

Victory! PSAC member awarded damages in age discrimination case



In a recent adjudication decision, Diane Legros, a PSAC member who worked for Canada Border Services Agency, was awarded \$25,000 in damages because her employer discriminated against her based on her age. The Federal Public Service Labour and Employment Relations Board (FPSLREB) decision awarded these significant damages because the employer refused to allow Legros to take advantage of a retirement incentive due to her age, and that the discrimination was “willful and reckless.”

“We are pleased to see that the adjudicator awarded significant damages for a violation of the Canadian Human Rights Act,” said Robyn Benson, PSAC National President. “It’s important that in cases like this, where managers so blatantly and

recklessly discriminate against an employee, that there be a consequence for that. Hopefully, lessons will be learned from this case.”

Denial of alternation based on age

The adjudicator found that the grievor’s age was a factor in the employer’s decision to deny her alternation, which was discrimination. Alternation is available under the Workforce Adjustment Directive during reorganization or downsizing in the public service. It occurs when one employee switches or “alternates” with another employee who has been declared surplus and will lose their job. The employee can alternate into the surplus job and retire with a financial payout known as the “transition support measure”.

Legros wanted to alternate with a surplus employee and take the transition support measure and retire. But her manager refused to allow her to do so because of her age. She was 62 and the manager expected she would likely retire soon and her position could be eliminated at that time.

The adjudicator said that “due to the grievor’s age, [the manager] was relying on the grievor retiring to meet the DRAP’s objectives. For that reason, she denied her a benefit (leaving as an alternate) that

others could claim.” This denial of the benefit was age discrimination.

Damages for pain and suffering, “willful and reckless” discrimination

According to the decision, the manager “did everything in her power to prevent [the alternation] from taking place.”

The manager’s refusal continued despite an adjudication decision in another case where the Board had ruled that alternation could not be denied based on the employer’s future plan to eliminate the alternate’s position once he or she retired.

The adjudicator awarded \$10,000 in damages for “willful and reckless discrimination” under section 53(3) of the Act, because the manager continued the refusal for a long time, even after the other adjudication decision.

Stating that Legros suffered “significant pain and suffering”, the adjudicator also awarded \$15,000 in damages under section 53(2)(e) of the Canadian Human Rights Act.



Statement on proposed harassment and sexual violence legislation

The Public Service Alliance of Canada is pleased to see the government propose stronger legislation to address harassment and sexual violence at work and now offer protection to Parliament Hill staff, including more than 600 PSAC members.

The proposed legislation, Bill C-65, would amend both the Canada Labour Code and the Parliamentary Employment and Staff Relations Act.

“I am very happy that Bill C-65 extends health and safety provisions to those working on Parliament Hill who were previously denied those basic health and safety rights,” said Chris Aylward, PSAC National Executive Vice President. “We have fought for equal protection for Parliament Hill workers for more than 25 years.”

PSAC also welcomes the government’s request to form a working group to discuss and develop a toolkit of regulations and guidance that will outline how to address violence and harassment in the workplace.

However, it is disappointing the legislation does not go far enough to address the need for a remedy to those who have experienced sexual violence or harassment.

“In the context of allegations of sexual harassment in Hollywood and around the world, I am surprised that the federal government would table a bill on sexual harassment and violence which fails to provide a remedy for victims,” said Aylward.

“Victims of violence and harassment are too often denied justice. The government must give teeth to this legislation by outlining clear repercussions for the perpetrator and including a personal and systemic remedy for victims.”

The announcement by Employment, Workforce Development and Labour Minister Patty Hajdu was framed around three key pillars: preventing

violence, responding to allegations and supporting individuals whom have been victims.

However, the legislation still leaves several questions unanswered:

- It is unclear how the legislation will improve the harassment complaint process to provide impartial investigations which will cause the least harm.
- Real remedies are needed to improve existing distinct complaint and disciplinary procedures for particular federal public service workers (e.g. RCMP).
- The legislation needs to clarify the role of the Canadian Human Rights Commission (CHRC) and provide remedies to resolve issues that are under the Canadian Human Rights Act (CHRA) and collective agreements but that may not be covered by the Canada Labour Code.
- To what extent will the impartial third party be able to provide systemic remedies to address founded complaints of systemic sexual harassment and violence in the workplace.
- Whether there will be adequate staff and financial resources allocated to implement this legislation

PSAC is looking forward to working with the federal government to continue to improve harassment and sexual violence legislation for federal public service workers.



PSAC members lobby MPs to adopt universal child care

PSAC activists across the Atlantic region urged the federal government to invest in high quality, universal child care for all Canadians during the House of Commons Finance Committee hearings in October.

Mark Power, Local President for UHEW Local 9001U, and Matt Suchs from CEIU Local 90113, made a presentation about what it would take for Canada to adopt a child care system that worked for all Canadians at the hearing in St John's, NL October 16.

Meanwhile in Nova Scotia, Rhonda Doyle-LeBlanc, Director for Women's Maritimes for PSAC Atlantic, also made a presentation on child care at the hearing in Halifax, NS October 17.

Child care campaign working

PSAC, along with the Child Care Advocacy Association of Canada and others, have lobbied the federal government to take a leadership role and build a quality, affordable child care system that all families can access wherever they live.

Recently, PEI and New Brunswick have signed bilateral agreements with the federal government to expand and improve early learning and child care

services. The three-year bilateral agreements say how the federal government's transfer payments to the provinces for child care will be spent.

The agreements give New Brunswick \$30 million, while PEI receives \$10.5 million for a total of \$40.5 million over three years. The federal funds will be directed to targeted groups of children and parents considered to have the greatest need.

In their 2017 budget, The Liberal government made a long-term federal commitment to early childhood education and child care of \$870 million over 10 years, but that amount is not enough to ensure a universal, affordable system across Canada.

Child care advocates say that Canada needs to spend at least 1% of GDP to put Canada on par with OECD countries with fully developed systems of early childhood education and care.

Get involved

You can show your support for accessible, affordable child care by signing our petition at childcareforall.ca



EB Joint Committee holds its first meeting on rates of pay for 12 month teachers

Wednesday, November 1, the Joint Committee on rates of pay for ED-EST (12 months) held its first

meeting. The Memorandum of Understanding found in Appendix N of our new collective agreement describes the mandate of this committee, which is comprised of union and employer representatives.

Discussions with respect to rates of pay for teachers have been ongoing for the past 13 years. A memorandum of understanding on the topic was first negotiated in the EB collective agreement that expired June 30, 2007, with the goal being to compare the rates of pay of our members with those working for provincial school boards.

During that round of bargaining, 10-month teachers at INAC also negotiated to have a pay study done. A memorandum of settlement was signed March 15, 2005 to implement the new rates of pay, which were increased at that time by 8% in Ontario and 10% in Alberta (the two provinces where members work).

A pay study on the rates for 12 month teachers was completed in 2011 and it revealed that 12 month teachers lag behind their comparators by an average of 29%. Treasury Board and PSAC were not able to agree on how to address the wage gap. However, the parties did agree at the end of the last bargaining round to work together to establish a national rate of pay for 12 month teachers.

Today's initial meeting marks the beginning of that work. The parties agreed to look at appropriate ways to harmonize the current rates of pay into one wage grid that reflects the rates for all 12 month teachers across the country. Then we have proposed examining how to ensure those rates are fair in comparison with other teachers.

The work of Joint Committee is critical in informing the upcoming round of collective bargaining. The committee will propose appropriate wage adjustments that result from our research and analysis to be considered by the parties in negotiations.

We are in the process of setting further meeting dates and we will keep you informed. If you have any questions, do not hesitate to contact us.

PSAC's committee members are as follows:

Erin Sirett, Negotiator (co-chair)

Shawn Vincent, Research Officer

Michel St Armour – Mission Institution (Mission, BC)

Arliss Chute Ibsen – Bowden Institution (Innisfail, AB)

Doug Mason – Joyceville Penitentiary (Kingston, ON)

Yorgo Yumukoglu – Laval Federal Training Centre (Laval, QC)

Rod Crowe – Springhill Institution (Springhill, NS)



FB bargaining team makes its case before the PIC

As per the Public Service Labour Relations Act, our FB bargaining team filed for conciliation earlier this year when it became clear that the employer was not prepared to seriously address our issues, including parity with other federal enforcement agencies.

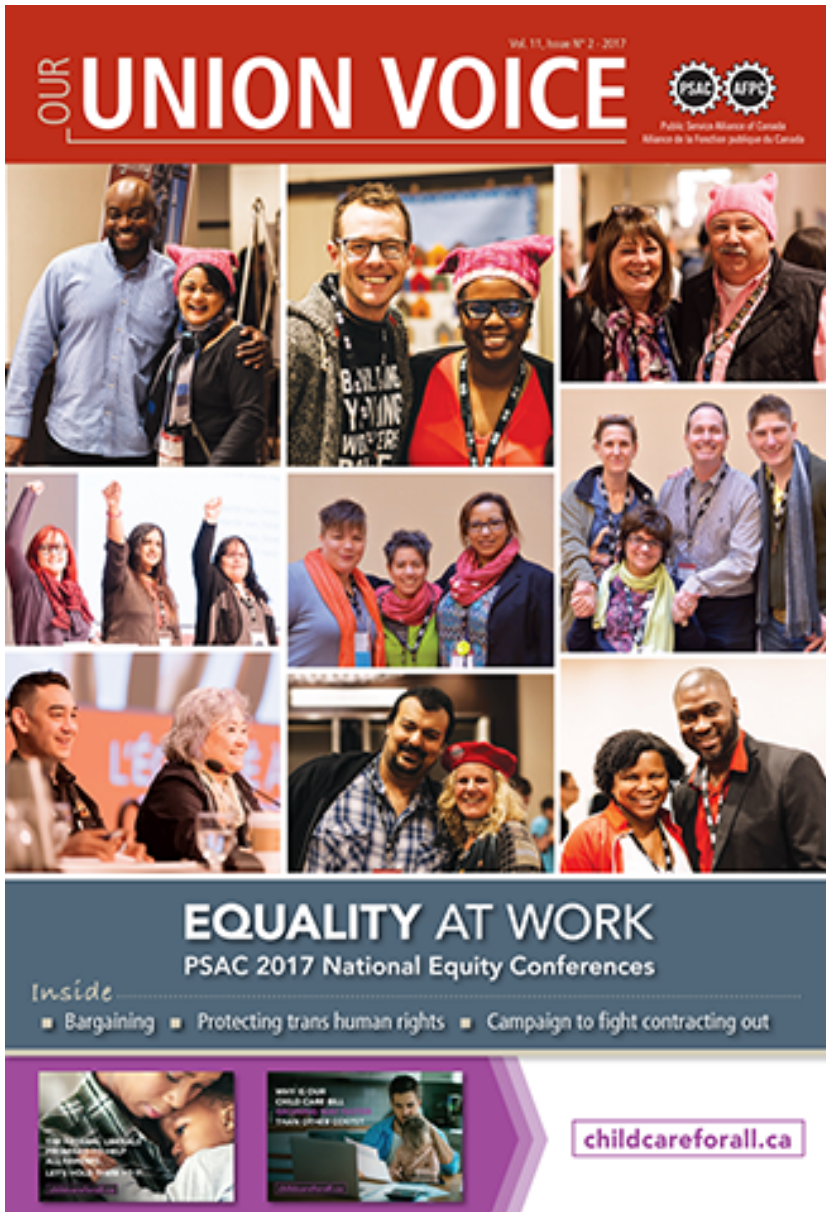
With the Public Interest Commission (PIC) mediation attempt having failed in October, we proceeded to hearing on November 2nd and 6th at the Federal Public Sector Labour Relations Employment Board (FPSLREB). Over the course of these two days our bargaining team made our case for compensation parity with other law enforcement agencies across

Canada, including other federal agencies under the Ministry of Public Safety. We also made the case – repeatedly – that there are serious problems at the Canada Border Services Agency (CBSA) and that in light of these, we seek new rights for employees particularly as they pertain to discipline, hours of work and arming. CBSA management is not to be trusted. We need new protections.

On the afternoon of November 6th, the employer began presenting Treasury Board/CBSA's case. The employer responded to our wage position by stating that it is inappropriate to compare members of the FB bargaining unit – including Inland Enforcement, Investigations, Intelligence and Border Services Officers – with other large law enforcement organizations such as municipal, provincial and federal police forces. The employer also indicated that there are no recruitment or retention issues at CBSA.

We do not agree. From CBSA YouTube recruitment videos to skeleton staffing at ports of entry to officers being asked to handout recruitment flyers to the public at certain ports, clearly there are recruitment and retention problems at CBSA. As for comparator groups, our position is that a majority of PSAC/CIU members at CBSA are armed law enforcement personnel with police powers, and that compensation needs to reflect this reality.

A final hearing date is scheduled for November 23rd. Thanks to those officers from the Ottawa area who came and joined our team at the recent hearings. We'll be sure to provide updates as things progress. If you have any questions contact a member of our bargaining team, or go to <http://psacunion.ca>



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Published three times per year, 180,000 of our members received the winter edition of PSAC's newsletter Our Union Voice.

This format also allows for local printing and a PDF download, in order to share with colleagues, friends and family.

<https://psacafpc.ca/2wax25k>