



Public
Service
Labour
Relations
Board

Commission des
relations de
travail dans la
fonction
publique

P.S.L.R.B. File Number
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APPLICATION PURSUANT TO SECTION 58 OF THE ACT

Public Service Labour Relations Act

NOTICE: The original and one copy of this complaint must be filed with the Executive Director of the Board.

1. Applicant information:

CANADIAN FEDERAL PILOTS ASSOCIATION

130 Slater Street, Suite 330
Ottawa, Ontario
K1P 6E2

Telephone: (613) 230-5476
Facsimile: (613) 230-2668

Attention: Gregory Holbrook, National Chair

Name of authorized representative:

SHIELDS & HUNT

Barristers & Solicitors
68 Chamberlain Avenue
Ottawa, Ontario
K1S 1V9

Telephone: (613) 230-3232
Facsimile: (613) 230-1664
E-mail: phunt@shields-hunt.com

Attention: Phillip G. Hunt

2. Constituent employee organizations information:

N/A

Where information on more than one person is required in a section or the space provided is not sufficient, please attach additional pages of same-sized paper.

3. Employer information:

Transport Canada

Civil Aviation
330 Sparks Street
Ottawa, Ontario
K1A 0N5

Telephone: (613) 990-1322

Facsimile: (613) 957-4208

Attention: Merlin Preuss, Director General

AND

Treasury Board Secretariat

400 Cooper Street
Ottawa, Ontario
K1A 0R5

Telephone: (613) 952-3000

Facsimile: (613) 952-3009

Attention: Helene Laurendeau, Assistant Secretary

4. Detailed description of the class of employees for whom the Applicant makes this Application for a determination pursuant to section 58:

Employees occupying the position of Manager Civil Aviation Contingency Operations (position NCRL 21198 / ADC 00917) employed with Transport Canada who are presently included in the Technical Services ("TC") Group and who are more properly included in the Aircraft Operations ("AO") Group classification.

5. Estimated number of employees in the class of employees which is the subject of this Application pursuant to section 58:

1

6. Grounds on which the Applicant intends to rely in support of the proposal that the class of employees described in section 4 above should be determined to fall within the Applicant's bargaining unit:

(a) The Canadian Federal Pilots Association ("CFPA") is the certified bargaining agent for all employees of Transport Canada (the "Employer") in the Aircraft Operations Group as defined in the Canada Gazette on March 27, 1999. A copy of the bargaining certificate is attached as Schedule "A."

(b) The CFPA, an employee organization within the meaning of the *Act*, applies pursuant to section 58 for a determination that the Manager Civil Aviation

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Contingency Operations position presently reclassified in the PA Group is, in fact, properly included in the AO Group.

- (c) The Manager Civil Aviation Contingency Operations position was included in the AO Group classification until reclassified by the Employer on or about March 8, 2003 (effective February 1, 2003), when the Employer determined that there was no requirement for the position to hold a current pilot's licence. Attached as Schedule "B" are the Work Descriptions, Classification rationale and Organizational Chart which detail the 2003 reclassification of the Manager Civil Aviation Contingency Operations position.
- (d) The Applicant respectfully submits that the work actually performed by those employees described in paragraph 4 involve duties which have traditionally placed, and continue to place, the Manager Civil Aviation Contingency Operations position squarely within the AO Group and not the PA Group.
- (e) Despite the reclassification, the position of Manager Civil Aviation Contingency Operations is responsible for Civil Aviation Contingency Operations, the primary duties of which remain the planning, development and management of national programs for contingency planning, response operations, training and exercises; the activation and direction of the Aviation Operations Centre and/or Transport Canada's Situation Centre (both of which are to ensure the safe and effective continuation of domestic and foreign civil air transportation); and the negotiation of agreements and Canadian government representation regarding air disasters and emergencies. In order to effectively carry out this work, the Manager Civil Aviation Contingency Operations must have knowledge of aviation and related legislation, including the *Canadian Transportation Accident Investigation and Safety Board Act*.
- (f) The AO Group definition clearly states that it comprises positions that are primarily involved in, among other things, the validation and dissemination of aeronautical information and the planning and management of civil air transportation systems during contingency periods; and the advancement of aviation safety as provided for in *Canadian Transportation Accident Investigation and Safety Board Act* and Regulations. These responsibilities require, according to the AO Group definition, "recent experience in piloting an aircraft." The management of civil air transportation systems during contingency periods requires recent experience in piloting an aircraft which, in turn, requires a current pilot's licence.
- (g) Conversely, the PA Group definition makes no reference to civil aviation operations, contingency planning or international agreements for contingency management or operations. Civil aviation contingency operations are not explicitly included in the PA Group definition. Furthermore, the definition excludes positions where the primary purpose is included in the definition of any other group. The planning and management of civil aviation contingency operations is explicitly included in the AO Group definition. The positions are therefore excluded under the PA Group definition exclusions and included in the AO Group Definition inclusions. Attached as Schedule "C" and "D" are the group and category definitions and the relevant benchmarks for the AO and PA Groups at issue.

- (h) A determination under section 58 that the Manager Civil Aviation Contingency Operations position is included in the AO Group, and not the PA Group, will not substantially alter the Employer's collective bargaining responsibilities as CFPA currently represents other employees engaged at Transport Canada in the AO Group.
- (i) A determination under section 58 that the Manager Civil Aviation Contingency Operations position is appropriately included in the AO Group represented by CFPA will not necessitate the creation of a fragmented unit of specialized employees, but will simply cause a return to the status quo as existed prior to the reclassification of the Manager Civil Aviation Contingency Operations position.
- (j) The Manager Civil Aviation Contingency Operations position currently included in the PA Group shares a community of interest with the AO Group due to the highly similar nature of the work, the conditions of employment and knowledge and skills.
- (k) The Applicant requests that the Board conduct a hearing into this matter and make the following determination:
 - i. A declaration that the Manager Civil Aviation Contingency Operations position currently included in PA Group is more properly included in the AO Group for which the CFPA is certified bargaining agent.
 - ii. Such further and other relief as the Board deems appropriate in the circumstances.

7. Information on the bargaining agent representing any of the employees in the class of employees described in section 4:

Union of Canadian Transportation Employees

233 Gilmour Street, Suite 702
 Ottawa, ON
 K2P 0P2
 Telephone: (613) 238-4003
 Facsimile: (613) 236-0379

8. Other matters relevant to the application:

N/A

I, the undersigned, duly authorized representative of the Applicant, hereby file this *Application pursuant to section 58 of the Act.*

Date: _____
 (dd/mm/yyyy)

(Signature of complainant or authorized representative)

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