

## **Conciliation or arbitration? Here is a look at each option**

To help you decide whether your method of dispute resolution will be arbitration or conciliation with the right to strike, this information sheet provides some background information on the main characteristics of each option.

Under the *Public Service Labour Relations Act*, a Union can choose between two different dispute settlement routes. One route is conciliation with the right to strike, and the other is arbitration, sometimes called binding arbitration. Currently, the TC/Table 3 bargaining unit is on the conciliation with the right to strike route.

With either route, our goal is to reach a collective agreement with the employer through the negotiations process. If a tentative agreement is achieved, it goes out to the membership for a ratification vote. Where the two routes differ is what happens when we can't agree, i.e. when we reach an "impasse" in negotiations.

**Conciliation with the right to strike** provides for an intervention by a neutral third party called a Public Interest Commission (PIC), formerly known as a Conciliation Board. The PIC, like the former Conciliation Board, will normally be comprised of three people; an employer nominee, a Union nominee and a Chair. The difference with the PIC is that the Chair is selected by the parties from a list provided by the Public Service Staff Relations Board (PSLRB). The PIC hears arguments from both sides and issues a **non-binding** report. If the report fails to bring the parties together and achieve a negotiated tentative agreement, the bargaining unit members have the right to strike.

**Arbitration** is the resolution of the dispute by a neutral third party – an arbitration board – which hears arguments from both sides and issues a **binding report**. Arbitration boards are normally comprised of an employer nominee, a Union nominee and a Chair selected by the parties.

Under both the conciliation/strike and arbitration routes, mediation is possible prior to hearings with a PIC or Arbitration Board.

The following table summarizes the process followed in each case.

<u><b>Arbitration</b></u>	<u><b>Conciliation/Strike</b></u>
<p><b>1. Application</b> On reaching impasse in negotiations, either party can make a request to the PSLRB to establish an arbitration board to <i>resolve</i> outstanding collective bargaining issues.</p>	<p><b>1. Application</b> On impasse, either party can ask the PSLRB to recommend the establishment of a Public Interest Commission (PIC) to make <i>recommendations</i> on any outstanding collective bargaining issues. The recommendation is made to the Minister responsible for the PSLRB.</p>
<p><b>2. Appointment</b> When a party requests a three-person arbitration board, each provides the PSLRB with the names of their respective nominees to the board. The two nominees select a chairperson; if they cannot agree, one is appointed by the Chair of the PSLRB.</p>	<p><b>2. Appointment</b> When a party requests the establishment of a three-person PIC, each of the parties provides the PSLRB with the names of their respective nominees. The two nominees select a Chairperson from a prepared list of potential chairs developed by the PSLRB in consultation with the parties; if they cannot agree, the chair of the PSLRB recommends a chair to the Minister.</p>
<p><b>3. Subject matters not allowed</b> An arbitration board may not make an award that would require a legislative amendment for its implementation (other than money), or one that relates to staffing, including lay-off, pensions, or classification.</p>	<p><b>3. Subject matters not allowed</b> A PIC may not make a recommendation that would require a legislative amendment for its implementation (other than money), or one that relates to staffing, lay-off or pension.</p>

<p><b>4. Factors to consider</b>  In making its award, an arbitration board is required to consider a number of factors, including conditions of employment in similar occupations outside the public service, the need to maintain appropriate relationships between classification levels within the public service, the state of the Canadian economy and the government's fiscal circumstances.</p>	<p><b>4. Factors to consider</b>  A Public Interest Commission is required to take into consideration the same factors as an arbitration board when making its recommendations.</p>
<p><b>5. Effect</b>  An arbitration award is final and binding on the parties. A collective agreement is printed which includes any changes agreed to by the parties, and any decisions made by the arbitration board.</p>	<p><b>5. Effect</b>  The report of the PIC is not binding on the parties. Following the report, the parties will seek to achieve a collective agreement. The union retains the right to strike. Any agreement achieved is subject to a ratification vote among the members.</p>

The *Public Service Labour Relations Act* is available on the web site of the Public Service Labour Relations Board.

[http://www.pslrb-crtfp.gc.ca/legislation/legislation\\_e.asp](http://www.pslrb-crtfp.gc.ca/legislation/legislation_e.asp)