

CATCA
LIEU DAYS

File: 166-2-9005 to 9008

PUBLIC SERVICE STAFF RELATIONS ACT
BEFORE THE PUBLIC SERVICE STAFF RELATIONS BOARD

BETWEEN:

DAVID K. ANDERSON, ERIC S. BOVARD,
LARRY V. DEVEAU, AND D. GARY O'KEEFE,

grievors,

AND:

TREASURY BOARD
(Transport Canada),

employer.

DECISION

Before: R. D. Abbott, Board Member and Adjudicator

For the Grievors: C. H. MacLean, Counsel.

For the Employer: David Olsen, Counsel.

ART 16
CODE 402/78

JB
BR

May 10/82

Decided without a hearing, none having been requested.

RIGHT TO SCHEDULE LIEU DAYS

DECISION

The Federal Court of Appeal ruled (Court File No. A-157-31, delivered from the Bench at Ottawa on September 18, 1981) that my decision on the present case was based on an incorrect interpretation of the collective agreement. As I understand the Federal Court of Appeal's determination, the word "granted" as it appears in article 16.04 of the collective agreement does not imply any precedent request by the employee. It was further held that article 16.05 of the collective agreement does not impose on the employer the duty to make every reasonable effort to accede to an employee's request that his lieu days be carried over to a subsequent year. Furthermore, the right to exchange lieu days for cash if they "cannot be liquidated by the end of the fiscal year" does not encompass a right to exchange lieu days for cash simply because the employee prefers not to use those lieu days.

Accordingly, my decision was set aside and referred back to me

for decision on the basis that, under articles 16.04 and 16.05 of the collective, when employees refuse to indicate when, during the current fiscal year, they wish to use their lieu days, the employer has the right to unilaterally determine when those lieu days shall be used.

In the present case, each grievor did refuse to indicate when, during the then current fiscal year, he wished to use his lieu days. The employer exercised the right it had, as found by the Federal Court of Appeal, to unilaterally determine when those lieu days were to be used, and those lieu days were in fact taken as scheduled

by the employer. It must follow that the present grievances must be dismissed.

For the Board,

R.D. Abbott,
Board Member and Adjudicator.

OTTAWA, January 25, 1982.