

PUBLIC INTEREST COMMISSION

Under the *Federal Public Sector Labour Relations Act*

BETWEEN:

PUBLIC SERVICE ALLIANCE OF CANADA

("Union")

- and -

STAFF OF THE NON-PUBLIC FUNDS, CANADIAN FORCES BASE
BAGOTVILLE

("Employer")

Public Interest Commission: **Michelle Flaherty, Chairperson**
Céline Delorme and Jérôme Turcq, members

Date: **August 5, 2020**

APPEARANCES

For the Employer: Amy Lecompte, labour relations officer

For the Bargaining Agent: Natalie Rainville, negotiator, and
Maxime Thibault-Gingras, research officer

[1] The collective agreement between the parties expired on November 30, 2019. The employer and the union met several times in an attempt to agree to the provisions of a new collective agreement. The parties agreed to some but not all the provisions of the collective agreement.

[2] This public interest commission (“PIC”) was appointed under the *Federal Public Sector Labour Relations Act* (S.C. 2003, c. 22, s. 2; “the *Act*”) to deal with the collective agreement provisions that the parties did not agree to.

[3] According to s. 172 of the *Act*, a PIC “... *must endeavour to assist the parties to the dispute in entering into or revising a collective agreement.*” However, if a PIC does not resolve the parties’ issues, its role is then to prepare a report with recommendations for resolving their dispute.

[4] The PIC held a videoconference hearing on June 4, 2020, and the parties submitted their oral and written representations. The PIC then held its executive sessions on June 18 and 24 and July 2, 9, 17 and 27, 2020.

INTRODUCTION

[5] The Staff of the Non-Public Funds (“NPF”) is a separate employer within the public service. It was established to provide certain programs, services, and activities for the welfare and morale of Canadian Forces members and their families.

[6] In short, the NPF is funded from the “base funds”, an envelope established by the base commander to administer certain non-public assets. NPF activities generate revenue that is reinvested in the base funds. The NPF may also receive public support, including public funds paid in relation to certain positions and activities.

[7] The NPF has approximately 4500 employees. There are 22 different bargaining units across Canada. The Bagotville bargaining unit has approximately 26 employees, including 15 full-time and 11 part-time. The members of the NPF Bagotville bargaining unit hold different operational and administrative positions.

[8] The NPF has three areas of activity, namely CANEX (retail outlets), SISIP Financial (financial services, including financial planning and life and disability insurance), and support programs (including the messes and community, fitness, and recreation programs).

THE LEGISLATIVE FRAMEWORK

[9] The PIC report is governed by ss. 177(1) and (2) of the *Act*, which provide as follows:

177(1) The report may not, directly or indirectly, recommend the alteration or elimination of any existing term or condition of employment, or the establishment of any new term or condition of employment, if

(a) the alteration, elimination or establishment would require the enactment or amendment of any legislation by Parliament, except for the purpose of appropriating money required for implementation;

(b) the term or condition is one that has been or may be established under the *Public Service Employment Act*, the *Public Service Superannuation Act* or the *Government Employees Compensation Act*;

(c) the term or condition relates to standards, procedures or processes governing the appointment, appraisal, promotion, deployment, rejection on probation or lay-off of employees; or

(d) in the case of a separate agency, the term or condition relates to termination of employment, other than termination of employment for a breach of discipline or misconduct.

(2) The report of the public interest commission may not deal with a term or condition of employment that was not the subject of negotiation between the parties during the period before conciliation was requested.

[10] According to s. 175 of the *Act*, when making its recommendations, the PIC takes into account factors that in its view are relevant, including the following:

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.

ANALYSIS

[11] In making this this recommendation, we have taken into consideration the criteria established by the *Act* and the representations and case law submitted by the parties.

[12] In accordance with s. 175 of the *Act*, our recommendation must consider the state of the Canadian economy as well as the government of Canada's fiscal circumstances. Due to the pandemic, our country is currently experiencing a period of economic uncertainty. The employer explained that it had to temporarily suspend morale and welfare operations and that its sources of revenue have been affected by the pandemic. At this juncture, the PIC cannot predict the eventual economic impact. In preparing our recommendation, however, we reviewed both parties' representations and considered the current uncertainty and the pandemic's potential impact.

[13] The parties relied on different benchmarks regarding the appropriate comparison group. The employer explained that although its employees are public servants

according to the law, the NPF receives no funds directly from the Treasury Board. The NPF is funded primarily from base funds and revenues generated from its own activities. In short, according to the employer, it is not appropriate to compare the NPF to other public service employers. Rather, it is important to consider the employment conditions at private-sector companies offering similar services.

[14] For its part, the union claimed parity with certain public-service employees. Although the Treasury Board does not allocate public funds to the NPF, some of its funding originates from the Treasury Board. Nothing prevents the NPF from seeking additional public funds. Additionally, for certain NPF executives, the comparator group is their counterparts at National Defence. According to the union, there is no reason to treat employees in lower-paid categories differently or to deny them the parity with the public service, which is available to managers.

[15] In making this report, we considered the criteria set out in the *Act* as well as the submissions and jurisprudence presented by the parties. In our view, given these factors and the wording of s. 175(b) of the *Act*, it is appropriate to consider similar positions in both the private and public sectors.

[16] Accordingly, the PIC makes the following recommendations.

Duration of the collective agreement

[17] The duration of the collective agreement is three years, from December 1, 2019, to November 30, 2022.

Sick leave for part-time employees

[18] Part-time employees who have completed their probationary periods may receive a maximum of three (3) paid sick-leave days per fiscal year.

Increases

[19] In our view, it is appropriate to grant the following economic increases:

December 1, 2019: 2%

December 1, 2020: 2%

December 1, 2021: 1.5%

[20] The PIC recommends restructuring the pay grid such that it has 6 steps spread out over a period of 60 months, with standard and linear increases every 12 months.

[21] The PIC also considers it appropriate to grant certain market adjustments. The table below reflects a pay-grid restructuring per paragraph 20. It also includes the economic adjustments set out in paragraph 19, beginning on December 1, 2019, as well as the market adjustments that the PIC deems appropriate:

1 Dec. 2019	Initial	12 months	24 months	36 months	48 months	60 months
1	12.50	12.80	13.11	13.43	13.75	14.08
2	12.69	13.01	13.34	13.67	14.01	14.36
3	12.88	13.48	14.10	14.75	15.43	16.15
4	13.07	13.81	14.59	15.41	16.28	17.19
5	13.46	14.44	15.49	16.61	17.82	19.11
6	14.14	15.53	17.06	18.74	20.58	22.60
7	15.65	17.17	18.84	20.68	22.69	24.91
8	17.57	19.19	20.96	22.89	25.00	27.32

[22] The parties have agreed to a significant number of collective agreement terms, which are incorporated into this report. Any proposal not addressed in this report and which has not been agreed between the parties is deemed to be rejected.

[23] This report constitutes the unanimous recommendations of the PIC.

Signed on August 5, 2020.

A handwritten signature in blue ink, consisting of several loops and a long horizontal stroke.

Michelle Flaherty, Chairperson

Observations of the Employer Representative

This report is made in circumstances that are very different from when the parties met in bargaining. Because of the COVID-19 pandemic, the economic situation in Canada has been deteriorating. As mentioned in the report, the Employer had to suspend some of its operations which affected its revenues. The Employer also had to reduce the number of its casual employees and proceed with temporary layoffs. The economic outlook remains uncertain. The parties will have to account for this new reality when they resume bargaining so that they acknowledge the contributions of PSAC members to the Canadian military population while recognizing the impact of recent developments.