

**PARLIAMENTARY EMPLOYMENT
AND STAFF RELATIONS ACT**

SIXTEENTH ANNUAL REPORT

OF THE



**PUBLIC SERVICE STAFF
RELATIONS BOARD**

2001-2002

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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 Sixteenth Annual Report of the Public Service Staff Relations Board covering the period from 1 April 2001 to 31 March 2002 for submission to Parliament.

Yours sincerely,

Yvon Tarte
Chairperson

**PARLIAMENTARY EMPLOYMENT AND
STAFF RELATIONS ACT
Public Service Staff Relations Board
2001 – 2002**

Chairperson: Yvon Tarte *Vice-Chairperson:* J. W. Potter

Deputy Chairpersons: M.-M. Galipeau, G. Giguère, E. Henry

Full-Time Members: J. C. Cloutier, L.-P. Guindon, D. Quigley,
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

<i>Secretary of the Board and General Counsel:</i>	J. E. McCormick
<i>Director, Dispute Resolution Services:</i>	G. Baron
<i>Assistant Secretary, Operations:</i>	G. Brisson
<i>Assistant Secretary, Corporate Services:</i>	D. Benoit

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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 29 cases, of which 15 were carried over from the previous fiscal year. Three cases involved determination of membership in a bargaining unit. There were four requests for arbitration, three requests for the appointment of a conciliator, two complaints and 17 grievances.

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 hearing and the matter continued during the review period, following which a decision was issued. In a new application, filed prior to the end of the year, 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. The parties have requested that these proceedings be adjourned *sine die* to allow them time to continue settlement discussions (Board files 447-HC-6 and 447-HC-4).

The other application, also carried over from the previous year, was filed by the Public Service Alliance of Canada, which alleged that the employer had not included in the appropriate

bargaining unit a number of part-time employees in the Reporting and Text Processing Sub-groups, and the Operational Group, Operations, Printing Services and Restaurant Services Sub-group. 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. During the year under review, the parties held discussions and attended several mediation sessions in an effort to resolve the issues. The discussions did not prove successful and these matters are now scheduled for hearing in the next review period (Board files 447-HC-5 and 469-HC-10).

COMPLAINTS 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. During the year under review, the Board dealt with two complaints, both of which were carried over from the previous fiscal year.

No complaints were received during the year under review.

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 17 matters, including 10 carried over from the previous year. One such grievance related to a termination of employment. In support of the termination, the employer alleged that the grievor had intimidated co-workers and supervisors, assaulted a supervisor and forced his acting supervisor to smoke hashish at a Christmas party. The grievor argued that the evidence was insufficient to establish that the bond of trust had been permanently broken and he further submitted that no progressive discipline had been applied in this case. The matter was heard and the adjudicator found that the termination was justified in the circumstances since there were no mitigating factors to justify altering the employer's decision. The grievance was dismissed (Board file 466-HC-280).

Thirteen cases were settled by the parties prior to the hearing and one is being held pending at the request of the parties in order to allow them more time to pursue their settlement discussions. The two remaining cases 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 dealt with four requests for the establishment of an arbitration board during the year under review. One request, carried over from the previous year, was filed by the House of Commons Security Services Employees Association for House of Commons employees in the Protective Services Group. An arbitration board was established and the parties were assisted in reaching a

settlement during the hearing process; consequently, no arbitral award was issued (Board file 485-HC-22).

The Public Service Alliance of Canada requested that an arbitration board be established for employees of the House of Commons employed in the Reporting Sub-group and Text Processing Sub-group in the Parliamentary Programs Group. A board was established but the parties reached a settlement prior to the hearing date (Board file 485-HC-24).

Another request was filed by the Public Service Alliance of Canada for employees of the House of Commons in the Operational Group. An arbitration board was established but a mediation session with a Board mediator enabled the parties to reach a settlement prior to the hearing (Board file 485-HC-25).

The last request was filed by the Professional Institute of the Public Service of Canada for employees of the Senate of Canada in the Legislative Clerk Sub-group in the Senate Administrative Support Group. An arbitration board was established and a hearing is scheduled in the next fiscal year (Board file 485-SC-26).

REQUESTS FOR THE APPOINTMENT OF A CONCILIATOR

Under section 40 of the Act, where 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. The Board dealt with three such requests during the year, one of which was carried over from the previous year.

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

A request was filed by the Senate Protective Service Employees Association on behalf of the Protective Service Sub-group in the Operational Group. The Board appointed a conciliator who assisted the parties in reaching a settlement (Board file 489-SC-17).

The last request for the appointment of a conciliator was filed by the Professional Institute of the Public Service of Canada on behalf of the Legislative Clerk Sub-group in the Administrative Support Group. The Board-appointed conciliator met with the parties but was unsuccessful in his attempts to get the parties to reach a settlement (Board file 489-SC-18).

REQUEST FOR REVIEW UNDER SECTION 17

Section 17 of the Act provides that the Board may review, rescind, amend or alter any of its decisions or orders. The Board received an application filed jointly by the Professional Institute of the Public Service of Canada and the Senate of Canada. The parties requested that the Board amend the French version of the description of the bargaining unit to replace the expression “*commis parlementaires*” (legislative clerk) with the term “*greffiers*” (registrars). The Board considered this amendment appropriate and issued a decision to that effect (Board files 425-SC-4 and 442-S-3).

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 2001-2002, the Board provided the services of a mediator in seven cases involving grievances and other matters. Of the seven cases, five were resolved at mediation. In the remaining two cases, discussions are on-going.

During the past year, as part of its efforts to promote mediation as a dispute resolution mechanism, the Board continued to provide 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)	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 2002

	Interpretations [Para. 63(1)(a)]	Discipline [Paras. 63(1) (b) & (c)]	Party & Party [Sec. 70]	Sub- Total	Paras. 63(1) (d), (e) & (f)	Total
2001-2002	7	0	0	7	0	7
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 2002

	291	45	10	346	209	555
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3

Adjudication References Brought Forward and Received 1 April 1995 — 31 March 2002

Fiscal Year	Brought Forward	Received	Overall Total	Dispositions Total
2001-2002	10	7	17	14
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
