

PUBLIC INTEREST COMMISSION

Under the *Federal Public Sector Labour Relations Act*

BETWEEN

THE PUBLIC SERVICE ALLIANCE OF CANADA

(“Bargaining Agent”)

- and -

STAFF OF THE NON-PUBLIC FUNDS - CFB VALCARTIER

(“Employer”)

Public Interest Commission: **Michelle Flaherty, Chair**
Céline Delorme, Jérôme Turcq, Nominees

Date: **March 2, 2020**

APPEARANCES

For the Employer: Amy Lecompte, Labour Relations Officer

For the Bargaining Agent: Natalie Rainville, Negotiator, and Omar Burgan, Research Officer

[1] The collective agreement between the parties expired on June 30, 2018. The employer and the union met several times in an attempt to reach agreement on the terms of the collective agreement. The parties agreed to some but not all of 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 those provisions of the collective agreement on which the parties were not able to agree.

[3] Under 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 outstanding issues between the parties, its role is then to prepare a report containing recommendations for resolving the dispute.

[4] The PIC held a conciliation day on November 18, 2019, but efforts to reach a settlement were unsuccessful. We held a hearing in Québec City on January 10, 2020, and the parties presented their oral and written submissions. The PIC then held its executive sessions on January 17 and 24 and February 26, 2020.

INTRODUCTION

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

[6] In essence, the NPF is funded from the “base funds”, an envelope established by the base commander to administer certain non-public assets. The NPF’s activities generate revenues, which are 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 5000 employees and 22 different bargaining units across Canada. The bargaining unit at Valcartier includes approximately 127 employees, of which approximately 81 are full-time and 46 are part-time. The members

of the Valcartier NPF bargaining unit hold various operational and administrative positions.

[8] The NPF has three areas of activity: CANEX (retail outlets), SISIP Financial (financial services, including financial planning as well as life and disability insurance), and support programs (including the mess and programs related to community service, physical fitness, and recreation). At Valcartier, the NPF also offers services to the non-military population, including receptions, cottage rentals, and activities at the Castor Centre.

THE LEGISLATIVE FRAMEWORK

[9] The PIC report is governed by ss. 177(1) and (2) of the *Act*, which read 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] Furthermore, under ss. 178(1) and (2) of the *Act*, the findings and recommendations of the majority on the matters in dispute are deemed those of the PIC. If there is no majority, the chairperson's findings and recommendations are deemed to be those of the PIC.

[11] Under s. 175 of the *Act*, when it makes 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

[12] In this case, 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.

[13] 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.

[14] 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.

[15] Accordingly, the Commission makes the following recommendations.

Duration of the collective agreement

[16] The collective agreement is for a three year term, from July 1, 2018, to June 30, 2021.

Sick leave for part-time employees

[17] A part-time employee who has completed probation may receive a maximum of three (3) days of paid sick leave per fiscal year.

Increases

[18] The PIC recommends the following economic increases:

July 1, 2018: 2%

July 1, 2019: 2%

July 1, 2020: 1.5%

[19] In addition, we believe some market adjustments are warranted. The Commission recommends the market adjustments proposed by the union during the conciliation of November 18, 2019. We believe these adjustments are appropriate in the circumstances and in light of the factors set out in s. 175 of the *Act*.

[20] The parties agreed on a significant number of conditions in the collective agreement and these agreed-upon provisions 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.

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

Signed on March 2, 2020.

Michelle Flaherty, Chair