

Public Service Labour
Relations Board



Parliamentary Employment
and Staff Relations Act
Annual Report 2006–2007



The Honourable Josée Verner, P.C., M.P.
Minister of Canadian Heritage, Status of Women 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, 2006 to March 31, 2007, for submission to Parliament.

Yours sincerely,

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

Public Service Labour Relations Board

2006–2007

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

Vice-Chairpersons: Ian R. Mackenzie
Sylvie Matteau (term ended September 1, 2006)
Georges Nadeau
Michele A. Pineau (appointed January 1, 2007)

Full-time Members: Dan Butler
Barry Done
Léo-Paul Guindon
Dan R. Quigley
Jean-Pierre Tessier (term ended February 28, 2007)

Part-time Members: Bruce Archibald, Q.C.
Ruth Elizabeth Bilson, Q.C.
Mary Ellen Cummings
Joan Gordon
Thomas Kuttner, Q.C.
Paul E. Love
Kenneth E. Norman
John J. Steeves
Denise T. Wilson

PRINCIPAL STAFF OFFICERS OF THE BOARD

Executive Director of the Board and General Counsel:	Pierre Hamel
Director, Dispute Resolution Services:	Guy Baron
Director, Compensation Analysis and Research Services:	Guy Lalonde
Director, Registry Operations and Policy:	Susan Mailer
Director, Corporate Services:	Denise Benoit
Director, Financial Services:	Robert Sabourin

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Introduction

In 1986, the Parliament of Canada passed the *Parliamentary Employment and Staff Relations Act (PESRA)*. Part I of this Act gives employees of parliamentary institutions the right to form a union in order to negotiate collectively the conditions of their employment. Part I also gives employees the right to lodge grievances concerning these conditions and, in certain cases, to refer these grievances to adjudication before a neutral third party.

Part I is administered and applied by the Public Service Labour Relations Board (the Board), a quasi-judicial tribunal established under the *Public Service Labour Relations Act*. The Board consists of a Chairperson, up to three Vice-Chairpersons, and such other full-time members and part-time members as the Governor in Council considers necessary.

Under the *PESRA*, the Board hears various matters: applications by employee organizations for certification to become the bargaining agent representing employees; complaints of unfair labour practices; designation of persons employed in managerial and confidential capacities; and adjudication of disputes.

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

Through its mediation services, the Board also assists parties unable to resolve their disputes at the bargaining table. This assistance may lead to a resolution without the need for the dispute to be heard formally by the Board, or may limit the number of issues.

The *PESRA* provides for only one means of resolving disputes if bargaining comes to an impasse: arbitration. In these situations, the Board acts as an arbitration board. After hearing the parties, it renders a decision on the issues. These decisions form part of the collective agreements and apply to the parties and to employees.



Proceedings Before the Board

In 2006–2007, the Board dealt with 55 cases under the *Parliamentary Employment and Staff Relations Act (PESRA)*. Of these, 46 were grievances, 3 were complaints, and 6 pertained to other applications.

1. Grievance Adjudication

In 2006–2007, the bulk of proceedings before the Board concerned grievances. In that time period, the Board processed 46 grievances. Of these cases, 41 had been carried over from previous years and 5 were new.

Under the *PESRA* there are three types of adjudicable grievances. The first type arises 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. In 2006–2007, the Board processed 6 of these grievances: 4 were from the House of Commons and 2 were from the Library of Parliament.

The second type refers 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 these grievances. In 2006–2007, the Board dealt with 12 such grievances—11 from the House of Commons and 1 from the Senate.

The third type includes grievances concerning demotion of employees, denials of appointment, and classification. These are heard and determined by an adjudicator selected by the parties. The Board processed 28 of these grievances. Three were from the House of Commons and 25 were from the Library of Parliament. All but one of the latter pertained to allegations of incorrect reclassification.

As of April 1, 2007, of these 46 grievances, 2 were on hold pending the outcome of mediation, 4 were on hold pending other reasons, 3 were scheduled for a hearing, and 14 were awaiting the scheduling of a hearing. Twenty-three (23) cases were considered completed. Of those cases, 4 were settled, 3 were granted, 3 were dismissed, and 13 were withdrawn.

2. Complaints

Section 13 of the *PESRA* 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.

The Board processed 3 complaints in 2006–2007. As of March 31, 2007, of these 3 complaints, 1 case had been settled, 1 case had been dismissed, and 1 case was scheduled to be heard in 2007–2008.

3. Other Proceedings

Enforcement of obligations of employer and employee organizations

Section 70 of the *PESRA* requires the Board to inquire into allegations that cannot be the subject of a grievance by an individual employee. These come about when the employer or the bargaining agent seeks to enforce an obligation alleged to arise out of a collective agreement or arbitral award. No such cases were dealt with in 2006–2007.

Applications for certification

Under section 18 of the *PESRA*, an employee organization may submit an application to be certified as bargaining agent for a bargaining unit. The Board did not receive any such applications in 2006–2007.

Application to review certification

On November 14, 2005, the House of Commons employer filed an application with the Board under section 17 of the *PESRA* requesting a review of the existing bargaining unit structure. The respondents—the Professional Institute of the Public Service of Canada, the Public Service Alliance of Canada, the House of Commons Security Service Employees Association, and the Communications, Energy and Paperworkers Union of Canada—represent seven bargaining units that would be affected by this application. The matter is scheduled to be heard in 2007–08.

Determination of membership in bargaining unit

Under section 24 of the *PESRA*, 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 no such applications in 2006–2007.

Application for declaration of successor rights

Section 36 of the *PESRA* provides for the Board to determine what rights, privileges and duties are acquired or retained by an employee organization after a merger or amalgamation or a transfer of jurisdiction, other than as a result of revocation of certification. The Board did not receive any such applications in 2006–2007.

Notice to bargain collectively

Section 37 of the *PESRA* provides that either the bargaining agent or the employer may require, by written notice, to commence bargaining collectively, with a view to concluding a collective agreement. In 2006–2007, the Board dealt with 1 Notice to Bargain Collectively from the Canadian Association of Professional Employees in order to commence bargaining with the Library of Parliament.

Applications under section 38

Section 38 of the *PESRA* requires the parties to bargain collectively in good faith and make every reasonable effort to conclude a collective agreement. The Board did not deal with any allegations of a violation of section 38 in 2006–2007.

Request for the appointment of a conciliator

Under section 40 of the *PESRA*, parties unable to reach agreement on any term or condition of employment embodied in a collective agreement may ask the Chairperson to appoint a conciliator to assist them in reaching an agreement. The Board dealt with no such requests in 2006–2007.

Arbitration proceedings

Section 46 of the *PESRA* provides that 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 3 requests for arbitration in this fiscal year. As of March 31, 2007, 1 case was settled pending confirmation, and 2 were considered completed.

Requests for extensions of time

An application was received in 2006–2007 for an extension of time in relation to the presentation of a grievance, as provided for under Section 79 of the *P.E.S.R.A. Regulations and Rules of Procedure*. It is on hold pending mediation in 2007–2008.



When a proceeding is brought before the Board, dispute resolution services are offered to help parties resolve their differences without resorting to a formal hearing. In 2006–2007, mediation was not sought out by the parties to resolve any grievances.

Tables

Table 1: Bargaining Units and Bargaining Agents under the Parliamentary Employment and Staff Relations Act, April 1, 2006 to March 31, 2007

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

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	Canadian Association of Professional Employees

Table 2: Adjudication References, April 1, 2000 to March 31, 2007

	Interpretations [Para. 63(1)(a)]	Discipline [Paras. 63 (1) (b) & (c)]	Party & Party [Sec. 70]	Sub-Total	Paras. 63(1) (d), (e) & (f)	Total
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
2001–2002	7	0	0	7	0	7
2000–2001	2	2	1	5	12	17
Cumulative Totals December 24, 1986 to March 31, 2007						
	356	77	10	443	291	734

Table 3: Adjudication References Brought Forward and Received, April 1, 2000 to March 31, 2007

Fiscal Year	Brought Forward	Received	Overall Total	Dispositions Total
2006–2007	41	5	46	23
2005–2006	26	14	40	1
2004–2005	26	6	32	4
2003–2004	33	4	37	7
2002–2003	3	83	86	55
2001–2002	10	7	17	14
2000–2001	41	17	58	45