

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

BETWEEN:

J.R.Y. PAQUET,

grievor,

AND:

TREASURY BOARD
(Department of Transport),

employer.

DECISION

Before: Patrice Garant, Board Member and Adjudicator.

For the grievor: Yves Aubry, Canadian Air Traffic Control Association.

For the employer: Marguerite-Marie Galipeau-Mayrand, Treasury Board.

Heard at Québec City, December 7, 1978.

SPECIAL LEAVE FOR SNOWSTORM

ART 10
CORR 402/78

DECISION

The grievance before me was filed by Mr. J.R. Yvon Paquet, an air traffic controller, AI 2, at the Québec City airport. His request for one day of special leave reads as follows:

On January 27, 1978, I was unable to report for work because my family and I found ourselves in the uncomfortable situation of having to "survive" over a period of twenty-eight hours without electricity, heat or running water, following an ice storm.

When I requested special leave in a round-trip memorandum (a legitimate request in my opinion, since the situation, was beyond my control - CATCA/TB 10.04, 10.05), I was refused such leave and was insulted in that I was treated almost as though I were a chauvinist and a negligent father since, according to my supervisor... I could have taken the necessary measures to alleviate the problem... as though I had delighted in allowing my wife and child to freeze for twenty-eight hours.

Whereas the situation was completely beyond my control;
Whereas I did everything in my power to guarantee my family a minimum amount of comfort before going to work and leaving them;
Whereas my efforts, however diligent, were unsuccessful and it was not possible for me to leave my family in such circumstances;
Whereas my supervisor's reply was completely illogical; and finally,
Whereas this is not the way to ensure "harmonious relationships" between the employer and the employees (CATCA/TB 1.01),

I request that I be granted this special leave along with an apology.

The relevant collective agreement is the one signed by Treasury Board and the Canadian Air Traffic Control Association, clause 10.04 of which reads as follows:

At the discretion of the Employer, special leave with pay may be granted when circumstances not directly attributable to the employee, including illness in the immediate family as defined in clause 10.02, prevent his reporting for duty.

I THE FACTS

Mr. Paquet and his family live on Range 3 West in St-Gervais de Bellechasse, some thirty-three and a half miles from the airport at Ste-Foy, Ancienne Lorette. According to undisputed evidence, supported by a Hydro-Québec document, on January 26 and 27, 1978, there was a power failure in "the St-Charles de Bellechasse electrical corridor which serves the municipalities of La Durantaye, St-Gervais and Hanfleur" (Exhibit S-1).

On January 26, there was an ice and snow storm. On the morning of the 27th, Mr. Paquet realized that his house was cold because of the power failure. Since he had a wood stove but no firewood in his house, he walked into the village which is about a half mile from his house. He noted that visibility was poor and that the roads seemed to be impassable.

He was unable to find any wood for his stove. He called his office to say that he would probably be unable to report for work at 3 p.m. for his three to eleven shift.

Mr. Paquet maintains that he could not leave his family, meaning his wife and two-year-old child, because of the cold and that he did not know his neighbours well enough to seek refuge with them for his wife and child. Apparently, he had no relatives in the area.

At approximately 10:00 in the evening, the electricity was restored.

The grievor subsequently wrote a memo in which he requested special leave. He met with his immediate superior, Mr. Dupré, who subsequently swore under oath that he had in no way treated Mr. Paquet as though he were a "chauvinist or a negligent father". In reality, Mr. Paquet had to admit that his supervisor had not really insulted him. He explained that it was more the "feeling that he had", that is, he imagined that he had been insulted.

Mr. Dupré replied that in the circumstances he felt that Mr. Paquet had not taken the necessary measures to alleviate the problem. In his reply at the first level, he explained his reasoning again, as follows:

After studying the details of your grievance, I can only conclude that the reply which you received is not the one which I addressed to you, a copy of which is enclosed herewith.

I do not doubt that the experience you had on January 27 was very unpleasant for you and your family. However, you telephoned me with your request for this leave at approximately 10:00 a.m., more than five hours before your shift was to begin. At that time, according to your statement, the power had already been off for a number of hours. More specifically, when

I stated: "you could have taken the necessary measures to alleviate the problem", I felt that you could have taken your family to a safer place, one where there was no power failure, i.e., the home of friends or relatives, or a hotel, and then you could have come to work for your normal shift.

Consequently, I can only conclude that you did not do everything possible to solve the problem before your shift was to begin and I must dismiss your grievance.

II ANALYSIS OF THE EVIDENCE

We have no reason to doubt Mr. Dupré's sincerity or credibility. His reply to the request for special leave seems to correspond to the reply that he restated at the first level. Mr. Paquet had to admit his supervisor had not insulted him.

Mr. Dupré felt that Mr. Paquet had the entire morning of the 27th until 3:00 p.m. either to find firewood or to take his wife and child to stay with neighbours, relatives or friends.

In reality, the evidence showed that Mr. Paquet did not make much of an effort. It is hard for me to believe that especially in the country, one could not find a few sticks of wood to build a fire in a stove. What Quebecer would refuse to give his neighbour a stick of wood to heat his home during a storm! Moreover, Mr. Paquet would not seem to have made any effort to ask his neighbours or any other resident on his road or in the village for hospitality in these circumstances. Failing all else, he could have taken his wife and child into Quebec City, in order to leave them with friends or relatives or in a motel (there are many motels on the road from St-Gervais to Ancienne Lorette).

The roads were not in perfect condition; on the contrary. However, there is nothing in the evidence which leads us to believe that it was in fact impossible to drive, despite the fact that visibility was poor on the country roads. In any case, Mr. Paquet had only a few miles to drive before reaching Autoroute 20, where driving was much better.

I would go so far as to say that Mr. Paquet's attitude was unaccountable and showed an error in judgment on his part, even though he may have acted with the best intentions.

III CONCLUSION

We must conclude that the employer representative did not abuse his discretion under clause 10.04 because, in reality, the events which occurred on January 27 and which were the direct reason for Mr. Paquet's absence from work were directly attributable to the grievor. To be sure, the power failure, the snow, the ice and the driving difficulties were not attributable to Mr. Paquet; but these were not the direct reason for his absence.

Moreover, we feel that the accusations made in the grievance are unfounded and find that there is no reason for us to order an apology.

For these reasons, the present grievance is dismissed.

For the Board,

Patrice Garant,
Board Member and Adjudicator.

STE-FOY, January 12, 1979.

Certified true translation

Denis Sabourin