

# Bargaining *INFO*



**Public Service Alliance of Canada**

**PSAC Bargaining Units with Treasury Board (PA, SV, TC, EB, FB)**

June 23, 2008

## **Negotiating Essential Services with Treasury Board: What PSAC members need to know**

### **Why did the Union postpone the June bargaining dates?**

The PSAC would have liked nothing better than to take on Treasury Board's insulting wage offer at the table in June. But we need to plan for what happens in the bargaining process after the talking is done if we can't reach a settlement.

Essential Service Agreements play a critical role in the bargaining process because they directly affect what we can do next. While the goal of our bargaining teams is to negotiate a fair settlement at the table, there is no guarantee that they can do so.

For example, it might be necessary to conduct a strike in order to obtain a fair settlement. Under the new rules, no bargaining unit may conduct a legal strike until 30 clear days have passed after the Essential Services Agreements for that bargaining unit have been signed off.

PSAC is negotiating Essential Services Agreements (ESAs) for the first time under the Public Service Labour Relations Act (PSLRA). This new scheme replaces the old designation process and it means that we have to negotiate all the Essential Services Agreements one position at a time.

Under the new rules we have one chance to negotiate Essential Services Agreements that will stay in place for future rounds of negotiations so we need to get it right the first time!

### **All of our members' work is valuable**

The PSAC recognizes and respects that all of our members perform valuable work for the people of Canada. At the same time, we recognize that some of our members provide services that are necessary to ensure the safety and security of the public and of our members themselves. However, we also recognize that our members have the legal right to take strike action.

## **Not every function qualifies as essential**

The legislation defines an "essential service" as "a service, facility or activity of the Government of Canada that is or will be, at any time, necessary for the safety or security of the public or a segment of the public".

While the PSLRA is new, the principles of essential services are similar to the former legislation under which we negotiated. From our previous experience with former Labour Board we expect some similar decisions on essential services, such as:

- Inconvenience to the public" is not a valid consideration for determining essential services.
- Technically, duties that would protect the employer or the public from economic hardship are not considered essential to safety or security. However, there have been some cases where the provision of income maintenance, such as CPP or OAS, has been considered an essential service.
- The mental, psychological or emotional state of individuals is not covered by safety/security to the public.
- "Safety or security" can also relate to future situations.
- The term "public" is to be given a broad meaning. It includes employees and inmates.

It is likely that the current Labour Relations Board, if it follows the practice of previous Labour Boards, will err on the side of caution. The Board may designate where there is just the possibility that human life or public safety would be harmed. However, it is expected that the Board will look at the regular duties of the employees, and not extraordinary, hypothetical situations.

## **Why is it taking so long to negotiate the ESAs?**

It has taken over a year for the departments to provide the Union with their proposals for essential services. Unfortunately, there are no deadlines in the legislation that would compel the departments to meet their obligations more quickly or any penalties for delays. In order to speed up the process, PSAC representatives have been meeting with Treasury Board weekly or bi-weekly for over three months.

The union is currently collecting and assessing all departmental proposals and recommendations provided by the Components in order to ensure consistency across all departments. This process is more difficult in some cases where departments have not provided adequate reasons or even the necessary basic information, such as complete work descriptions, so that the union can make informed decisions on whether to agree or to dispute the proposed essential services positions.

As a result, we don't know at this time how many positions will be disputed, how many will be settled through a mediation process or how many will be referred to the Public Service Labour Relations Board (PSLRB).

However, we have already given Treasury Board notice that the union will likely have many disputes that will be sent to the PSLRB for resolution.

During the last year, the union has focused its work at the bargaining table while we were waiting for the departments to provide us with the necessary information for us to negotiate the Essential Service Agreements. Over the summer months, we will be working hard to resolve the disputed positions.

As long as the government is not prepared to come to the bargaining table with a fair offer, we must deal with the ESA process. And, given some departmental proposals, it will take some time before the truly "essential" positions are identified.

Updates on the progress of the ESA negotiations will be posted on the PSAC web site.