

Public Service Labour
Relations Board




Parliamentary Employment
and Staff Relations Act
Annual Report 2011-2012

Canada

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Cat. No. SR2-1/2012

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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 transmit 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, 2011 to March 31, 2012.

Yours sincerely,



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

PARLIAMENTARY EMPLOYMENT AND STAFF RELATIONS ACT

Public Service Labour Relations Board 2011 - 2012



| | |
|---------------------------|--|
| Chairperson: | Casper M. Bloom, Q.C., Ad. E. |
| Vice-Chairpersons: | Linda Gobeil (appointed April 28, 2011) Renaud Paquet Michele A. Pineau (term ended December 31, 2011) |
| Full-time Members: | Roger Beaulieu Stephan J. Bertrand Dan Butler (retired October 7, 2011) Steven B. Katkin (appointed September 1, 2011) Catharine (Kate) Rogers |
| Part-time Members: | Christopher James Albertyn Ruth Elizabeth Bilson, Q.C. George P.L. Filliter Deborah M. Howes Margaret E. Hughes William H. Kydd Paul E. Love Allen Ponak (term ended February 18, 2012) Joseph William Potter W. Augustus (Gus) Richardson John J. Steeves |

Executive Officers of the PSLRB

Executive Director:

Guy Lalonde

General Counsel:

Sylvie M.D. Guilbert

Director, Compensation Analysis and Research Services:

Céline Laporte (Acting Director)

Director, Corporate Services:

Alison Campbell

Director, Dispute Resolution Services:

Gilles Grenier

Director, Financial Services:

Robert Sabourin

Director, Human Resources Services:

Chantal Bélanger

Director, Registry Operations and Policy:

Susan Mailer

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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 2011-2012.

I am proud of the work that the PSLRB has undertaken this year in meeting its mandate under the *PESRA*. We will continue our efforts to provide efficient and timely service to our clients.

None of the accomplishments that we realized this year would have been possible without the help of my colleagues and all PSLRB employees. Through their hard work, professionalism and loyalty, we continue to be recognized as a unique and leading force in the labour relations realm.

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

Introduction



Under the *Parliamentary Employment and Staff Relations Act (PESRA)*, the Public Service Labour Relations Board (PSLRB) administers the collective bargaining and grievance adjudication systems for the institutions of Parliament (i.e., the House of Commons, the Senate, the Library of Parliament, the Office of the Conflict of Interest and Ethics Commissioner, and the Office of the Senate Ethics Officer). The Board of the PSLRB comprises the Chairperson, up to three Vice-Chairpersons and full- and part-time members who are appointed by the Governor in Council for terms of no longer than five years and who may be reappointed.

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

The PSLRB's mediation services provide a collaborative way to informally resolve disputes, sparing parties more adversarial processes. Through mediation, the parties are encouraged to explore the underlying reasons for their conflict, allowing them to find 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 PSLRB 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, and 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 an arbitral award on the issues in dispute. The arbitral award then forms part of the collective agreement and is binding on the parties and on employees.

Proceedings before the Public Service Labour Relations Board



In 2011-2012, 7 new grievances were referred to the PSLRB as of March 31, 2012, bringing its total active caseload over the year to 22. During the year, the PSLRB disposed of 7 cases.

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. The PSLRB managed 8 such grievances from the House of Commons in 2011-2012.

The second type includes disciplinary actions resulting in suspension or financial penalty and to terminations of employment for reasons other than rejection on probation for an initial appointment. In 2011-2012, the PSLRB managed 3 such grievances from the House of Commons.

The third type includes grievances relating to the demotion of an employee, to a denial of appointment and to classification. They are heard and determined by an adjudicator selected by the parties. In 2011-2012, the PSLRB dealt with 5 such grievances. Four (4) were from the House of Commons, of which 2 pertained to allegations of incorrect classification, and 1 was from the Library of Parliament.

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. Those 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. Three (3) such cases were dealt with in 2011-2012.

As of March 31, 2012, of the total of 19 grievances that were open in the PSLRB's registry, 5 cases were completed. Of those, 2 were settled, 2 were withdrawn and 1 was allowed. (See Table 2 for a list of grievances by type before the PSLRB from April 1, 2002 to March 31, 2012.)

There was one determination of membership case that was carried over in 2011-2012. That case was scheduled for a hearing in March 2012 but was postponed after the parties requested mediation, which will be scheduled sometime in 2012-2013.

Of the two complaints before the PSLRB, 1 will be heard in 2012-2013. The PSLRB also received 2 notices to bargain: 1 for a bargaining unit at the Senate; the other for a bargaining unit at the Library of Parliament.

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. As well, the parties may request the PSLRB's assistance in resolving a dispute before the matter is referred to adjudication. In 2011-2012, the PSLRB's Dispute Resolution Services held 2 mediation interventions, involving a total of 3 files. One (1) file was settled and the remaining 2 will proceed to a formal hearing in 2012-2013.

Tables

TABLE 1: Bargaining Units and Bargaining Agents under the *Parliamentary Employment and Staff Relations Act*, April 1, 2011 to March 31, 2012

| 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 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 |
| Senate of Canada as Employer | |
| 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 |
|--|--|
| Library of Parliament as Employer | |
| 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, 2002 to March 31, 2012

| | Interpretations [Para. 63(1)(a)] | Discipline [Paras. 63(1)(b) & (c)] | Policy [Sec. 70] | Sub- Total | Paras. 63(1) (d), (e) & (f) | Total |
|---|-------------------------------------|---------------------------------------|---------------------|---------------|--------------------------------|-------|
| 2011-2012 | 8 | 3 | 3 | 14 | 5 | 19 |
| 2010-2011 | 6 | 4 | 3 | 13 | 12 | 25 |
| 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 |
| Cumulative Totals, April 1, 2002 to March 31, 2012 | | | | | | |
| | 83 | 60 | 9 | 152 | 156 | 308 |

**TABLE 3: Adjudication and Board Cases Carried Forward, Received and Completed,
April 1, 2008 to March 31, 2012**

| Fiscal Year | Carried Forward | Received | Overall Total | Dispositions Total |
|-------------|-----------------|----------|---------------|--------------------|
| 2011-2012 | 15 | 7 | 22 | 7 |
| 2010-2011 | 44 | 12 | 56 | 14 |
| 2009-2010 | 51 | 16 | 67 | 20 |
| 2008-2009 | 57 | 33 | 90 | 39 |

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

