

Details of Grievance:

This is a Policy Grievance hereby filed by the Canadian Association of Professional Employees- l'Association canadienne des employés professionnels ("CAPE-ACEP") pursuant to s. 220 of the *Public Service Labour Relations Act*.

In accordance with the Workforce Adjustment Directive ("WFAD"), which is listed as a National Joint Council (NJC) Directive in the EC-Collective Agreement between CAPE and the Treasury-Board Secretariat ("Treasury Board"), CAPE-ACEP submits that the Treasury Board ("the employer") has breached the WFAD and related articles of the collective agreement by failing to implement or maintain adequate processes to facilitate alternation opportunities resulting in the inability of employees to participate in alternation. Such actions by departments and organizations include:

- Declaring that their department or agency will not participate in alternation because their department or agency was not itself affected by workforce adjustment or subject to Strategic Operating Review;
- Declaring that their department will not consider alternations from other departments;
- Informing employees that they are not yet prepared to consider alternation requests;
- Denying requests from employees who wish to alternate without providing reasons, or for reasons that are contrary to the Collective Agreement and the WFAD article 6.2.4;
- Denying alternates the option to elect option c(ii) when issued an opting letter;
- Denying salary protection to opting employees who alternate into a position with a lesser salary.

The articles breached by the employer include, but are not limited to:

1.1.1 Since indeterminate employees who are affected by work force adjustment situations are not themselves responsible for such situations, it is the responsibility of departments or organizations to ensure that affected and surplus employees are treated equitably and given every reasonable opportunity to continue their careers as public service employees.

6.2.1 All departments or organizations must participate in the alternation process.

6.2.4 An indeterminate employee wishing to leave the core public administration may express an interest in alternating with an opting employee. Management will decide, however, whether a proposed alternation will result in retaining the skills required to meet the ongoing needs of the position and the core public administration.

The departments and organizations that have violated the WFAA in this regard include, but are not limited to:

- Commission for Public Complaints Against the Royal Canadian Mounted Police

- Department of Justice Canada
- Transport and Infrastructure Canada
- Public Service Staffing Tribunal
- Status of Women Canada

CAPE-ACEP considers these actions to be serious violations of the WFAD and the collective agreement between CAPE-ACEP and the Treasury Board as well as all other applicable articles or statutes, acts and/or legislation.

Corrective action:

CAPE-ACEP seeks:

- i. A declaration that the employer has breached the WFAD and the EC Collective Agreement;
- ii. An order that any opting letters issued to employees who sought alternation be rescinded, and an order that the employer cannot issue further opting letters until it demonstrates that a cross departmental alternation system has been established that demonstrably maximizes employment opportunities for indeterminate employees affected by work force adjustment situations;
- iii. An order that all departments and organizations participate in the alternation process by cooperating with Treasury Board in setting up a cross departmental system that demonstrably maximizes employment opportunities for indeterminate employees affected by work force adjustment situations;
- iv. An order that the employer consult with CAPE-ACEP regarding the scope of the alternation process required under the WFAD;
- v. An order that the employer meet with CAPE-ACEP on an ongoing basis regarding WFAD alternation and fully disclose all information related to the alternation process, in a manner that is timely and complete;
- vi. An order that the 120 days to find alternation opportunities only begins once it has been demonstrated that the cross-departmental alternation process has been established and is functioning;
- vii. An order that departments and organizations process all alternation requests in accordance with the WFAD and specifically in the following manner:
 - a. First evaluating whether the opting employee meets the requirement of the alternate's position in accordance with s. 6.2.6 of the WFAD;
 - b. Second, evaluating whether the alternate meets the requirements of the opting employee's position, except if the alternate will not be performing the duties of the position;
 - c. If the alternate will not be performing the duties of the position, and condition (a) above is satisfied, the employer must proceed with the alternation and provide the alternate with the option to select option (b) or c(i);
 - d. If the alternate meets the requirements of the opting employee's position and may be performing the duties of the position, then the employer must proceed with the alternation and the alternate should be provided with the option of selecting option (b), (c)(i) or (c)(ii);

- viii. An order that departments and organizations approve requested alternation opportunities that meet the requirements of the WFAD;
- ix. An order that all opting employees and those that have chosen option A, or are deemed to have chosen option A, prior to the resolution of this grievance shall benefit from the corrective action listed above;
- x. An order that the employer post the decision for 90 days on an electronic or physical bulletin board accessible to employees;
- xi. Any other order that makes EC employees affected by the employer's breach whole in all respects;
- xii. Any further or other order that the Board sees fit.

Signatures:

Bargaining Agent Representative

Date

Employer Representative

Date