
Date: February 15, 2019
File: 585-24-39021 and 585-24-39032

**IN THE MATTER OF
THE FEDERAL PUBLIC SECTOR LABOUR RELATIONS ACT
and a Request for Arbitration affecting
the Public Service Alliance of Canada, as bargaining agent,
and the Statistical Survey Operations, as employer,
in respect of in respect of the bargaining units comprised of all employees of the
employer in the Regional Office (R.O.) and Field Interviewers (F.I.)**

BEFORE: Ian R. Mackenzie, Chairperson
Joe Herbert and Benoît Chartrand, arbitration board members

For the bargaining agent: H. Hussein and P-S. Proulx

For the employer: G. Lauzé and G. Bowlby

Heard at Ottawa, Ontario, January 29 and 30, 2019

Introduction

[1] The Terms of References of this Arbitration Board were established by the Chairperson of the Federal Public Sector Labour Relations and Employment Board on October 25, 2018.

[2] Prior to the establishment of the Arbitration Board (the "board"), the parties came to an agreement on a number of matters in dispute. The parties requested that the board include these resolved issues in this Award (see Annex A). The items in Annex A are therefore included in this Award.

[3] The board was provided with comprehensive briefs from the employer and the bargaining agent in advance of the hearing of January 29-30, 2019. The briefs outlined the parties' positions on the issues in dispute and also provided the board with an excellent overview of the work and working conditions of the employees in the

bargaining units. These briefs have been carefully considered by the board in coming to our decision on the appropriate Award.

[4] The first day of the hearing of this matter was spent by the parties attempting to resolve the outstanding issues. Although the parties were ultimately unsuccessful, the board appreciated the good-faith efforts of the parties in discussing the issues in dispute.

Bargaining History

[5] Notice to Bargain was served by the bargaining agent on March 21, 2015. The parties met a total of 27 days between March 15, 2017 and June 14, 2018. The bargaining agent filed for arbitration, in accordance with section 136 of the *Federal Public Sector Labour Relations Act* (FPSLRA) on August 14, 2018.

The Employer and the Bargaining Units

[6] Statistical Survey Operations ("SSO") is a separate employer under the FPSLRA. As a supporting agency to Statistics Canada, the role of the SSO is to carry out the collection of survey data for statistical programs. The Public Service Alliance of Canada is the bargaining agent for two bargaining units at SSO: the Regional Office (RO) bargaining unit and the Field Interviewers (FI) bargaining unit.

[7] The employees in the RO bargaining unit are interviewers or senior interviewers in a "call centre" environment located in five regional Statistics Canada offices: Halifax, Nova Scotia; Sherbrooke, Quebec; Sturgeon Falls, Ontario; Winnipeg, Manitoba; and Edmonton, Alberta.

[8] The employees in the FI bargaining unit are interviewers or senior interviewers engaged in carrying out survey activities primarily outside the regional Statistics Canada offices.

[9] All employees in both bargaining units are part-time employees. The number of employees on strength at SSO at any one time depends on survey workload. As of

November 1, 2018, there were 944 interviewers and 106 senior interviewers in the RO bargaining unit. As of November 1, 2018, there were 516 interviewers and 54 senior interviewers in the FI bargaining unit.

Issues in Dispute

[10] The following issues remained in dispute:

FI Collective Agreement

Article 30 – Vacation Leave

Annex “E” – National Joint Council Directives (Uniforms Directive)

Annex “H” – Personal Equipment

RO Collective Agreement

Article 31 – Sick Leave with Pay

Article 32 – Injury-on-duty Leave

Common Issues (FI and RO collective agreements)

Article 2 – Interpretations and Definitions

Article 49 – Duration

Annex “F” – Social Justice Fund

Annex “A” – Hourly Rates of Pay

Implementation Period

[11] In reaching a determination on the issues in dispute, the board is governed by section 148 of the FP SLRA:

148. In the conduct of its proceedings and in making an arbitral award, the arbitration board 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 arbitration board 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.

[12] The board has considered all of these factors in reaching its determination on the items in dispute. In reaching our conclusions on the outstanding items in dispute, the board has also been guided by the long-accepted principles of interest arbitration including replication/comparability, total compensation and demonstrated need. We have considered the proposals before us and made the trade-offs and compromises warranted in light of the parties' positions as well as the factors noted above.

Award

[13] We direct the parties to enter into a renewal collective agreement for the term of December 1, 2014 to November 30, 2018 (duration is discussed later in this award). The collective agreement shall consist of the unchanged items from the collective agreement that expired on November 30, 2014, the items agreed to by the parties themselves (Annex A), and the board's award on only those items set out herein. Any

proposal not explicitly dealt with in this Award is denied. All items, whether agreed to by the parties or awarded by the board are effective the date of the award unless specified otherwise.

FI Bargaining Unit Collective Agreement

Vacation Leave (Article 30)

[14] The parties agreed on enhancements to the Vacation Leave provisions of the collective agreement, but disagreed on the percentage calculation for these enhancements. The board accepts the employer proposals on the percentage calculation as follows:

30.02

....

(new) (c) eight decimal four percent (8.4%) of all straight-time hours worked commencing with the month in which the employee's sixteenth (16th) anniversary of service occurs;

(new) (d) eight decimal eight percent (8.8%) of all straight-time hours worked commencing with the month in which the employee's seventeenth (17th) anniversary of service occurs

...

[15] The parties were in agreement with the following paragraph in Article 30.02 and accordingly the board awards this provision:

(new) (f) ten decimal three percent (10.3%) of all straight-time hours worked commencing with the month in which the employee's twenty-seventh (27th) anniversary of service occurs.

[16] The parties agreed that the current paragraph 30.02 (d) (renumbered as 30.02(g)) would provide for 11.5% of all straight-time hours in the employee's twenty-eighth (28th) anniversary of service. Accordingly, this is awarded as well.

[17] Article 30.04 provides for time away from work in accordance with the percentage calculations in 30.02. In keeping with our acceptance of the employer's calculations and the parties' agreement on the other paragraphs, we award as follows:

30.04

...

(new) (c) an employee entitled to eight decimal four percent (8.4%) of all straight-time hours worked, shall be entitled to time away from work for a period of four decimal four (4.4) weeks during a vacation year.

(new) (d) an employee entitled to eight decimal eight percent (8.8%) of all straight-time hours worked, shall be entitled to time away from work for a period of four decimal six (4.6) weeks during a vacation year.

(new) (f) an employee entitled to ten decimal three percent (10.3%) of all straight-time hours worked, shall be entitled to time away from work for a period of five decimal four (5.4) weeks during a vacation year.

[18] The bargaining agent made a proposal for the carryover of earned and unused vacation leave credits. For greater clarity, we award the bargaining agent's proposal with the following language and limit the carryover to 150 hours:

(new) 30.11

(a) Where in any vacation year, an employee has not used all of the vacation leave without pay credited to him/her, the unused portion of his/her vacation leave up to a maximum of one hundred and fifty (150) hours of credits shall be carried over into the following vacation year.

(b) The total amount of vacation leave without pay that an employee may have to his/her credit on March 31st, shall not exceed one hundred and fifty (150) hours.

Common Issues in Dispute

Interpretation and Definitions – Article 2

[19] The bargaining agent proposed an addition to the definition of "assigned work week" that would require a written notice including a complete explanation of any changes be provided to an employee if his/her assigned work week was changed. The

board has determined that the following addition shall be made to the definition of "assigned work week":

Notwithstanding the above, anytime an employee is notified of changes to his/her assigned workweek, a written notice including an explanation of the changes shall be given to the employee.

Wages

[20] The parties were in agreement on the economic increases in each year of the collective agreement. Accordingly, we award as follows:

Effective December 1, 2014: 1.25%

Effective December 1, 2015: 1.25%

Effective December 1, 2016: 1.25%

Effective December 1, 2017: 1.25%

[21] The bargaining agent proposed a market adjustment for the interviewer salary grid of 13.26% and 13.07% for the senior interviewer salary grid, effective December 1, 2016. The employer proposed a 0.5% market adjustment for both positions, effective December 1, 2016.

[22] The board awards a 4% market adjustment to all rates of pay, effective December 1, 2016 (to be applied prior to the economic increase of 1.25%).

Duration

[23] On the question of duration, the parties both agreed that a four-year term, expiring November 30, 2018, was appropriate. We are aware, however, of section 156(3) of the FPSLRA which stipulates that "an arbitral award may not be for a term of less than one year or more than two years from the day on which it becomes binding on the parties, unless the arbitration board determines otherwise in any case where paragraph 2(a) or (b) applies". Paragraphs 2(a) and (b) read as follows:

(2) In determining the term of an arbitral award, the arbitration board must take the following into account:

(a) if a collective agreement applicable to the bargaining unit is in force or has been entered into but is not yet in force, the term of that collective agreement; or

(b) if no collective agreement applying to the bargaining unit has been entered into,

(i) the term of any previous collective agreement that applied to the bargaining unit, or

(ii) the term of any other collective agreement that it considers relevant.

[24] In the circumstances, it is the board's opinion that an operative term outside the prescribed time periods is warranted and that the exception under section 156 paragraph 2(b)(ii) applies. Previous collective agreements applicable to this bargaining unit have traditionally corresponded with the prevailing bargaining cycles and collective agreements in the federal public service. Currently the vast majority of all collective agreements in the federal public service have expired in 2018. Complying with the time periods prescribed in section 156(3) would therefore place the collective agreement ahead of the other collective agreements and represent an untenable situation. In light of the parties' agreement and the application of 156(2)(b)(ii) we hereby stipulate that the duration of the collective agreement will be from December 1, 2014 to November 30, 2018 inclusive.

Implementation date

[25] The employer proposed that the new provisions of the collective agreement be implemented within 120 days of this Award. We agree that this is an appropriate implementation period and therefore award an implementation date of 120 days from the signing of this arbitral award.

Conclusion

[26] Any proposals that were before the board that have not been addressed in this Award are to be considered as dismissed.

[27] The board shall remain seized of this matter for a period of four weeks from the date of this award, in the event that the parties encounter any difficulties in its implementation.

Ian R. Mackenzie

Original signed by
Original signé par

For the Arbitration Board

February 15, 2019

Articles that have been modified – FI bargaining unit

2 – Interpretations and Definitions

10 – Check-off

14 – Leave with or without Pay for Alliance Business

15 – Illegal Strikes

16 – No Discrimination

17 – Sexual Harassment

18 – Technological Change

20 – Job Security

21 – Discipline

22 – Grievance Procedure

31 – Bereavement Leave with Pay

New Article – Injury on Duty Leave

34 – Maternity-related Modification or Re-assignment

35 – Maternity Leave Without Pay

36 – Parental leave Without Pay

37 – Leave without Pay for Care of Family

New Article – Compassionate Care Leave Without Pay

38 – Leave without Pay for Family-Related Responsibilities

40 – Marriage Leave without Pay – DELETED AND REPLACED WITH One-Time Vacation Leave

40 NEW – One-Time Vacation Leave

42 – Leave without pay for other reasons

46 – Severance Pay

Annex A – Pay Notes

Annex B – Injury on Duty Leave – DELETED AND REPLACED WITH NEW ARTICLE

Annex C – Second Language Premium – DELETED AND PLACED IN Annex A - Pay Notes

Annex G – Operational Requirements

New MOU – Mental Health and Wellness

* All administrative and editorial changes, and renumbering, are not included in this list.

Articles that have been modified – RO bargaining unit

2 – Interpretations and Definitions

3 – Application

10 – Check – off

14 – Leave with or without Pay for Alliance Business

15 – Illegal Strikes

16 – No Discrimination

17 – Sexual Harassment

18 – Technological Change

20 – Job Security

21 – Discipline

22 – Grievance Procedure

24 – Overtime

27 – Travelling Time

29 – Leave General

30 – Vacation Leave

33 – Maternity–related Modification or Re–assignment

35 – Maternity Leave Without Pay

36 – Parental leave Without Pay

37 – Leave without Pay for Care of Family

New Article – Compassionate Care Leave Without Pay

38 – Leave with Pay for Family–Related Responsibilities

42 – Bereavement Leave

46 – Leave with or without pay for Other reasons

50 – Severance Pay

51 – Pay Administration

Annex A – Pay Notes

New Article – Call Centre Employees

Annex C – Second Language Premium – DELETED and placed in Annex A Pay Notes

Annex E – NJC Directives

Annex G – Operational Requirements

New MOU – Mental Health and Wellness

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