Public Service Labour Relations Board

Parliamentary Employment and Staff Relations Act

Annual Report 2012-2013

Canada

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The Honourable Shelly Glover, 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, 2012 to March 31, 2013.

Yours sincerely,

David Paul Olsen
Acting Chairperson

PARLIAMENTARY EMPLOYMENT AND STAFF RELATIONS ACT

Public Service Labour Relations Board 2012-2013

Chairperson:	Casper M. Bloom, Q.C., Ad. E. (term ended January 2, 2013) David Paul Olsen (Acting Chairperson, January 2, 2013 to March 31, 2013)
Vice-Chairpersons:	Linda Gobeil David Paul Olsen (appointed August 27, 2012) Renaud Paquet
Full-time Members:	Stephan J. Bertrand John G. Jaworski (appointed November 5, 2012) Steven B. Katkin Michael F. McNamara (appointed June 1, 2012) Catharine (Kate) Rogers Margaret Shannon (appointed April 16, 2012)
Part-time Members:	Christopher James Albertyn Michael Bendel (appointed April 5, 2012) Ruth Elizabeth Bilson, Q.C. George P.L. Filliter Deborah M. Howes Margaret E. Hughes William H. Kydd Paul E. Love Joseph William Potter W. Augustus (Gus) Richardson

Executive Officers of the PSLRB

Executive Director:	Guy Lalonde
General Counsel:	Sylvie M.D. Guilbert
Director, Compensation Analysis and Research Services:	Suzanne Payette
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 J. 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 2012-2013.

As Acting Chairperson of the PSLRB, it is an honour to be at the helm of an organization that is greatly respected in the labour relations field. I believe that much of our success can be attributed to the professionalism, team spirit and commitment to supporting each other that my colleagues and employees demonstrate in their daily work.

David Paul Olsen
Acting 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. Demotion, appointment and classification grievances may also be referred to adjudication; they 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 an open, collaborative forum 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 mutually acceptable 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.

Introduction

OTHER RESPONSIBILITIES

The bulk of the PSLRB's caseload falls within its responsibilities under the *Public Service Labour Relations Act* (*PSLRA*), in which it administers the collective bargaining and grievance adjudication systems in the federal public service. Under that Act, the PSLRB provides three main services: adjudication, mediation, and compensation analysis and research. Its clients include approximately 240 000 federal public service employees covered by the *PSLRA* and by numerous collective agreements, employers and bargaining agents, as well as employees excluded from bargaining units, those who are not represented or those who choose to represent themselves.

Under the *PSLRA*, in 2012-2013, the PSLRB closed more cases than it received (2101 and 1972, respectively), the majority of which were grievances. As of March 31, 2013, the PSLRB's total active caseload was 6135.

Under an agreement with the Yukon government, the PSLRB administers its collective bargaining and grievance adjudication systems, acting as the Yukon Teachers Labour Relations Board and the Yukon Public Service Labour Relations Board.

Proceedings before the Public Service Labour Relations Board

As of March 31, 2013, 13 new cases were filed with the PSLRB, including 11 grievances, 1 complaint and 1 request for a review of a bargaining unit. Fifteen (15) cases were brought forward from previous years, of which 14 were grievances and 1 was a determination of membership, bringing the total active caseload to 28, of which 25 were grievances. The PSLRB completed 6 cases during the year: 3 were settled, 2 were withdrawn and 1 was allowed.

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 11 such grievances from the House of Commons in 2012-2013.

The second type includes disciplinary actions resulting in suspension or financial penalty and to termination of employment for reasons other than rejection on probation for an initial appointment. In 2012-2013, the PSLRB managed 1 such grievance from the House of Commons.

The third type includes grievances relating to demotions of an employee, to denials of appointment and to classification. They are heard and determined by an adjudicator who is selected by the parties and who is not a member of the PSLRB. In 2012-2013, the PSLRB dealt with 8 such grievances: 7 from the House of Commons, of which 5 pertained to allegations of incorrect classification, and 1 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. Five (5) such cases were dealt with in 2012-2013.

See Table 2 for a list of grievances by type before the PSLRB from April 1, 2003 to March 31, 2013.

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 PSRLB's assistance in resolving a dispute before the matter is referred to adjudication. In 2012-2013, the PSLRB's Dispute Resolution Services (DRS) held 4 mediation interventions, involving a total of 6 files. Five (5) files were resolved and 1 was not settled.

The DRS also processed 7 requests to arbitrate collective bargaining disputes that were submitted under section 50 of the *PESRA*. Six (6) were new requests, and 1 was carried over from the previous year.

Tables

TABLE 1: Bargaining Units and Bargaining Agents under the *Parliamentary Employment and Staff Relations Act*, April 1, 2012 to March 31, 2013

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: Grievances, April 1, 2003 to March 31, 2013

	Interpretations [para. 63(1)(*a*)]	Discipline [Paras. 63(1)(*b*) & (*c*)]	Policy [Sec. 70]	Sub-total	Paras. 63(1) (*d*), (*e*) & (*f*)	Total
2012-2013	11	1	5	17	8	25
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
	Cumulative Totals, April 1, 2003 to March 31, 2013					
	43	58	14	115	135	250

TABLE 3: Adjudication and Board Cases Carried Forward, Received and Completed, April 1, 2009 to March 31, 2013

Fiscal Year	Carried Forward	Received	Overall Total	Dispositions Total
2012-2013	15	13	28	6
2011-2012	15	7	22	7
2010-2011	44	12	56	14
2009-2010	51	16	67	20

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