


Public Service Labour  
Relations Board



Parliamentary Employment  
and Staff Relations Act  
**Annual Report 2009 - 2010**

Canada





The Honourable James Moore, P.C., M.P.  
Minister of Canadian Heritage and Official Languages  
House of Commons  
Ottawa, K1A 0A6

Dear Minister,

It is my pleasure to submit to you, pursuant to section 84 of the *Parliamentary Employment and Staff Relations Act*, the Annual Report of the administration of that Act by the Public Service Labour Relations Board covering the period from April 1, 2009 to March 31, 2010, for submission to Parliament.

Yours sincerely,



Casper M. Bloom, Q.C., Ad. E.  
Chairperson



# PARLIAMENTARY EMPLOYMENT AND STAFF RELATIONS ACT

## Public Service Labour Relations Board 2009 - 2010

<b>Chairperson:</b>	Casper M. Bloom, Q.C., Ad. E.
<b>Vice-Chairpersons:</b>	Marie-Josée Bédard Ian R. Mackenzie Michele A. Pineau
<b>Full-time Members:</b>	Roger Beaulieu Dan Butler John A. Mooney Renaud Paquet Michel Paquette Dan R. Quigley
<b>Part-time Members:</b>	Christopher James Albertyn Bruce Archibald, Q.C. Ruth Elizabeth Bilson, Q.C. George P.L. Filliter Deborah M. Howes Margaret E. Hughes Paul E. Love Georges Nadeau Allen Ponak Joseph W. Potter John J. Steeves

### Executive Officers of the PSLRB

Executive Director and General Counsel:

Director, Dispute Resolution Services:

Director, Compensation Analysis and Research Services:

Director, Registry Operations and Policy:

Director, Corporate Services:

Director, Financial Services:

Pierre Hamel

Gilles Grenier

Guy Lalonde

Susan Mailer

Alison Campbell

Robert Sabourin



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# Message from the Chairperson



I am pleased to submit to Parliament the annual report on the administration of the *Parliamentary Employment and Staff Relations Act (PESRA)* for 2009-2010.

During the reporting period, exploring innovative ways to effectively manage a sizable caseload to ensure that active cases are kept to a manageable number and to reduce the overall time it takes to complete case files remained a priority. For example, the Public Service Labour Relations Board (PSLRB) rendered decisions on some cases based on information already on file or through written submissions, rather than through formal hearings, which represents a proactive shift in our approach to case management, and which resulted in enhanced fairness, efficiency and effectiveness, as well as cost savings.

Again this year, PSLRB mediators worked with the parties to help them resolve their disputes in an open, collaborative environment, rather than subjecting them to more adversarial settlement processes. When resources permitted, preventive mediations were undertaken, which enabled disputes to be resolved before a grievance or a complaint was formally referred to the PSLRB. The PSLRB also set up and conducted several arbitration boards, which enabled the parties to resolve their collective bargaining disputes by way of a binding report.

In 2009-2010, there were 6 full-time and 11 part-time PSLRB Board members. Mr. John A. Mooney left the PSLRB in September, and Mr. Michel Paquette retired in December 2009. No new full-time members were appointed during the year. Mr. Paul E. Love, a former part-time Board Member, and Mr. Joseph W. Potter, a former Board Member, Deputy Chairperson and Vice-Chairperson, were appointed as part-time Board members in November 2009.

I should also note that I was reappointed as Chairperson of the PSLRB for a three-year term that began on January 2, 2010. I look forward to continuing to provide leadership to the PSLRB and to successfully addressing the challenges before us.

Casper M. Bloom, Q.C., Ad. E.  
Chairperson  
Public Service Labour Relations Board



# Introduction



Under Part I of the *Parliamentary Employment and Staff Relations Act (PESRA)*, employees of parliamentary institutions have the right to form a union in order to negotiate collectively the conditions of their employment. Part I also gives employees the right to file grievances concerning those conditions and, in certain cases, to refer grievances to adjudication before a neutral third party.

Part I is administered and applied by the Public Service Labour Relations Board (PSLRB), an independent quasi-judicial tribunal established under the *Public Service Labour Relations Act*. The Board of the PSLRB comprises a Chairperson, three Vice-Chairpersons and other members that the Governor in Council may appoint for terms of no longer than five years and who may be reappointed.

Under the *PESRA*, the Board hears such matters as applications for certification by employee organizations to become bargaining agents representing employees; complaints of unfair labour practices; designations of persons employed in managerial and confidential capacities; and arbitrations of disputes.

The Board also adjudicates grievances concerning the interpretation and application of provisions of collective agreements, significant disciplinary action, and all forms of termination of employment except rejection on probation during initial appointments. Grievances concerning demotion, appointment and classification may also be referred to adjudication but are determined not by a Board member but by an external adjudicator chosen by the parties, which are equally responsible for the adjudicator's compensation and expenses.

The PSLRB's mediation services provide a collaborative forum for dispute resolution, rather than subjecting the parties to other, more adversarial methods of resolving their disputes. Through mediation, the parties are encouraged to explore the underlying reasons for their conflict, allowing them to craft solutions that better address the root causes of their problem.

Under the *PESRA*, arbitration is the only means of resolving disputes if bargaining reaches an impasse. In those situations, the Board acts as an arbitration board. On receiving a request for arbitration, the Chairperson appoints a tripartite panel comprising two persons representing the interests of each party along with a Board member who chairs the panel. Such panels are deemed to act as the Board for the purposes of dealing with the dispute. After hearing the parties, the panel renders a decision on the issues in dispute. Those decisions then form part of collective agreements and are binding on the parties and on employees.

# Proceedings before the Public Service Labour Relations Board



In 2009-2010, the PSLRB dealt with 62 cases under the *Parliamentary Employment and Staff Relations Act (PESRA)*. Of those cases, 21 were grievances, and 41 pertained to other applications. There were no complaints.

## 1) GRIEVANCE ADJUDICATION

Of the 21 grievances processed by the PSLRB in 2009-2010, 17 were carried over from previous years, and 4 were new.

There are four types of adjudicable grievances under the *PESRA*. The first type arises from the application or interpretation of collective agreements or arbitral awards. Such grievances cannot be referred to adjudication without the approval and support of the bargaining agent. In 2009-2010, the PSLRB processed 1 such grievance from the House of Commons.

The second type refers to disciplinary actions resulting in suspension or financial penalty and to termination of employment for reasons other than rejection on probation for an initial appointment. A member of the Board acting as an adjudicator hears these types of grievances. In 2009-2010, the PSLRB dealt with 5 such grievances; 2 were from the House of Commons, 2 were from the Library of Parliament and 1 was from the Senate.

The third type includes grievances relating to the demotion of an employee, to the denial of appointment and to classification. They are heard and determined by an adjudicator selected by the parties. In 2009-2010, the PSLRB processed 14 such grievances. Four (4) were from the House of Commons, 4 were from the Library of Parliament and 6 were from the Senate. All but 3 of the latter pertained to allegations of incorrect classification.

The fourth type refers to grievances under section 70 of the *PESRA*, which requires that the PSLRB look into allegations that cannot be the subject of a grievance by an individual employee. These situations occur when the employer or the bargaining agent seeks to enforce an obligation alleged to arise from a collective agreement or an arbitral award. One (1) such case was dealt with in 2009-2010.

As of March 31, 2010, of the 21 grievances that were received, 14 were on hold, 1 of which was pending the outcome of mediation. Six (6) cases were considered completed. Of those cases, 1 was upheld, 2 were settled, 2 were dismissed and 1 was withdrawn.

## **2) COMPLAINT ADJUDICATION**

Section 13 of the *PESRA* 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 PSLRB pursuant to section 71, or 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 section 13 to order remedial action. If such action is not carried out, section 14 provides that the PSLRB shall make a report to Parliament. The PSLRB did not process any such complaints in 2009-2010.

## **3) OTHER PROCEEDINGS**

### **Applications for a declaration of successor rights**

Section 36 of the *PESRA* provides for the PSLRB to determine the rights, privileges and duties that are required or retained by an employee organization after a merger or amalgamation or a transfer of jurisdiction, other than as a result of a revocation of certification. In 2009-2010, the PSLRB did not receive any such applications.

### **Applications for certification**

Under section 18 of the *PESRA*, an employee organization may submit an application to be certified as a bargaining agent for a bargaining unit. The PSLRB did not receive any such applications in 2009-2010.

### **Applications to review a decision**

Under section 17 of the *PESRA*, the PSLRB received 1 application requesting a review of a decision. The employer (the Library of Parliament) applied for a review of the bargaining unit structure. The application is being determined by way of written submissions.

### **Applications under section 38**

Section 38 of the *PESRA* requires parties to bargain collectively in good faith and to make every reasonable effort to conclude a collective agreement. The PSLRB did not receive any allegations of a violation under section 38 in 2009-2010.

### **Arbitration proceedings**

Section 46 of the *PESRA* provides that binding arbitration is the only method available to resolve interest disputes; there is no right to strike under the *PESRA*. In 2009-2010, the PSLRB dealt with 7 new requests to establish an arbitration board. One (1) case was carried over from the previous year and resulted in an arbitral award. Of the remaining 7 cases, 3 resulted in arbitral awards, and the remaining cases will be dealt with in 2010-2011.

## **Determination of membership in a bargaining unit**

Under section 24 of the *PESRA*, the employer or an employee organization may ask the PSLRB to determine if an employee or class of employees is included in a bargaining unit. The PSLRB dealt with 1 such application in 2009-2010.

## **Notice to bargain collectively**

Section 37 of the *PESRA* provides that either the bargaining agent or the employer may require the other party, by written notice, to commence bargaining collectively, with a view to concluding a collective agreement. In 2009-2010, the PSLRB did not receive a notice to bargain for any of the bargaining units for which the collective agreement had expired.

## **Request for the appointment of a conciliator**

Under section 40 of the *PESRA*, parties that are unable to reach agreement on any term or condition of employment embodied in a collective agreement may ask the Chairperson to appoint a conciliator to assist them in reaching an agreement. In 2009-2010, the PSLRB did not receive any new requests for a conciliator.

## **Requests for extensions of time**

In 2009-2010, the PSLRB did not receive any requests for extensions of time for the presentation of a grievance, as provided for under section 79 of the *P.E.S.R.A. Regulations and Rules of Procedure*.





# Mediation



When a proceeding is brought before the PSLRB, dispute resolution services are offered to help parties resolve their differences without resorting to a formal hearing. In a few instances, the parties requested the Board's assistance in resolving a dispute before the matter was referred to adjudication. In 2009-2010, the PSLRB's Dispute Resolution Services held 3 mediation interventions in which 4 files were identified, 3 of which were settled. The remaining case will be dealt with through a hearing.



# Tables

**TABLE 1: Bargaining Units and Bargaining Agents under the *Parliamentary Employment and Staff Relations Act*, April 1, 2009 to March 31, 2010**

BARGAINING UNITS	BARGAINING AGENTS
<b>House of Commons as Employer</b>	
Technical Group	Communications, Energy and Paperworkers Union of Canada
Protective Services Group	House of Commons Security Services Employees Association
Procedural Subgroup and Analysis/Reference Subgroup 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 Subgroup and Text Processing Subgroup in the Parliamentary Programs Group	Public Service Alliance of Canada
Postal Services Subgroup in the Administrative Support Group	Public Service Alliance of Canada
Scanners	Public Service Alliance of Canada
<b>Senate of Canada as Employer</b>	
Legislative Clerk Subgroup in the Administrative Support Group	Professional Institute of the Public Service of Canada
Protective Service Subgroup in the Operational Group	Senate Protective Service Employees Association
Operational Group (except for employees in the Protective Service Subgroup)	Public Service Alliance of Canada

BARGAINING UNITS	BARGAINING AGENTS
<b>Library of Parliament as Employer</b>	
Library Science (Reference) and Library Science (Cataloguing) Subgroups in the Research and Library Services Group	Public Service Alliance of Canada
Administrative and Support Group	Public Service Alliance of Canada
Library Technician Subgroup in the Research and Library Services Group	Public Service Alliance of Canada
Research Officer and Research Assistant Subgroups in the Research and Library Services Group	Canadian Association of Professional Employees

**TABLE 2: Adjudication References, April 1, 2000 to March 31, 2010**

	Interpretations [Para. 63(1)(a)]	Discipline [Paras. 63(1)(b) & (c)]	Party & Party [Sec. 70]	Sub- Total	Paras. 63(1) (d), (e) & (f)	Total
2009-2010	1	5	1	7	14	21
2008-2009	1	9	1	11	24	35
2007-2008	2	7	1	10	19	29
2006-2007	6	12	0	18	28	46
2005-2006	4	11	0	15	25	40
2004-2005	2	4	0	6	0	6
2003-2004	2	2	0	4	0	4
2002-2003	51	3	0	54	29	83
2001-2002	7	0	0	7	0	7
2000-2001	2	2	1	5	12	17
<b>Cumulative Totals, April 1, 2000 to March 31, 2010</b>						
	78	55	4	137	151	288

**TABLE 3: Adjudication Cases Carried Forward, Received and Completed,  
April 1, 2007 to March 31, 2010**

Fiscal Year	Carried Forward	Received	Overall Total	Dispositions Total
2009-2010	51	16	67	20
2008-2009	57	33	90	39
2007-2008	33	45	78	21

Note: As of 2009-2010, Table 3 includes references from section 70 of the *PESRA*.

