

POLICY GRIEVANCE PRESENTATION

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 submits that the Treasury Board and Human Resource Skills Development Canada (collectively “the employer”) have breached the WFAD by requiring affected EC-7 and EC-8’s to compete for 60 new EC-7s position, thus placing the affected EC-7s at a disadvantage in the WFAD process and without making any effort to find appointments for the EC-8s at their level as required by the WFAD. CAPE-ACEP submits that the employer has breached WFAD, including but not limited to the following articles:

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.

1.1.2 Departments or organizations shall carry out effective human resource planning to minimize the impact of work force adjustment situations on indeterminate employees, on the department or organization, and on the public service.

1.1.16 Appointment of surplus employees to alternative positions, whether with or without retraining, shall normally be at a level equivalent to that previously held by the employee, but this does not preclude appointment to a lower level. Departments or organizations shall avoid appointment to a lower level except where all other avenues have been exhausted.

1.1.12 Departments or organizations shall advise and consult with the bargaining agent representatives as completely as possible regarding any work force adjustment situation as soon as possible after the decision has been made and throughout the process and will make available to the bargaining agent the name and work location of affected employees.

On May 7, 2012, the employer announced to all SPR staff that it would be launching an appointment process in June to staff the 60 new EC7 positions that were created to effectively replace the 110 positions occupied by affected employees. Prior to this announcement, and to date, the employer has made no effort to find appointments for the EC-8s at their level either in other branches of HRSDC or other departments in the public service. Instead, it has indicated that if affected EC-8s decline to compete in the appointment process for the new EC-7 positions

they will immediately be issued an opting letter. CAPE-ACEP submits this is in direct contravention of article 1.1.16.

Furthermore, CAPE-ACEP submits that by forcing affected EC-7s to compete with their former supervisors for appointments to the new EC-7 positions, the employer has failed to treat the affected EC-7s fairly, equitably and in a manner that gives them every reasonable opportunity to continue their careers as public service employees. CAPE-ACEP submits that this WFAD selection process also raises transparency concerns, as EC-7s are required to get references from EC-8s who are competing for the same jobs.

CAPE submits that the employer has breached also article 1.1.12 by failing to consult with the Bargaining Agent and communicate the details of the process and how it achieves the WFAD objectives as “completely as possible” and “as soon as possible” following the decision to implement this joint EC-8/EC-7 appointment process. The uncertainty created by this lack of communication has caused added confusion and stress to affected employees throughout the WFAD process.

In further violation of article 1.1.12, the employer failed to reply to a petition submitted by forty-nine of the one hundred affected EC-7 and EC-8 employees on May 23, 2012 which outlined their concerns about the fairness and transparency of the joint appointment process. The petition was given to the employer on May 23, 2012 and requested a clear, substantive and written response to the concerns it outlined by May 28, 2012. The employer has never provided the petitioners or their Bargaining Agent with a response to these questions.

CAPE-ACEP submits that HRDSC’s and the Treasury Board’s actions clearly conflict with the spirit of the WFAD, which requires management to work towards minimizing involuntary departures from the public service, rather than erecting organizational barriers to mobility and retention.

Corrective Action:

CAPE-ACEP seeks:

- I. A declaration that the employer has breached the WFAD, which is incorporated into the EC Collective Agreement;
- II. A declaration that the employer has failed to treat the affected EC-7 and EC-8 employees equitably and give them every reasonable opportunity to continue their careers as public service employees;
- III. An order that the joint EC-7/EC-8 process cease and desist, and:
 - a. that the EC-7’s be re-integrated to their substantive position and then considered in priority for the new EC-7 positions;

- b. that the employer exhaust all other avenues of obtaining appointments for the EC-8's at their own level prior to considering them for appointment to the new EC-7 positions.
- IV. Alternatively, if the appointment process is concluded prior to the resolution of this policy grievance:
 - a. That the employer declare the results of the process null and void and reintegrate all employees to their former substantive position, and then give priority to the EC-7's for the new EC-7 positions;
 - b. that the employer demonstrate that it has explored all other avenues of obtaining appointments at the EC-8 level for those EC-8s who were unsuccessful in the competition prior to issuing them an opting letter;
- V. An order that the employer meet with the Bargaining Agent on an ongoing basis and respond to any inquiries as completely as possible and in a timely manner;
- VI. An order that the employer post the decision for 90 days on an electronic or physical bulletin board accessible to HRSDC employees;
- VII. Any other order that makes the EC-7 or EC-8 employees affected by the employer's breach whole in all respects;
- VIII. Any further or other order that the Board sees fit.

Signatures:

Bargaining Agent Representative

Date

Employer Representative

Date