied with the outcome of his claim, this is not what his bargaining agent agreed to in the MOA.

[21] The MOA clearly states the following at clause 39: "The Bargaining Agent agrees to withdraw all related grievances (individual, group and policy), Unfair Labour Practices and any other litigation related to damages, and the late implementation of the 2014 collective agreements."

[22] While the word “damages” is not defined in the MOA, I note that its “General principles” section states this (at clause 3): “The parties agree to the following plan for the compensation of damages to employees who have suffered financial and non financial damages due to issues with their pay caused by the Phoenix Pay System.” I find that the circumstances presented in this matter clearly fall within the word “damages”. Therefore, I conclude that the alleged losses set out in the grievance are captured by clause 39 of the MOA.

[23] The MOA prohibits the grievor from maintaining a claim in the specialized process and keeping his grievance, which deals with the same subject matter, before the Board awaiting adjudication. That is consistent with the Board’s finding in *Qasim*.

[24] Therefore, the grievance must be withdrawn and is deemed so, and the file will be closed.

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

(The Order appears on the next page)

IV. Order

[26] I order the grievance deemed withdrawn and the file closed.

May 7, 2025.

**Bryan R. Gray,
a panel of the Federal Public Sector
Labour Relations and Employment Board**