

**PARLIAMENTARY EMPLOYMENT
AND STAFF RELATIONS ACT**

FIFTEENTH ANNUAL REPORT

OF THE



**PUBLIC SERVICE STAFF
RELATIONS BOARD**

2000-2001

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© Minister of Public Works and Government Services Canada 2001
Cat. No. SR1-1/2001E-IN
ISBN 0-662-31337-2
This publication is also available on the Board's Web site at:
<http://www.pssrb-crtfp.gc.ca>

The Honourable Stéphane Dion, P.C., M.P.
President of the Queen's Privy Council
for Canada and Minister of Intergovernmental
Affairs
House of Commons
OTTAWA

Dear Mr. Minister,

It is my pleasure to transmit to you, pursuant to section 84 of the *Parliamentary Employment and Staff Relations Act*, the Fifteenth Annual Report of the Public Service Staff Relations Board covering the period from 1 April 2000 to 31 March 2001 for submission to Parliament.

Yours sincerely,

Yvon Tarte
Chairperson

**PARLIAMENTARY EMPLOYMENT AND
STAFF RELATIONS ACT
Public Service Staff Relations Board
2000 – 2001**

Chairperson: Yvon Tarte *Vice-Chairperson:* P. Chodos

Deputy Chairpersons: M.-M. Galipeau, E. Henry, J. W. Potter

Full-Time Members: J. C. Cloutier, G. Giguère, L.-P. Guindon,
J.-P. Tessier

Part-Time Members: A. E. Bertrand, F. Chad Smith,
S. Kelleher, Q.C., C. Taylor, Q.C.

PRINCIPAL STAFF OFFICERS OF THE BOARD

Secretary of the Board and General Counsel: J. E. McCormick
Director, Dispute Resolution Services: G. Baron
Assistant Secretary, Operations: G. Brisson
Assistant Secretary, Corporate Services: J. Dionne

TABLE OF CONTENTS

	PAGE
INTRODUCTION	1
Organization and Functions of the Board	1
PROCEEDINGS BEFORE THE BOARD	2
Determination of Membership in Bargaining Unit	2
Complaint under Section 13	3
Adjudication Proceedings	4
Arbitration Proceedings	5
Request for Extension of Time to File a Grievance	6
Enforcement of Obligations of Employer and Employee Organizations	6
Request for the Appointment of a Conciliator	6
MEDIATION	8
TABLES	
1 Bargaining Units and Bargaining Agents under the Parliamentary Employment and Staff Relations Act	9
2 Adjudication References 1 April 1995 - 31 March 2001	11
3 Adjudication References Brought Forward and Received - 1 April 1995 - 31 March 2001	13

INTRODUCTION

ORGANIZATION AND FUNCTIONS OF THE BOARD

The *Parliamentary Employment and Staff Relations Act* (the Act) provides that Part I of the Act (Staff Relations) is to be administered by the Public Service Staff Relations Board, a quasi-judicial statutory tribunal established under the *Public Service Staff Relations Act*. The Board consists of a Chairperson, a Vice-Chairperson, not less than three Deputy Chairpersons and such other full-time members and part-time members as the Governor in Council considers necessary.

Proceedings before the Board under the *Parliamentary Employment and Staff Relations Act* may include applications for certification, complaints of unfair labour practices, designation of persons employed in a managerial or confidential capacity, and interest arbitration. The Board also deals with the adjudication of grievances concerning the interpretation or application of provisions of collective agreements, major disciplinary actions, and grievances relating to any form of termination of employment other than a rejection on probation on an initial appointment. Grievances relating to demotion, appointment and classification may also be referred to adjudication; however, these are not to be determined by a Board member, but rather by an outside adjudicator selected by the parties, who will bear equally the adjudicator's remuneration and expenses. The Board also acts through its mediation and conciliation services to assist the parties when they are unable to resolve their disputes. In this way, settlements may be reached without resort to formal proceedings before the Board or the number of issues in dispute may be reduced.

PROCEEDINGS BEFORE THE BOARD

During the year under review, the Board dealt with 73 cases, of which 43 were carried over from the previous year. The Board received 30 new cases, consisting of five requests for arbitration under section 50 of the Act, two requests for conciliation, 17 grievances, one application for extension of time, two complaints, two requests for determination of membership in bargaining unit and one reference under section 70 of the Act.

DETERMINATION OF MEMBERSHIP IN BARGAINING UNIT

Under section 24 of the Act, the employer or an employee organization may ask the Board to determine whether an employee or class of employees is included in a bargaining unit.

The Board dealt with three such applications. One of these, carried over from the previous year, came from the Communications, Energy and Paperworkers Union (CEP), the bargaining agent for all employees in the Technical Group. The CEP had asked the Board to determine whether employees previously classified in the Electronic Sub-group (ELT) and reclassified by the House of Commons in June 1999 to the Administrative Services Sub-group (ADS) formed part of the Technical Group represented by the CEP. The Board held several days of hearings and the matter continued during the review period; a decision was issued. Prior to the end of the year, however, the parties requested that additional dates be scheduled as unresolved issues had arisen as a result of a new application in which the CEP asked the Board to determine whether the Technical Group should include some employees in the Financial and Human Resources Services Directorate classified as ADS and another group of employees working in the Parliamentary Precinct Services of the House of Commons, also classified as ADS.

These matters are scheduled to be heard together in the new year (Board files 447-HC-6 and 447-HC-4).

The other application, filed by the Public Service Alliance of Canada, alleged that a number of part-time employees in the Reporting and Text Processing Sub-groups, and Operational Group, Operations, Printing Services and Restaurant Services Sub-group are not included by the employer in the appropriate Alliance bargaining unit. Also, by virtue of a section 70 reference, the Alliance asked the Board to enforce the employer's obligation to apply the relevant provisions of the collective agreement and to recognize the Alliance as the exclusive bargaining agent of all employees in the bargaining unit. These matters are scheduled to be heard in the next review period (Board files 447-HC-5 and 469-HC-10).

COMPLAINT UNDER SECTION 13

Section 13 of the Act requires the Board to examine and inquire into an alleged failure to observe any prohibition contained in sections 6, 7 or 8; to comply with any regulation respecting grievances made by the Board pursuant to section 71; and to give effect to any provision of an arbitral award or to a decision of an adjudicator with respect to a grievance. Where the Board upholds a complaint, it has authority under this section to order remedial action. If such action is not carried out, section 14 provides that the Board shall make a report to Parliament. The Board dealt with three such complaints during the year, including one carried over from the previous year.

Two complaints, both filed by the same complainant, alleged that the employer had violated subsection 6(1) and paragraph 6(2)(c) of the Act. The first alleged that the employer had given the complainant, a local president, a two-day suspension for using his cellular phone to conduct union business while driving the House of Commons minibus. The Board dismissed this complaint. The second complaint alleged that the employer had prevented the complainant from entering the work premises during the two-day suspension, thereby interfering with the conduct of union business since the union local is located on those premises. In this case the Board upheld the complaint (Board files 461-HC-17 and 18).

The third complaint was filed by the Communications, Energy and Paperworkers Union. It alleged that the employer had unilaterally and without consultation removed ELT technicians in Desktop Consulting and Field Services from the bargaining unit represented by the bargaining agent. The matter was mediated and the parties reached a settlement prior to the hearing (Board file 461-HC-13).

ADJUDICATION PROCEEDINGS

Section 63 of the Act provides for three kinds of adjudicable grievances. Paragraph 63(1)(a) refers to grievances arising out of the application or interpretation of collective agreements or arbitral awards. Such grievances cannot be referred without the approval and support of the bargaining agent. Paragraphs 63(1)(b) and (c) refer respectively to disciplinary actions resulting in suspension or a financial penalty and to termination of employment, other than rejection on probation in respect of an initial appointment. A member of the Board acting as an adjudicator hears all grievances referred to above.

The Board also processes grievances referred under paragraphs 63(1)(d), (e) and (f) of the Act. These cases include grievances concerning demotion of employees, denials of appointment and classification; they are heard and determined by an adjudicator selected by the parties.

During the year, the Board processed 58 matters under section 63, including 41 carried over from the previous year. The Public Service Alliance of Canada filed 39 grievances against the Library of Parliament as employer. They alleged that the employer had contravened the collective agreement by failing to implement equalization payments as outlined in the Memorandum of Understanding reached between the bargaining agent and the employer. A hearing was conducted and the 39 grievances were dismissed (Board files 466-LP-285 to 323).

Of the remaining 19 grievances, two were heard and decisions issued, four were settled prior to the hearing, four are held in

abeyance at the request of the parties and nine are scheduled to be heard during the next fiscal year.

ARBITRATION PROCEEDINGS

Binding arbitration is the only method available for the resolution of interest disputes; there is no right to strike under the Act. The Board received five requests for the establishment of arbitration boards during the year under review. The first request was filed in October 2000 by the Library of Parliament for the Research Officers and Research Assistants bargaining unit represented by the Social Science Employees Association. An arbitration board was established and an arbitral award was issued with an expiry date of 15 June 2002 (Board file 485-LP-19).

A request was filed by the Communications, Energy and Paperworkers Union of Canada for employees in the Technical Group employed by the House of Commons. An arbitration board was established and the parties were assisted in reaching a mediated settlement in March 2001 (Board file 485-HC-20).

The third request, jointly submitted on 7 December 2000 by the Public Service Alliance of Canada and the Library of Parliament, referred to employees in the Library Sciences bargaining unit. An arbitration board was established and an award was issued with an expiry date of 31 August 2002 (Board file 485-LP-21).

The fourth request was filed on 9 January 2001 by the House of Commons Security Services Employees Association for employees of the House of Commons in the Protective Services Group. An arbitration board was established and a hearing is scheduled for the next fiscal year (Board file 485-HC-22).

The last request was filed by the Public Service Alliance of Canada on 26 January 2001 for employees of the House of Commons in the Postal Services Group. An arbitration board was established but the parties reached a settlement prior to the hearing (Board file 485-HC-23).

REQUEST FOR EXTENSION OF TIME TO FILE A GRIEVANCE

Section 79 of the Regulations and Rules of Procedure of the Parliamentary Employment and Staff Relations Act provides that, on application by one of the parties, the time prescribed in the regulations and the collective agreements for the presentation of any grievance, notice, reply or document may be extended by agreement of the parties or by the Board.

One request was filed by the House of Commons Security Services Employees Association on behalf of a grievor who was five days late in filing a grievance. The matter was settled by the parties during the course of the hearing (Board file 449-HC-5).

ENFORCEMENT OF OBLIGATIONS OF EMPLOYER AND EMPLOYEE ORGANIZATIONS

Section 70 of the Act requires the Board to enquire into allegations that cannot be the subject of a grievance by an individual employee. They come about when the employer or bargaining agent seeks to enforce an obligation alleged to arise out of a collective agreement or arbitral award.

One such reference was filed by the Public Service Alliance of Canada and is reported under the section “Determination of Membership in Bargaining Unit” on page 2 of this report (Board files 469-HC-10 and 447-HC-5).

REQUEST FOR THE APPOINTMENT OF A CONCILIATOR

Under section 40 of the Act, where an employer or a bargaining agent advises the Board that the parties are unable to reach agreement on any term or condition of employment embodied in a collective agreement, the parties may ask the Chairperson to

appoint a conciliator who will assist them in reaching an agreement. Two such requests were received during the period under review.

One request was filed by the Communications, Energy and Paperworkers Union of Canada for employees in the Technical bargaining unit in the House of Commons. A conciliator appointed to assist the parties was unable to obtain a settlement. The dispute was later settled between the parties during the course of the arbitration hearing (Board file 489-HC-15).

The second request was filed by the Public Service Alliance of Canada on behalf of employees in the Operational Group in the House of Commons. A conciliation officer was appointed and assisted the parties in reaching an agreement (Board file 489-HC-16).

MEDIATION

Under the Act, arbitration is the only method of resolving collective bargaining disputes. The Dispute Resolution Services of the Public Service Staff Relations Board provide conciliation and mediation services to assist the parties in resolving disputes prior to an arbitration hearing. During 2000-2001, the Dispute Resolution Services were not called upon to render such assistance.

Also through its Dispute Resolution Services, the Public Service Staff Relations Board provides a grievance mediation program. On the one occasion when mediation was sought, it was instrumental in helping the parties reach a settlement.

During the past year, as part of its efforts to promote mediation as a dispute resolution mechanism, the Board set up a national training program on interest-based bargaining and mediation. A two-and-a-half-day training course was offered jointly to union and management representatives.

1

Bargaining Units and Bargaining Agents under the Parliamentary Employment and Staff Relations Act

Bargaining Units	Bargaining Agents
(HOUSE OF COMMONS AS EMPLOYER)	
Technical Group	Communications, Energy and Paperworkers Union of Canada
Protective Services Group	House of Commons Security Services Employees Association
Procedural Sub-group and Analysis/ Reference Sub-group in the Parliamentary Programs Group	Professional Institute of the Public Service of Canada
Operational Group (except for part-time cleaners classified at the OP A level)	Public Service Alliance of Canada
Reporting Sub-group and Text Processing Sub-group in the Parliamentary Programs Group	Public Service Alliance of Canada
Postal Services Sub-group in the Administrative Support Group	Public Service Alliance of Canada
(SENATE OF CANADA AS EMPLOYER)	
Legislative Clerk Sub-group in the Administrative Support Group	Professional Institute of the Public Service of Canada
Protective Service Sub-group in the Operational Group	Senate Protective Service Employees Association
Operational Group (except for employees in the Protective Service Sub-group and part-time cleaners in the General Services Sub-group)	Public Service Alliance of Canada

Bargaining Unit

Bargaining Agent

(LIBRARY OF PARLIAMENT AS EMPLOYER)

Library Science (Reference) and Library Science (Cataloguing) Sub-groups in the Research and Library Services Group	Public Service Alliance of Canada
Administrative and Support Group	Public Service Alliance of Canada
Library Technician Sub-group in the Research and Library Services Group	Public Service Alliance of Canada
Research Officer and Research Assistant Sub-groups in the Research and Library Services Group	Social Science Employees Association

2

Adjudication References 1 April 1995 - 31 March 2001

	Interpretations [Para. 63(1)(a)]	Discipline [Paras. 63(1) (b) & (c)]	Party & Party [Sec. 70]	Sub- Total	Paras. 63(1) (d), (e) & (f)	Total
2000-2001	2	2	1	5	12	17
1999-2000	43	3	0	46	6	52
1998-1999	1	2	0	3	8	11
1997-1998	1	1	0	2	2	4
1996-1997	3	2	0	5	1	6
1995-1996	5	2	4	11	21	32

Cumulative Totals 24 December 1986 — 31 March 2001

	284	45	10	339	209	548
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3

Adjudication References Brought Forward and Received 1 April 1995 — 31 March 2001

Fiscal Year	Brought Forward	Received	Overall Total	Dispositions Total
2000-2001	41	17	58	45
1999-2000	10	52	62	8
1998-1999	6	11	17	7
1997-1998	3	4	7	1
1996-1997	50	6	56	53
1995-1996	39	32	71	21