



Public Service  
Staffing Tribunal

Tribunal de la dotation  
de la fonction publique

Public Service Staffing Tribunal  
**2010–2011 Annual Report**



*Innovation*

Canada

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Chairperson of the Public Service Staffing Tribunal (2011)

Cat. No. SQ1-2011E-PDF



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Staffing Tribunal

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de la fonction publique



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The Honourable James Moore, P.C., M.P.  
Minister of Canadian Heritage and Official Languages  
Gatineau, Québec  
K1A 0M5

Dear Minister Moore:

In accordance with section 110 of the *Public Service Employment Act*,  
I am pleased to submit the sixth annual report of the Public Service Staffing  
Tribunal for the period from April 1, 2010 to March 31, 2011, for tabling  
in Parliament.

Yours respectfully,

Guy Giguère  
Chairperson and Chief Executive Officer



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## Message from the Chairperson

This is the Public Service Staffing Tribunal's sixth annual report. Last year, we presented an overview of the Tribunal's evolution over five years of operation. The current report focuses on our achievements in 2010–2011, and specifically on innovations in the complaint process.

In 2010–2011, we received a total of 775 complaints, a slight increase over the previous year. In light of the situation, we seized on the opportunity to launch in 2010 two pilot projects — settlement conferences and telephone mediation — in order to improve our services and make them more efficient. During the period, we measured the results as well as the satisfaction rate of all the participants. We also consulted with our main stakeholders, and in response to their input we made some improvements in these processes, which are now an integral part of our conflict resolution tools.

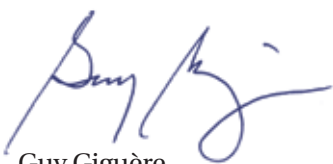
The Tribunal is confident that holding settlement conferences and telephone mediations complements its complaint process. This gives the parties an opportunity to directly discuss the complaint, which they would not have within the context of a quasi-judicial hearing. The process is efficient as it is combined with the pre-hearing conference, completed in a day and requires no travel. In addition, it allows the parties involved to reduce their expenses as well as travel time, and allows the Tribunal to maintain the cost of its services at current level.

It should be noted that nine complaints were substantiated this year, with a total of 35 final decisions issued following a hearing. These new decisions have been added to our jurisprudence, making it more diverse in a number of areas, particularly in relation to new illustrations of abuse of authority.

For the first time, the Federal Court of Appeal heard an appeal involving a Tribunal decision. Although the Court granted the appeal, it endorsed the Tribunal's interpretation of abuse of authority in the context of the *Public Service Employment Act*.

We have completed the process of amending the Tribunal's Regulations. The amended Regulations — which come into force in May 2011 — will ensure greater clarity of the content and reflect how our practices and procedures have evolved.

It should be emphasized that the complaints that make their way through all the steps of the process, up to and including a hearing, account for only a small percentage of all complaints submitted (approximately 5%). In fact, over 90% of the complaints that the Tribunal receives are settled without a hearing. Our approach is based on three elements: exchange of information, opportunities for real dialogue between the parties and a process for promoting dispute resolution. This approach is based on the staffing values set out in the preamble of the *Public Service Employment Act*, namely respect for employees, effective dialogue, and recourse aimed at resolving appointment issues.



Guy Giguère

Chairperson and Chief Executive Officer

## Mandate, Mission and Values

The Public Service Staffing Tribunal has a mandate to consider and dispose of complaints. The Tribunal is an independent, quasi-judicial organization that was created in December 2005 under the *Public Service Modernization Act* and in the context of new recourse provisions enabling federal public servants to file complaints against staffing measures relating to internal appointments, layoffs, the implementation of corrective action ordered by the Tribunal, and revocations of appointments. The Tribunal conducts hearings and provides mediation services at every step of the process. In fulfilling its mandate, the Tribunal fosters fair and transparent staffing practices, contributes to a public service that is based on merit, embodies linguistic duality and human rights, and strives for excellence.

**The Tribunal fosters fair and transparent staffing practices, contributes to a public service that is based on merit, embodies linguistic duality and human rights, and strives for excellence.**



The Tribunal is committed to:

- Maintaining its impartiality, transparency, and independence;
- Providing professional, respectful, and helpful service to clients and stakeholders;
- Helping parties resolve their disputes as informally and as expeditiously as possible;
- Ensuring that the decisions it renders are fair, consistent, and well reasoned;
- Consulting clients and stakeholders and keeping them informed of the Tribunal's services and jurisprudence; and
- Promoting a healthy work environment that is both productive and effective.



## Innovation: Settlement Conferences and Telephone Mediation

### Settlement Conferences

A settlement conference is designed to help the parties assess the merit of a complaint and reach a mutually satisfying settlement. Complaints are referred to a settlement conference on the basis of the following criteria:

- There has been no mediation (or the mediation took place more than six months ago);
- Parties have differing opinions on an issue of law;
- One of the parties is not represented;
- Parties could benefit from participation in a settlement conference; and
- Any other reason considered valid by the Tribunal.

Settlement conferences are held on a set date established by the Tribunal. Typically, they are held two months prior to the date of the hearing. Settlement conferences are completed within one day.

### Comparing Settlement Conferences and Mediation

#### Differences

Mediation is a voluntary process. It involves the assistance of a neutral and impartial third party: the mediator.

A settlement conference is:

- A mandatory process that is initiated and controlled by the Tribunal;
- An evaluative process;
- Always chaired by a Tribunal member.



#### Similarities

- Both processes are confidential;
- Goal: come to a resolution and obtain a withdrawal of the complaint;
- Decision to settle and content of Terms of Settlement belong to parties.

### Evaluation of the Pilot Project on Settlement Conferences

In April 2010, the Tribunal initiated a one-year settlement conference pilot project for the following reasons: after four years of operation, it had received and processed more than 2,800 complaints; there existed jurisprudence that touched upon various situations, including instances of abuse of authority; 780 complaint files had been referred to mediation with a success rate of 85%; and the Tribunal had started to experiment with telephone and videoconference mediation.

The pilot project was evaluated in March 2011. Notices of settlement conferences were sent in 47 files during the period of April 1, 2010 to March 31, 2011. Based on the number of withdrawals of complaints made before, during and after the settlement conferences, the pilot project achieved a success rate of 80%.

Half of the settlement conferences were held in person and the other half by telephone. Both methods had the same success rate. One settlement conference was held via videoconference which proved to be effective. However, it was not possible to repeat the process for other cases due to costs and logistics — parties often did not have access to a network.

Given these results and the positive comments received from participants and from the stakeholders, the Tribunal concluded that settlement conferences would become a permanent part of its complaint process. More members were trained and are now involved in this new process. Documentation and the website were reviewed to simplify the process and reflect the changes made over time.

The Tribunal is confident that holding settlement conferences complements its complaint process. This gives the parties an opportunity to discuss directly the complaint which they would not have within the context of a quasi-judicial hearing. It is efficient as it is combined with the pre-hearing conference and completed within a day and without involving travel. It also provides value for the parties involved even if the complaint does not settle, as it provides them with an evaluation of the strengths and weaknesses of their case and better prepares them for the hearing.



### **Telephone and Videoconference Mediation**

Telephone mediation is used to deal with various types of complaints. It can take many forms, whereby the telephone is simply a means of bringing mediation to the participants. In some cases, telephone mediation may resemble “shuttle” mediation in that the mediator goes back and forth between the parties. In other cases, all participants — the mediator, the parties and their representatives — may take part in a conference call at the same time. Mediators use their judgment to decide what format works best in a given case. Telephone mediation contributes to an enhanced service for stakeholders while maintaining the costs of activities at a reasonable level.

**Telephone mediation contributes to an enhanced service for stakeholders while maintaining the costs of activities at a reasonable level.**

A pilot project on telephone and videoconference mediation was implemented in conjunction with the one on settlement conferences, in an effort to offer increased mediation availability and to maintain the cost of providing mediation services at current levels for the parties and the Tribunal. Even before the start of this pilot project, this approach had been successfully used when complainants were working out of the country or where the parties were unavailable to attend mediation in person in a timely manner.

During the pilot project year, the satisfaction rates compiled from the participants' questionnaires indicate high satisfaction rates of over 80% for all type of mediations. Furthermore, the pilot project allowed significant savings in terms of time spent and travel costs for bargaining agents, departments and the Tribunal together with optimal employee well-being and work-life balance (time at the office and at home vs. time on the road) for all those involved.

**During the pilot project year, the satisfaction rates compiled from the participants' questionnaires indicate high satisfaction rates of over 80% for all type of mediations.**

Some parties and representatives have expressed a preference for in-person mediation. For the coming year the Tribunal plans to reduce the percentage of telephone mediations and add the possibility of doing the pre-mediations by telephone (one day) and the mediation in person (one day). This will allow increased flexibility on the part of everyone with respect to the choice of telephone, videoconference or in-person mediation.

## Overview of 2010–2011

During this period the Tribunal received a total of 775 complaints, compared to 752 for the previous year. This statistic highlights the fact that the total number of complaints filed per year is somewhat stable at between 750 and 800. Although the Tribunal has issued 35 final decisions following a hearing, this last-resort solution accounts for only 4% of complaints. This figure includes nine cases of abuse of authority.

### Dispute Resolution Services

The Tribunal's Dispute Resolution Services plays an essential role in resolving complaints. It offers mediation services that can be requested at any time during the complaint process pursuant to section 97 of the *Public Service Employment Act* (PSEA). Mediation generally takes place following the exchange of information stage. Mediation requires prior consent from both parties. All complaint files are automatically referred to mediation unless one of the parties declines to participate.

After a successful trial run, the Tribunal has incorporated two new tools into its repertoire of complaint resolution mechanisms: telephone or videoconference mediation and settlement conferences.



### Interest-based Negotiation and Mediation Training

The Tribunal continued to offer its two-and-a-half day interactive training sessions on interest-based negotiation and mediation. This program is designed to help stakeholders (bargaining agents, delegated managers or their representatives, staffing officers or HR specialists) better understand the Tribunal's approach to mediation, and prepares them for involvement in a given mediation process as a party or as a representative. In 2010–2011, the Tribunal held six sessions in total, three in English and three in French. They were held in Ottawa (two), Montreal, Québec City, St. John's, and Winnipeg.

**All complaint files are automatically referred to mediation unless one of the parties declines to participate.**

**Summary of Mediation Statistics**

Number of complaints referred to mediation:	383
Number of mediations conducted:	236
Number of complaints where a party withdrew consent to mediation:	58
Number of complaints withdrawn prior to the scheduled mediation session:	19
Processes under way (carried over to the next fiscal year):	70
Overall success rate (in-person, telephone and videoconference mediation): (201 complaints withdrawn out of 236 files processed through mediation)	85%
Success rate (in-person mediation):	90%
Success rate (videoconference mediation):	80%
Success rate (telephone mediation):	67%
Percentage of complaints handled by telephone or videoconference mediation:	33%
Average length of time between the appointment and the notice of mediation:	59 days
Average length of time between the appointment and the mediation session:	91 days

**The Registry**

The Registry is responsible for keeping track of all complaint files. During the period, the Registry processed a total of 1,311 complaints, including complaints from the previous year that were still active as of April 1, 2010. The following tables provide specific details on the situation.

**Complaint Statistics****Number of complaints in 2010–2011**

Number of complaints received:	775
Number of complaints carried over from the previous year:	536
<b>Number of active complaints during the period:</b>	<b>1,311</b>

**Files closed — 2010–2011**

Number of files opened and closed during the period:	417
Total number of files closed during the period:	722
Number of active files as of March 31, 2011, and carried over to the next fiscal year:	589

**Types of complaints — 2010–2011**

Advertised processes:	542
Non-advertised processes:	212
Revocations:	8
Layoffs:	6
Corrective action:	1
Unspecified:	6

**Motions received — 2010–2011**

Extension of time:	307
Order for provision of information:	87
Motion to dismiss:	155
<b>Total:</b>	<b>549</b>

**Decisions rendered — 2010–2011****Letter decisions**

Extension of time:	332
Order for provision of information:	90
Complaints dismissed:	130
<b>Total:</b>	<b>552</b>
<b>Reasons for Decision:</b>	<b>35</b>
<b>Total:</b>	<b>587</b>

**Pre-hearing conferences — 2010–2011**

Scheduled:	129
Carried over:	23
Cancelled:	24
<b>Held:</b>	<b>90</b>

**Hearings — 2010–2011**

Placed on the hearing schedule:	163
Carried over:	37
Cancelled:	68
<b>Held:</b>	<b>27</b>

## Summaries of Decisions Regarding Substantiated Complaints in 2010–2011<sup>1</sup>

### *Ammirante v. Deputy Minister of Citizenship and Immigration*

Neutral Citation: 2010 PSST 0003

Decision Date: 2010-06-10

**Keywords:** abuse of authority; bad faith; bias; reasonable apprehension of bias; references; values

#### Summary

Two members of the assessment board had reporting relationships to a third person, who provided information regarding the complainant but who was not on the assessment board. Following the suggestion of the third person, the assessment board proceeded to seek out additional references. The complainant was subsequently eliminated from the appointment process. During and after the informal discussion process, the complainant learned that the assessment board had obtained two additional references but could not find out the source of the references. These references, which were supposed to be a secondary tool for assessing certain merit criteria, were the basis for the decision to eliminate the complainant from the appointment process.

#### Decision

The Tribunal found that the respondent abused its authority in assessing the complainant. It found that there was both bad faith and a reasonable apprehension of bias on the part of the respondent.

By applying to the public service, candidates implicitly consent to reference checks. Nevertheless, the reference checking process must respect the staffing values set out in the preamble to the PSEA.

The Tribunal noted that the references were used as a primary tool in the assessment of judgment, and not as a secondary one. There was no evidence as to how the complainant failed this qualification or how it came to its final score.

The Tribunal also found that the respondent's decision to pursue other references was made before receiving information from the complainant's own references. The respondent also provided inaccurate and misleading communications to the complainant regarding the source of the additional references and the need to obtain them.

The Tribunal noted that the respondent argued that it did not have sufficient information to assess the complainant, and that therefore, additional references were sought. It found that the respondent demonstrated carelessness in not clarifying that it would be difficult for someone who was not a supervisor to answer the questions in the reference.

<sup>1</sup> Summaries and full-text versions of the Tribunal's decisions are available on our website at [www.psst-tdfp.gc.ca](http://www.psst-tdfp.gc.ca). Employees, managers and human resources professionals alike can use the decisions as a guide with respect to the jurisprudence established to date.



### Complaint substantiated.

The Tribunal observed that the members would benefit from training in conducting a bias free assessment and in the application of assessment methods.

Noting that a pool was to be established from the appointment process, the Tribunal ordered that the respondent determine if the pool still exists. Should the complainant wish to be reassessed, the complainant is to be reassessed by a different assessment board in relation to this appointment process.

### ***Gignac v. Deputy Minister of Public Works and Government Services***

Neutral Citation: 2010 PSST 0010

Decision Date: 2010-08-09

**Keywords:** abuse of authority in the application of merit; reasonable apprehension of bias; corrective action (lump sum payments and revocation)

### **Summary**

The complainant participated in an internal advertised appointment process. The chairperson of the assessment board for the process was a member of a labour-management committee on which the complainant also served as a member. The committee held a meeting several days before the complainant was scheduled to be interviewed by the assessment board. Just prior to the start of the meeting, the complainant was discussing his upcoming interview with another committee member. The assessment

board chair overheard their conversation and interjected that if he were in the complainant's place, he would concentrate on his current job. The complainant was taken aback by this comment and testified that he found it uncomfortable appearing before the chairperson for his interview a few days later. The complainant did not pass the interview. The complainant alleged that the chairperson's comments gave rise to a reasonable apprehension of bias, constituting abuse of authority in the application of merit, pursuant to s. 77(1)(a) of the PSEA. The complainant also alleged that because the assessment board had discarded the notes he had taken during his interview, he was prevented from demonstrating that he had jotted down the right answers and responded correctly to the questions asked of him during the interview.

### **Decision**

The Tribunal determined that persons assigned to assess candidates in an appointment process have the duty to conduct an unbiased assessment, which does not give rise to a reasonable apprehension of bias. The Tribunal adapted the test set out in *Committee for Justice and Liberty v. National Energy Board*, [1978] 1 S.C.R. 369, to questions of bias in an appointment process, as follows: *If a relatively well informed person would reasonably apprehend bias on the part of one or several of the persons responsible for the assessment, the Tribunal may conclude that there was an abuse of authority.* Applying this test to the facts of the case, the Tribunal found that a reasonably well informed person, considering the whole of the evidence, would reasonably apprehend bias on the part of the assessment board chairperson.



The Tribunal took into account not only his statements during the committee meeting prior to the interview but other factors including remarks he had made indicating that he was uncomfortable with the complainant's union activities and that he preferred to have employees who had a university education, which the complainant lacked. The Tribunal added that the assessment board's decision to discard the complainant's notes even though he was contesting the assessment of his answers, added to the perception of bias.

#### **Complaint substantiated.**

The complainant sought a lump sum payment equivalent to the difference in wages between the position he applied for and his substantive position. The Tribunal found that the complainant did not establish the basis for this claim and dismissed it. The Tribunal noted that if the sum was being claimed in the form of punitive or exemplary damages, the Act does not grant the Tribunal the authority to make such awards. A claim for "special compensation", under s. 81(2) of the Act, was also unavailable as there had not been any allegation or evidence of a discriminatory practice. The Tribunal also found that revocation of the appointment would not be an appropriate corrective action.

The Tribunal therefore concluded that its finding that the assessment board chairperson had abused his delegated discretionary authority was sufficient and constituted the only appropriate corrective action.

#### ***Morgenstern v. Commissioner of the Correctional Service of Canada***

Neutral Citation: 2010 PSST 0018

Decision Date: 2010-10-15

**Keywords:** abuse of authority; bad faith; serious carelessness; inadequate material; improper result; merit; essential qualifications; experience; personal suitability; references; moot; revocation.

#### **Summary**

The complainant alleged that the Statement of Merit Criteria was improperly altered during the appointment process with the result that a person without the necessary management experience was screened in and found qualified. The complainant also claimed that the assessment of her personal suitability was flawed since the board should have asked her referees for more information.

The respondent argued that, notwithstanding the errors in the process, there was no bad faith. According to the respondent, the error was in the incorrect application of the assessment tools by the board which altered the experience requirement and failed to properly assess the complainant's personal suitability. Since the respondent had revoked the appointment, it argued that the complaint was moot.

#### **Decision**

The Tribunal found that the board had erred by interpreting management experience and leadership experience as interchangeable. An appointment must be based on merit. Altering the essential experience requirements, and appointing someone who did not have the necessary management

experience, led to an improper result. References were the only assessment tool used to assess personal suitability. The respondent admitted that it assessed the complainant on inadequate material; the board failed to take reasonable steps to determine whether complete information was obtainable by, for example, asking the referees to elaborate on their references. The Tribunal found that the series of errors and omissions identified amounted to such serious carelessness as to reach the level of bad faith. Finally, the Tribunal rejected the respondent's argument that the matter was moot since the appointment had been revoked. The Tribunal's jurisdiction was established once the Notification of Appointment or Proposal of Appointment was posted, and it cannot be ousted by the subsequent actions taken by the respondent.

### **Complaint substantiated.**

#### ***Martin v. Deputy Minister of National Defence***

Neutral Citation: 2010 PSST 0019

Decision Date: 2010-11-09

**Keywords:** abuse of authority; investigation; informal discussion; credibility; personal favouritism; serious carelessness; bad faith; improper result; inadequate material; failure to consider relevant matters; revocation.

#### **Summary**

The complainant alleged that there was an improper result since an assessment board member disclosed information about the interview questions to one of the appointed candidates prior to her interview. She also alleged that she was improperly assessed

because her response to an interview question was not fully recorded by the assessment board. Finally, she alleged that other candidates benefitted from being permitted to refer to their study material while reviewing the interview questions, whereas she did not.

The respondent argued that, although a board member did reveal information related to one interview question, the matter was resolved by steps that were taken prior to any appointments being made. The respondent also maintained that the complainant was properly assessed and that no candidate was allowed to bring their study material into the pre-interview preparation.

#### **Decision**

The Tribunal found that an assessment board member had given a candidate an unfair advantage by revealing assessment information prior to her interview. The Tribunal found that his actions constituted personal favouritism and were, therefore, an abuse of authority. The Tribunal concluded that, by appointing a candidate who had been inappropriately assessed in the appointment process, there was an improper result.

While this was sufficient to substantiate the complaint, the Tribunal also examined the steps taken by the delegated manager, once he became aware of the complainant's concerns, to determine whether there had been any further abuse of authority in this appointment process. The Tribunal found that the delegated manager acted in a seriously careless manner, acted on inadequate material, and failed to consider relevant matters, in particular by failing to speak with three employees in the office who were witnesses.

The Tribunal concluded that the complainant had failed to demonstrate that she was improperly assessed.

### Complaint substantiated.

The Tribunal ordered that the deputy head revoke the appointment.

### *Parker v. Deputy Minister of Indian and Northern Affairs Canada*

Neutral Citation: 2010 PSST 0021

Decision Date: 2010-12-13

**Keywords:** abuse of authority; bias; reasonable apprehension of bias; bias-free assessment; reasonably informed bystander; fairness; conflict of interest; ability to manage conflict; candidate sheet; fitness; accommodation; serious errors; important omissions; reassess.

### Summary

The respondent required candidates to complete a Candidate Sheet prior to interviews. On hers, the complainant stated as follows: “a significant unresolved issue has caused me a lot of stress and is impacting me right now.” The complainant was eliminated from the appointment process following her interview for failing to meet an essential qualification concerning the ability to manage conflict. The complainant alleged that she was treated unfairly due to a biased assessment, and a failure to accommodate her at the time of her scheduled interview.

The respondent argued that it had taken the necessary steps to ensure a bias-free assessment. It had removed a member of the interview panel who was involved in a workplace incident with the complainant, and had limited the hiring manager’s assessment of the complainant, who the complainant had previously brought a conflict of interest allegation against, to objective elements, namely the screening, marking of the written examination and reference checks. The respondent also argued that this was not a situation where accommodation had been requested and refused and, therefore, no further action from the respondent was necessary.

### Decision

The Tribunal had to determine whether the complainant was provided with a reasonable opportunity to perform at her interview. The complainant alleged bias. The test for reasonable apprehension of bias is this: Would a reasonably informed bystander looking at the process reasonably perceive bias on the part of one or more of the persons involved in the assessment of the complainant? The Tribunal found that the only reasonable explanation for using the Candidate Sheet was to provide an opportunity for the respondent to confirm the fitness of a candidate to proceed. The complainant’s statement on the Candidate Sheet ought reasonably to have prompted questions to inquire further as to her fitness to proceed on that day. The Tribunal found that the web of relationships, knowledge and dealings among the members of the assessment board and the complainant, as well as events prior to the interview gave rise to a reasonable apprehension of bias. The Tribunal concluded that the respondent abused its authority. The Tribunal also noted that

the errors committed and omissions made leading up to the complainant's interview may have constituted such serious errors and/or important omissions as to amount to an abuse of authority. However, given the Tribunal's finding of reasonable apprehension of bias, it was not necessary to make this determination.

### **Complaint substantiated.**

The Tribunal ordered that the respondent establish a differently constituted assessment board to reassess the complainant on the essential qualification that she had failed, and complete all parts of her assessment that remain outstanding to determine whether she is qualified.

### ***Poirier v. Deputy Minister of Veterans Affairs***

Neutral Citation: 2011 PSST 0003

Decision Date: 2011-01-20

**Key words:** abuse of authority; Job Opportunity Advertisement – instructions; essential merit criteria; fettered discretion – informal discussion.

### **Summary**

The complainant applied for a position advertised in a Job Opportunity Advertisement (JOA) that had unclear wording. The complainant's interpretation of the instructions from the JOA was that the candidate was to provide one or two paragraphs for **all** the qualifications. The respondent's intended interpretation of the instructions was that the candidate was to provide one or two paragraphs for **each** qualification. The complainant was eliminated from an appointment process based on his covering

letter, which adhered to the form and substance of the JOA instructions, as he understood them. He alleged that when he met the respondent's representatives for an informal discussion, their minds were closed and they were not prepared to correct the initial decision to screen him out. The respondent states that the complainant failed to demonstrate that he met the experience qualifications for the position, that there was nothing improper in the informal discussion, and that the instructions were clear.

### **Decision**

The wording of the instructions for the JOA was unclear and could lead to the complainant's interpretation, which was different but reasonable. If the instructions as to form had been clear, the complainant would have known that he was expected to provide one or two paragraphs on each experience qualification. In this case, the poor wording of the instructions directly contributed to the complainant's elimination from the appointment process.

The assessment board exercised its discretion to accept certain applications despite the obligatory wording as to form in the JOA. This demonstrates that it was prepared to be flexible in assessing candidates based on their individual circumstances. However, it was not consistent in doing so. The JOA instructions were flawed and the complainant ought to have been afforded more flexibility. The assessment board fettered its discretion by refusing to consider that its instructions were flawed. It proceeded to eliminate the complainant from the assessment process on the basis of inadequate information regarding his experience qualifications. This constituted an abuse of authority.

### Complaint substantiated.

The respondent was ordered to offer the complainant an opportunity to resubmit an application demonstrating how he meets the essential experience qualifications for this appointment process. If he is then found to meet qualifications, he is to be afforded an opportunity to proceed through the assessment process as if he had been found to meet those essential qualifications in his original application.

### *Rochon v. Deputy Minister of Fisheries and Oceans*

Neutral Citation: 2011 PSST 0007

Decision Date: 2011-02-10

**Keywords:** abuse of authority; essential merit criteria; global assessment; failure to assess essential qualifications; personal favouritism; accommodation in the scheduling of interview.

### Summary

The complainant was a candidate for a carpenter foreman position in an advertised appointment process. Another of the candidates was selected to be proposed for appointment. The complainant alleged that the respondent abused its authority in the choice and application of assessment methods, that it demonstrated favouritism towards the successful candidate, and that it failed to accommodate the complainant in the scheduling of his interview.



### Decision

The Tribunal found that the respondent committed a number of serious errors in its assessment of candidates. A single global rating was used to assess two essential experience qualifications during the interview. Candidates could thus obtain a single overall pass mark on both qualifications, without it having been demonstrated that they met each of these qualifications individually. This assessment method was contrary to s. 30(2)(a) of the PSEA, which requires that persons must satisfy the Public Service Commission or deputy head that they meet each of the essential qualifications for a position in order to be appointed. A second error was that the respondent failed to ask any interview questions to assess one of the essential ability qualifications. The respondent also erred in relying on the answers to one of its questions to assess another of the essential ability qualifications. The Tribunal found that there was no clear link between the question and the essential ability being assessed. In the result, the Tribunal concluded that the respondent was careless in designing and applying its assessment method. The respondent did not establish that the successful candidate was assessed against and met



all of the essential qualifications. This carelessness was sufficiently serious as to constitute abuse of authority.

Regarding the allegations of favouritism, the Tribunal found that the complainant did not demonstrate that personal favouritism was a factor in the decision to select the successful candidate.

With respect to the question of accommodation, the complainant alleged that due to the birth of his child two days before the interview, he was not “feeling 100%”, which had an impact on his interview results. However, since the complainant did not demonstrate that he had requested a postponement of his interview, he did not establish that the respondent abused its authority by failing to accommodate him in the scheduling of the interview.

#### **Complaint substantiated.**

The Tribunal ordered the respondent not to appoint the successful candidate to the carpenter foreman position on the basis of this appointment process. In the event that he had already been appointed, the Tribunal ordered the respondent to revoke his appointment within 60 days of the Tribunal’s order.

#### ***Patton v. Deputy Minister of National Defence***

Neutral Citation: 2011 PSST 0008

Decision Date: 2011-02-17

**Keywords:** abuse of authority; choice of process; essential merit criteria; failure to assess an essential qualification.

#### **Summary**

The complaint concerns an internal, non-advertised appointment process to fill the position of Explosives Safety Officer with the Department of National Defence (DND) at the Canadian Forces Ammunition Depot in Dundurn, Saskatchewan (CFAD Dundurn). The complainant, who was employed by DND at CFAD Dundurn, alleged that the respondent abused its authority in choosing a non-advertised process and denying employees access to the staffing opportunity. He also alleged that the essential training qualification for the position was impossible for anyone to achieve. Finally, the complainant claimed that the appointee’s appointment was without merit.

#### **Decision**

The Tribunal found that the respondent did not abuse its authority in choosing a non-advertised appointment process. The Tribunal noted that the choice to use a non-advertised process fell within the authority given to the respondent under s. 33 of the PSEA, but this discretion is not absolute and s. 77(1)(b) provides for a direct challenge to it on the ground of abuse of authority. The Tribunal found that the respondent had informed all employees at CFAD of its hiring plan for the position, which included offering anyone interested the opportunity to act in the position. The respondent made it known that these acting appointments would be a key feature in selecting the person to fill the position. Evidence was led demonstrating that the complainant was specifically asked if he wanted to put his name forward for an acting appointment, but he declined. His claim that the respondent

denied him access to the acting opportunity was therefore not substantiated. The Tribunal noted that no provision of the Act or the *Public Service Employment Regulations* establishes a right of access to a position that is the subject of a non-advertised appointment. The fact that the complainant was not given prior notice of the non-advertised appointment is not an abuse of authority.

Regarding the matter of the essential training qualification, the Tribunal held that although the evidence established that instruction for this qualification was still being developed such that no person could have possibly attained it at the time of the appointment, there was no evidence that the respondent used or applied this qualification in the assessment of the appointee or any other person considered for the position. It was merely one of four possible training options that an individual was required to meet in order to attain the training qualification.

With respect to the question of merit, the Tribunal found that there was no record that the respondent assessed the appointee for one of the essential knowledge qualifications. The Tribunal was not persuaded by the respondent's suggestion that it could be assumed a person satisfied the knowledge qualification in question if he or she met one of the experience qualifications. The two qualifications were distinct in the Statement of Merit Criteria and there was no evidence linking them or demonstrating that the appointee's experience was analyzed to determine whether it could apply to the knowledge requirement. The failure to assess the knowledge requirement rendered it impossible to ascertain

whether the appointee's appointment conformed to the merit requirements of s. 30 of the Act. Appointing someone who does not meet the essential merit criteria constitutes an abuse of authority.

#### **Complaint substantiated.**

The Tribunal ordered the respondent to complete the assessment of the appointee for the essential knowledge qualification in order to determine whether he is qualified for appointment to the position. If he was found not to meet the essential qualification, his appointment would be revoked. The Tribunal ordered the respondent to notify the parties of the outcome of this corrective action.

#### ***Elazzouzi v. Deputy Minister of Human Resources and Skills Development Canada***

Neutral Citation: 2011 PSST 0011

Decision Date: 2011-03-31

**Keywords:** internal advertised appointment process; abuse of authority; assessment of essential qualifications; subjective analysis; unreasonable findings by assessment board; reassessment of complainant.

#### **Summary**

The complaints relate to an internal advertised appointment process to fill Benefits Officer positions at the PM-02 group and level. After marking the written examinations of the three complainants (A, B, and C), the assessment board concluded that they had not obtained the pass mark for various essential qualifications.

The complainants alleged that the respondent abused its authority in the assessment of their answers in the written examination and in the awarding of points for their answers. Complainant C also alleged that no expected answer existed for the two questions of the written examination that she did not pass.

### Decision

The Tribunal found that complainants A and B did not establish that the board abused its authority in its determination that they did not meet one of the essential ability qualifications (“applying principles and procedures”). The Tribunal noted that given the quasi-mathematical nature of the examination questions assessing this ability, the expected “correct” answers, as set out in the board’s answer key, were clear, explicit and specific. Accordingly, the marks awarded to these two complainants did not seem unreasonable in the circumstances. Furthermore, complainants A and B did not submit sufficient evidence to establish a finding of abuse of authority in the marking of their exams. Complainant A did not provide any details regarding her answers to the examination questions and it is not the Tribunal’s role to reassess a complainant’s marks on a given answer simply because she does not agree with the board’s decision. As for complainant B, he did not challenge the failing mark assigned to his answer to one of the questions, but suggested that his marks be averaged with those of another question to achieve a pass mark. The Tribunal found that the mere fact that his final marking results could have been calculated differently does not establish that the board’s calculation approach constituted an abuse of authority. The Tribunal also held that the

board did not abuse its authority when it decided not to continue marking A’s and B’s answers once it was clear that they did not meet one of the essential qualifications assessed in the examination.

With respect to complainant C, the Tribunal found that the board abused its authority during its assessment of another essential ability qualification (“thinking skills”). The Tribunal noted that the board’s observations did not match the four relevant factors the board had identified for assessing this ability. Furthermore, the respondent did not explain how the board determined acceptable answers to these questions and no explanation was given to justify the board’s findings. In contrast to the questions that A and B failed, there were no obvious or quasi-mathematical answers to the two questions C did not pass. Rather, candidates had to respond by explaining the thinking used to arrive at their decision, an analysis that is subjective by nature. Since a number of different approaches could be acceptable and the board wanted to give candidates free reign to present their information, the board did not develop an expected answer. The Tribunal found, however, that it was essential in the circumstances that the board’s observations have a direct and concrete link with the factors deemed relevant for assessing the candidates’ answers. In the absence of such benchmarks in its analysis of C’s answers, the board could not justify, with regard to the “thinking skills” ability, its findings that “some issues are not dealt with” or “too many issues are not dealt with”. The board’s findings were therefore unreasonable. It abused its authority and committed a serious error by failing to link its observations to the four factors considered relevant for assessing the candidates’ answers.



### **Complaints of A and B dismissed.**

### **C's complaint substantiated.**

The Tribunal ordered that C's answers be reassessed on the basis of the relevant factors established for the ability "thinking skills." If she is found to meet the qualification, the assessment of her application should continue.



## **Update on Judicial Review**

No decisions regarding any judicial review applications were rendered by the Federal Court during the year. Of the 140 final decisions issued, five were referred to judicial review: three are currently before the Court and two were discontinued. When we include the other four applications for review that were filed in previous years and which had not yet been processed as of March 31, 2011, the number of applications awaiting a decision from the Federal Court comes to a total of seven.

## Appendix 1 — Finance

### Funding and Expenditures

Since 2009-2010, the Tribunal has been receiving permanent funding. This enables the Tribunal to fulfill its mandate without having to rely on temporary allocations. Furthermore, the Tribunal has recently obtained approval from Treasury Board for the reallocation of some funds.

The Tribunal's expenditures totalled \$5.6 million for 2010–2011. Employee salaries and benefits accounted for \$4.1 million (approximately 74%). The remaining 26% was spent to cover operating costs.

Summary of expenditures for 2010–2011				
Description	FTE	Salaries	O&M	Total
Adjudication of Complaints	19	2,474,878	267,877	2,742,755
Mediation of Complaints	6	608,445	125,983	734,428
Corporate Service	9	804,349	465,305	1,269,654
<b>Total Spending</b>	<b>34</b>	<b>3,887,672</b>	<b>859,165</b>	<b>4,746,837</b>
Unspent*		247,970	602,953	850,923
<b>Total allocation</b>		<b>4,135,642</b>	<b>1,462,118</b>	<b>5,597,760</b>

\*Returned to the Consolidated Revenue Fund

## Appendix 2 — Table of Complaints by Organization

Breakdown of Complaints by Organization		
Organization	Total	%
Canada Border Services Agency	81	10%
Canada School of Public Service	4	1%
Canadian Grain Commission	5	1%
Canadian Human Rights Commission	1	0%
Canadian International Development Agency	6	1%
Canadian Space Agency	3	0%
Correctional Service of Canada	104	13%
Courts Administration Service	1	0%
Department of Agriculture and Agri-Food	1	0%
Department of Citizenship and Immigration	29	4%
Department of Fisheries and Oceans	30	4%
Department of Foreign Affairs	22	3%
Department of Health	20	3%
Department of Indian and Northern Affairs Canada	26	3%
Department of Industry	8	1%
Department of Justice	4	1%
Department of National Defence	118	15%
Department of Natural Resources	4	1%
Department of Public Works and Government Services	45	6%
Department of the Environment	11	1%
Department of Transport	21	3%
Department of Veterans Affairs	3	0%
Economic Development Agency of Canada for the Regions of Quebec	1	0%
Federal Economic Development Agency for Southern Ontario	3	0%
Human Resources and Skills Development Canada	119	15%
Immigration and Refugee Board	4	1%
Library and Archives of Canada	1	0%
National Parole Board	4	1%
National Research Council of Canada	1	0%
Office of the Commissioner of Lobbying of Canada	1	0%
Parks Canada Agency	1	0%
Passport Canada	8	1%
Privy Council Office	2	0%
Public Health Agency of Canada	4	1%
Public Prosecution Service of Canada	2	0%
Public Safety Canada	1	0%
Public Service Commission	4	1%
Royal Canadian Mounted Police	56	7%
Royal Canadian Mounted Police Public Complaints Commission	1	0%
Statistics Canada	9	1%
Treasury Board	2	0%
Unknown Organization	2	0%
Other Organization*	2	0%
	775	100%**

\* These complaints involve organizations not subject to the PSEA

\*\* For simplicity, the percentages are rounded to the nearest integer, thus creating a slight discrepancy in the total.

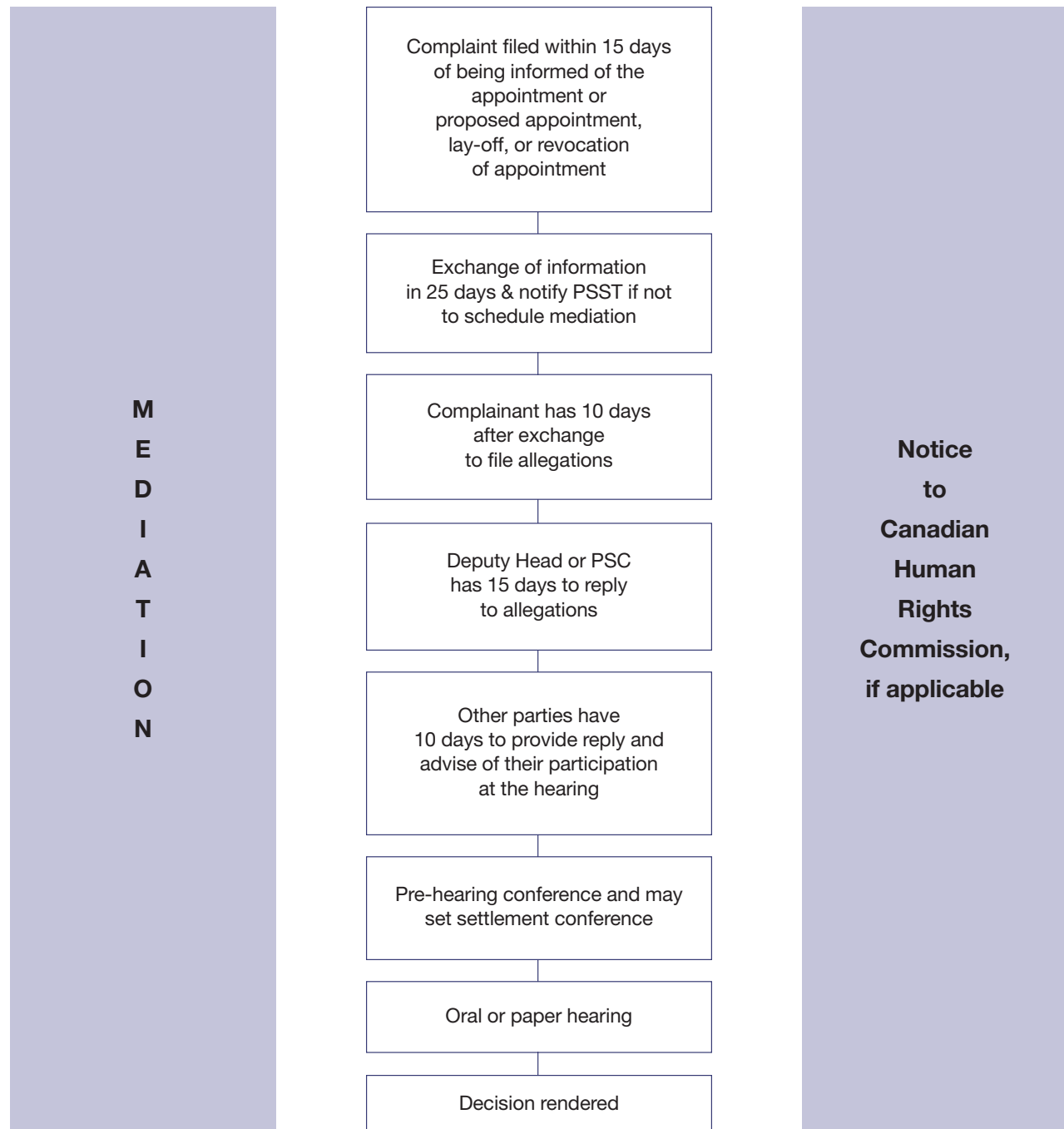
## Appendix 3 — Statutory Responsibilities

The *Public Service Employment Act* requires or permits the Tribunal to undertake the following activities:

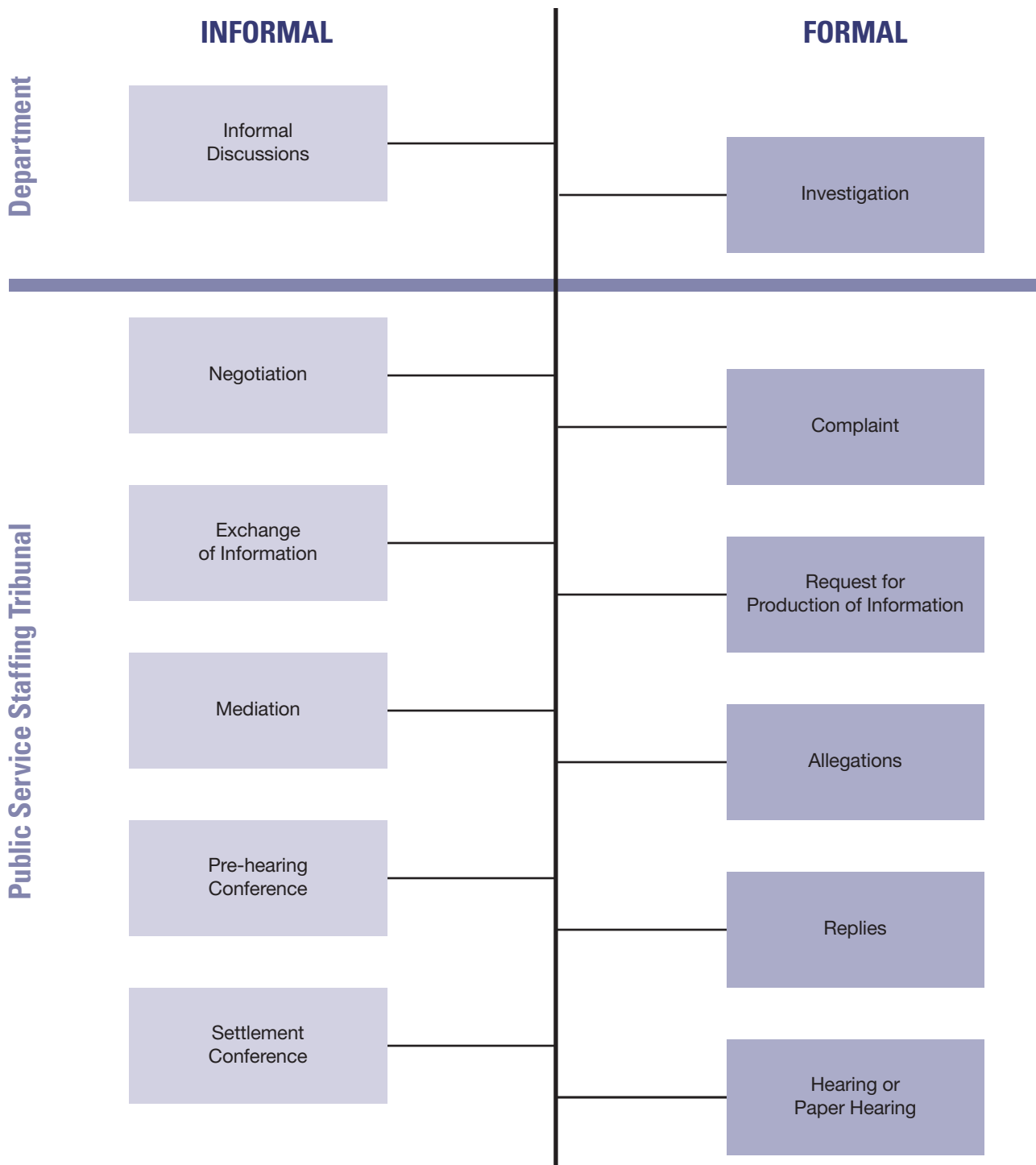
1. Consider and dispose of complaints presented to the Tribunal [s. 88(2)];
2. In the case of a founded complaint involving a lay-off of an employee, set aside the decision of a deputy head to lay off the employee and order the deputy head to take any corrective action that it considers appropriate, other than the lay-off of another employee [s. 65(4)];
3. In considering whether a complaint against a lay-off is substantiated, interpret and apply the *Canadian Human Rights Act*, other than its provisions relating to the right to equal pay for work of equal value [s. 65(7)];
4. In the case of a founded complaint involving a revocation of an appointment, order the Public Service Commission or the deputy head to set aside the revocation [s. 76];
5. In the case of a founded complaint involving an internal appointment, order the Public Service Commission or the deputy head to revoke the appointment or not to make the appointment and to take any corrective action that it considers appropriate [s. 81(1)];
6. In considering whether a complaint against an internal appointment is substantiated, interpret and apply the *Canadian Human Rights Act*, other than its provisions relating to equal pay for work of equal value [s. 80];
7. In the case of a complaint involving a corrective action ordered by the Tribunal, order the Public Service Commission or the deputy head to revoke the appointment made as a result of the implementation of the corrective action, or not to make the appointment, and give the Commission or the deputy head any directions that it considers appropriate with respect to the implementation of the corrective action [s. 84];
8. Provide mediation services at any stage of a proceeding in order to resolve a complaint [s. 97(1)];
9. Summon and enforce the attendance of witnesses and compel them to give oral or written evidence on oath in the same manner and to the same extent as a superior court of record [s. 99(1)(a)];
10. Order that a hearing be conducted using any means of telecommunication that permits all persons participating to communicate adequately with each other [s. 99(1)(b)];
11. Administer oaths and solemn affirmations [s. 99(1)(c)];
12. Accept any evidence, whether admissible in a court of law or not [s. 99(1)(d)];

13. Compel, at any stage of a proceeding, any person to produce any documents and things that may be relevant [s. 99(1)(e)];
14. Subject to any limitations that the Governor in Council may establish in the interests of defence or security, enter any premises of an employer where work is being or has been done by employees, inspect and view any work, material, machinery, appliances or articles in the premises and require any person in the premises to answer all proper questions relating to a complaint [s. 99(1)(f)];
15. Summarily dismiss any complaint that, in its opinion, is frivolous or vexatious [s. 99(2)];
16. Decide a complaint without holding an oral hearing [s. 99(3)];
17. Render a decision on a complaint and provide a copy of it, including any written reasons, and any accompanying order to the Public Service Commission and to each person who exercised the right to be heard on the complaint [s. 101];
18. Make regulations respecting complaint time limits and procedures, procedures for the hearing of complaints, time limits and procedures for notices and other documents, notice of an issue to the Canadian Human Rights Commission and the disclosure of information [s. 109];
19. Prepare and submit an annual report to Parliament through the Minister of Canadian Heritage regarding activities during the fiscal year [s. 110 (1)];
20. Use any services and facilities of departments, boards and agencies of the Government of Canada that are appropriate for the operation of the Tribunal [s. 93(2)].

## Appendix 4 — The Complaint Process



## Appendix 5 — Staffing Complaint Resolution System



## Appendix 6 — Members' Biographical Notes



### **Guy Giguère, Chairperson and Chief Executive Officer**

A seasoned adjudicator and mediator with over 25 years of experience in the federal public service of Canada, Guy Giguère was appointed Chairperson of the Public Service Staffing Tribunal in March 2005.

Mr. Giguère was first a member of the Public Service Staff Relations Board from 1998 to 2000 and became Deputy Chairperson of the Board in 2001. He was reappointed for a five-year period on March 31, 2008. Mr. Giguère began his public service career in 1983 with Employment and Immigration Canada where he provided training and advice on human rights and access to information legislation. He later worked with the Office of the Privacy Commissioner, the Department of Justice and the Privy Council Office. Born in St-Jérôme, Québec, Mr. Giguère obtained a civil law degree (LL.L) from the Université de Montréal and has been a member of the Quebec Bar since 1978. Mr. Giguère is a frequent speaker on mediation and arbitration and trains new members of federal administrative tribunals on the conduct of a hearing. He is also President of the Council of Canadian Administrative Tribunals.



### **John A. Mooney, Vice-Chairperson**

John A. Mooney was appointed Vice-Chairperson of the Public Service Staffing Tribunal in September 2009. Mr. Mooney holds a BA and License in Civil Law (LL.L) from the University of Ottawa and has extensive experience in administrative tribunals both as an adjudicator and manager. His prior experience includes working as a legal analyst for the Canadian Union of Public Employees; legal counsel for the Chambre de commerce du Québec, counsel for pension applicants before the Canadian Pension Commission and senior legal officer for the International Civil Service Commission of the United Nations. From 1992 to 1996, he was Chairperson of the Public Service Commission (PSC) Appeal Board. As part of the Privy Council Task Force on Modernizing Human Resources Management from 2001 to 2003, he helped draft the new *Public Service Employment Act* (PSEA). After the PSEA came into force, Mr. Mooney became the PSC Director of Regulations and Legislation where he managed the development of policies and regulations needed to implement the PSEA. In August, 2007, he was appointed as a full-time member of the Public Service Labour Relations Board.





#### **Joanne Archibald, Member**

Joanne Archibald was appointed to the Public Service Staffing Tribunal as a permanent full-time member on March 1, 2010. Having obtained a Bachelor of Laws (LL.B) from the University of Calgary, Ms. Archibald is an active member of the Law Society of Alberta. She began her study of mediation in 1993 and is a Registered Practitioner in Dispute Resolution with the Canadian International Institute of Applied Negotiation. Ms. Archibald has served as a mediator both within the public service and with the Provincial Court of Alberta. Well versed in administrative law, Ms. Archibald conducted quasi-judicial hearings pursuant to the *Public Service Employment Act* from 1991 until her appointment to the Tribunal.



#### **Lyette Babin-MacKay, Member**

Lyette Babin-MacKay was appointed as a permanent full-time member of the Public Service Staffing Tribunal in July 2009. Ms. Babin-MacKay has over 26 years of experience in human resources, labour relations and staffing; having joined the federal public service of Canada in 1983, she served with Employment and Immigration Canada, Agriculture Canada and National Defence and was appointed to the Professional Institute of the Public Service of Canada in 1996. At the Institute, in addition to providing representation to members regarding grievances, complaints, staffing appeals and adjudication, she was an active member of several National Joint Council Committees and of the Public Service Commission Advisory Council. In 2004 and 2005, she was a member of working groups established by the Deputy Ministers' Sub-Committees on Staffing and Staffing Recourse and on Labour Relations and Dispute Resolution in order to assist departments and agencies in the implementation of the *Public Service Employment Act* and the *Public Service Labour Relations Act*. In 2007, she returned to the federal public service as Senior Policy Analyst with the Treasury Board Secretariat of Canada. Ms Babin-MacKay holds an Honours BA in History from the University of Ottawa.



**Merri Beattie, Member**

Merri Beattie is an experienced human resources professional with particular expertise in labour relations and staffing. Ms. Beattie began her public service career with Supply and Services Canada and has held positions in management since 1999. Ms. Beattie served on the Privy Council's Task Force on Modernizing Human Resources Management created in April 2001 to draft a new institutional and legislative framework for human resources management in the public service. Following the adoption of the *Public Service Modernization Act* (PSMA), Ms. Beattie participated in the planning of PSMA implementation across government departments and agencies. In January 2004, Ms. Beattie was named Director of Human Resources Modernization with Public Works and Government Services Canada. In this capacity, she led the design and implementation of the department's human resources policy frameworks and systems, including its response to the new Act. Ms. Beattie was appointed as a permanent full-time member of the Public Service Staffing Tribunal in November 2005.



**Tara Erskine, Temporary Member**

Tara Erskine was appointed as a temporary member of the Public Service Staffing Tribunal in December 2010. She is a labour and employment lawyer with over fifteen years of experience in private practice and has appeared before labour relations boards, human rights tribunals, and various levels of courts across the country. Ms. Erskine holds a Bachelor of Arts degree from the University of King's College and a Law degree from Dalhousie University. She is a member of Law Society of Upper Canada, the Law Society of Alberta and the Nova Scotia Barristers Society.

In addition to her legal training, Ms. Erskine completed the Advanced Program in Human Resource Management at the Rotman School of Management, University of Toronto and holds the designation as a Certified Human Resource Professional (CHRP). She has completed courses in mediation through Harvard Law School. Ms. Erskine is a regular speaker on labour and employment law matters.



#### **Ken Gibson, Temporary Member**

Ken Gibson was appointed as a temporary member of the Public Service Staffing Tribunal in November 2005. Mr. Gibson began his career as a researcher with the Science Council of Canada and later worked at the Professional Institute of the Public Service of Canada as both chief research officer and negotiator. From 1985 to 2000, he held a number of senior human resources management positions at the National Research Council, including Director of Employee Relations. Mr. Gibson has spent the last five years working as a human resources consultant with expertise in HR strategy, policy and program development, project management, labour relations and change management. Mr. Gibson holds an Honours BA in Commerce with specialization in economics and industrial relations.



#### **Maurice Gohier, Member**

Maurice Gohier began his career in the federal public service as a Staff Relations Officer with Veterans Affairs Canada in 1984. From there, Mr. Gohier joined Fisheries and Oceans Canada as its Chief, Staff Relations and Administration until 1990 when he moved to Training and Development Canada as a Labour Relations Instructor. In 1996, following assignments at the RCMP External Review Committee and the Treasury Board Grievance Adjudications Section, Mr. Gohier joined the Public Service Commission (PSC) Recourse Branch where he first worked as an Investigator and later as Chairperson of the PSC Appeal Board. Mr. Gohier also worked in the PSC Investigation Branch where he acquired management experience as Assistant Director of Operations and Director of the Jurisdiction and Case Management Directorate. During the transition years from the former to the new *Public Service Employment Act*, Mr. Gohier worked as Recourse Manager and Coach and was responsible for the training of newly hired PSC Investigators. Mr. Gohier holds a Bachelor's degree both in Business Administration and Education from the University of Ottawa. He was appointed as a permanent full-time member of the Public Service Staffing Tribunal in February 2010.

### **John Hall, Temporary Member**

John Hall received his law degree from the University of British Columbia in 1980 and began his professional career as an arbitrator in 1985 when he was appointed to the B.C. Labour Relations Board. He served as Vice-Chair for two years before becoming a partner in a major Vancouver law firm. Mr. Hall returned to the Labour Board in 1992 as Associate Chair (Adjudication). He was named Acting Chair in 1996 and resigned two years later to pursue a private arbitration, dispute resolution and training practice. Since that time, he has also received a wide range of part-time appointments to both provincial and federal statutory tribunals and been selected to arbitrate and/or mediate numerous labour and employment disputes since the 1980s, with many of his decisions being reported nationally. He regularly instructs tribunal adjudicators on conducting hearings and writing decisions. Mr. Hall served as a Director of the Council of Canadian Administrative Tribunals, was the founding President and later a Director of the B.C. Council of Administrative Tribunal and, since 1999, has been the Secretary of the B.C. Arbitrators Association. Mr. Hall was appointed to the Public Service Staffing Tribunal as a part-time member on July 30, 2008.

### **John Korpesho, Temporary Member**

John M. P. Korpesho began his career in labour relations in 1972 and joined the Manitoba Labour Board in July 1973 as a Board Officer. He then served as Registrar and Vice-Chairperson of the Board from 1978 to 1983 when he became the Chairperson of the Manitoba Labour Board, a position he held until his retirement in 2005. He also served as a Commissioner at the Workers Compensation Board. He has represented Canada on numerous North American Free Trade Agreement panels. Mr. Korpesho was involved regularly in complex labour-management dispute resolution and on various labour/management committees respecting areas such as construction, labour relations and employment standards review. He has participated in numerous speaking engagements for various interest and professional groups, and been a contributor to a number of publications.



#### **Gordon Roston, Temporary Member**

Gordon Roston was appointed temporary member of the Public Service Staffing Tribunal in November 2005. From 1980 to 1995, Mr. Roston served the federal public service in many capacities, including Director General, International Marketing, Tourism Canada; Minister-Counsellor, Canadian Embassy, The Hague, Netherlands; Senior Staff Advisor to the Service to the Public Task Force, Public Service 2000 and Senior Advisor, Innovative and Quality Services, Treasury Board Secretariat. Since his early retirement from the public service, Mr. Roston has pursued a particular interest in Alternate Dispute Resolution and is a graduate and Fellow of the Canadian Institute for Conflict Resolution. As a mediator in the Ontario Civil Court Mandatory Mediation Program, he has acted in a wide variety of disputes ranging from breach of contract to harassment and has taught mediation and negotiation principles and practice. Mr. Roston has served as chairman, board member or advisor on a number of community and cultural organizations.



#### **Eugene Williams, Temporary Member**

Following his 1976 call to the bar, Eugene Williams joined the Bureau of Competition Policy and remained there for 4 years. In 1980 he became a prosecutor with the federal Department of Justice in Ottawa and had carriage of tax, competition, drugs and regulatory prosecutions until 1990. Between 1990 and 1998 he participated in section 696 Criminal Code reviews, (formerly s. 690) and was involved in the development of the Criminal Conviction Review Group and become its first coordinator. He was appointed Queen's Counsel in 1993. In 1998, he rejoined the Federal Prosecution Service (FPS) as the Director of the FPS Ottawa-Gatineau office. In January 2006 Eugene Williams, Q.C. was appointed the IMET coordinator in the Office of the Director of Public Prosecutions. (On December 12, 2006, the Office of the Director of Public Prosecutions was created by the *Federal Accountability Act* and assumed responsibility for the activities of the Federal Prosecution Service of the Department of Justice.) He remained in that position until he retired from the Public Service in October 2010.

## How to Contact the Tribunal

### **General Information**

Website: [www.psst-tdfp.gc.ca](http://www.psst-tdfp.gc.ca)  
Telephone: 613-949-6516  
1-866-637-4491  
Facsimile : 613-949-6551  
TTY : 1-866-389-6901  
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### **Mailing Address**

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Ottawa, ON K1A 0A5