

File: 166-2-13799 to 13802  
166-2-13474 & 13885/6

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

BETWEEN:

J.M. TONNER & OTHERS,

Grievor,

AND:

TREASURY BOARD  
(Department of Transport),

Employer.

DECISION

Before: D.G. Pyle, Board Member and Adjudicator.

For the Grievor: C. MacLean, counsel.

For the Employer: Robert Lee, counsel.

Heard at Gander, Newfoundland, August 3, 1983.



DECISION

1. This reference to adjudication, pursuant to section 91 of the Public Service Staff Relations Act, is a consolidation of seven grievances in which the grievors complain of an absence of relief for the meal and relief breaks and seek an assurance from the employer that sufficient staff will be available.

2. Counsel were in agreement that they would proceed with the grievance of Mr. J.M. Tonner dated December 12, 1981, and that the other grievances would be held in abeyance. Later, in the course of the proceedings, counsel for the bargaining agent undertook to withdraw all of the grievances.

3. Mr. Tonner's grievance reads as follows:

On the 0745-1600 (local) shifts Dec 10 & 11, no relief was available for Meal or Relief Breaks. Although staff was available to provide same, on overtime, no effort was made to schedule same by unit management.

The corrective action sought by Mr. Tonner is:

In the future the employer ensure that sufficient staff is available to permit that I be granted meal & relief breaks in accordance with the collective agreement.

4. Of interest, in light of subsequent developments, is the first level reply of Mr. F.F. Tibbo, then Data Systems Supervisor, dated January 11, 1982. It reads as follows:

It has been determined that the operational requirement for DSC staff in Gander ACC is one DSC on duty at a time.

Meal and relief breaks are provided subject to recall for operational requirements. DSC's are recalled from breaks only when required and that is very seldom. If a recall occurs, the DSC is given additional time for breaks to compensate for the call-back.

To provide you with a replacement for such periods is not considered necessary due to the close proximity of the lunch room.

Your grievance is therefore denied.

5. Mr. John M. Tonner is an Air Traffic Controller (AI-04) with twenty years of service and is presently employed as a Data Systems Coordinator, Gander Area Control Centre. He is represented for purposes of collective bargaining by the Canadian Air Traffic Control Association and his terms and conditions of employment are governed by the provisions of the collective agreement between the Treasury Board and the Association, Code 402/82, Expiry Date: December 31, 1982 (exhibit 1).

6. Subsection (d) of clause 13.02 of the collective agreement reads as follows:

Where operational requirements permit, the Employer will provide operating employees with meal and relief breaks.

7. By way of background, the Gander Area Control Centre is responsible for the coordination of all air traffic in the western half

of the Northern Atlantic Zone, as well as of air traffic in and out of the Province of Newfoundland and Labrador. On April 20, 1981, a new control centre became operational. Included in the new installation was a "gymnasium-sized" room containing highly sophisticated computer equipment, all designed to maintain a free flow of information for, and communications with, aircraft pilots as well as the air traffic controllers in Gander, elsewhere in Canada, the United States and Prestwick, Scotland. The responsibilities for the input of data, making any necessary adjustments in the equipment and directing the outflow of information is that of a Data Systems Coordinator. In the event of a malfunction the coordinator will first endeavour to effect a correction in the "software" and if these efforts do not provide the desired result the coordinator will alert a telecommunications and electronics technician assigned to the same equipment room.

8. At the outset, in April, 1981, the employer elected to institute a schedule of five shifts of eight-hours each day, with double coverage during the peak hours of air traffic across the North Atlantic Zone. Within a matter of months the employer was satisfied that the "bugs" in the new equipment were eliminated and the level of competency of personnel such that the two of the five shifts could be eliminated, leaving three eight-hour shifts to maintain the operation on a continuous 24-hour seven day week basis.

9. Prior to September 1, 1981, when the new shift arrangement was implemented, a Data Systems Coordinator could leave the equipment room for his meal and relief breaks at times when there was a second coordinator present. Subsequent to September 1, 1981, there does not appear to have been any issue as to the breaks until November or December and, in any event, Mr. Tonner filed his grievance on December 12, 1981.

10. Mr. Tonner in his testimony related his responsibilities for feeding data to the computers, for securing and relaying the information recorded, for initiating the repairs and for monitoring the equipment. He was satisfied that this required his presence in the equipment room at all times. Accordingly, he did not feel that he was afforded an opportunity to have his relief breaks or to have his lunch in a lunch room situated approximately 125 feet away (equipped with a public address system). In cross-examination he admitted that he did leave his work place on occasion briefly to "grab a sandwich". He also admitted that he had not been instructed to secure the permission of a supervisor before leaving the equipment room.

11. Mr. F.F. Tibbo, now Data Systems Manager, is responsible for the data systems operations at the Gander Centre and for the supervision of the seven data systems coordinators. He testified that he was not aware that any coordinator had been denied a meal or relief break. He regarded the monitoring function as a matter of dual responsibility, i.e., a responsibility shared by the coordinator and the telecommunications and electronics technician. Provided any function requiring immediate attention was not ignored, a coordinator could absent himself from the equipment room for a meal or a relief break. Mr. Tibbo stated that he had not regarded the conduct improper but he had observed the coordinators on two overlapping shifts leave the equipment together for a meal break. Moreover, as late as July, 1981, a coordinator on a single shift coverage had been absent from the equipment room for as much as three hours of his eight-hour shift.

12. In cross-examination Mr. Tibbo confirmed the following:

- (a) In the period September 1, 1981 to the present, a coordinator has been able to take his meal or a relief break without being relieved of his position.

- (b) Mr. Tibbo is satisfied that there is adequate time in an eight-hour shift for a coordinator to take the breaks provided for in the collective agreement.
- (c) At no time has the management denied a coordinator the right to leave work for a meal or relief period.
- (d) The management has no objection to a coordinator taking one of his breaks once a function which had to be done was, in fact, done and all systems were operating without complaint. Basically, it was not necessary for a coordinator to "sit there, monitor and wait for alarms".
- (d) A coordinator is expected to cooperate with the telecommunications and electronics technician insofar as notifying the other of his upcoming absence. There is, however, no prohibition at the present time against both persons absenting themselves and leaving the room empty.

13. Following upon this testimony Ms. MacLean, counsel for the bargaining agent, stated that the relief sought by the grievors was, in substance, clarification of the right of a data systems coordinator to leave his position unattended while taking a meal or relief break. In view of the evidence given by Mr. Tibbo the bargaining agent was satisfied that it has obtained corrective relief sought and has withdrawn the grievances.

14. It follows that these adjudication proceedings are terminated and the files closed.

D.G. Pyle,  
Board Member and Adjudicator

August 12, 1983.