

IN THE MATTER OF AN ARBITRATION

BETWEEN:

MPAC

- and -

OPSEU

(Union/Policy Grievances)

Before: William Kaplan
Sole Arbitrator

Appearances

For the Employer: Doug Gray
Hicks Morley Hamilton Stewart Storie LLP
Barristers & Solicitors

George Avraam
Hicks Morley Hamilton Stewart Storie LLP
Barristers & Solicitors

For the Union: Donald Eady
Paliare Roland Rosenberg Rothstein LLP
Barristers & Solicitors

Eric Adams
Paliare Roland Rosenberg Rothstein LLP
Barristers & Solicitors

For the interested persons: A number of interested persons
appeared and made representations.

One interested person made representations
by telephone.

This matter proceeded to a hearing in Toronto on July 7 & 8, 2003.

Introduction

This proceeding was conducted as a result of grievances filed by the union challenging the exclusion of a number of positions from the bargaining unit. The parties filed extensive briefs and supporting material to advance their respective positions.

I met with the parties on July 7 & 8, 2003, when I heard their submissions, together with those of a number of the incumbents in the challenged positions.

I have made the following determinations, subject to certain terms and conditions that follow.

After hearing and considering the submissions, I determined that the following positions are to be included in the bargaining unit:

Data Processing Quality Specialist

Valuation Quality Specialist

Customer/Data Quality Specialist

Freedom of Information Assistant

Customer Services Specialist

Customer Liaison Officer

Municipal Relations Specialist

Manager, Elections Information

Public Relations Coordinator

Corporate Sales Manager

Business Development Customer Support

Program Administrator

Business Development Consultant (if occupied by an employee)

Trainer Customer Contact Centre

Quality Services Specialist

Organizational Development and Training Consultant

I determined that the following positions are not in the bargaining unit:

Program Manager (Program Management Office)

Senior Manager Sales

Communications Coordinator

Administrative Coordinator (Customer Relations)

Administrative Assistant (Customer Relations)

Account Manager Government Relations

Account Manager Business Relations

Freedom of Information Coordinator

Internal Auditor (Quality Services)

Municipal Relations Representative

I understand that both the Organizational Development and Training Consultant and Corporate Sales Manager positions are currently vacant and under review. The employer will advise the union of their status within ninety (90) days and thereafter will keep the union informed of their status. These positions are in the bargaining unit and,

if filled, will be filled in accordance with the collective agreement.

The position of Trainer Customer Contact Centre is currently vacant, and it is understood that the employer will advertise that position as a bargaining unit position as soon as practicable.

I direct that the position of Business Development Consultant, if it exists as of December 31, 2003, shall be advertised as a position within the bargaining unit on or before January 31, 2004.

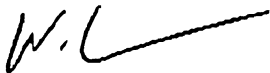
The determination that the positions that I have decided shall be included in the bargaining unit shall be delayed for sixty (60) days after the date of this award, and any incumbents in those positions shall be included as members of the bargaining unit on that date. The employer shall advise the union into which classifications, either existing or new, such persons shall be placed. If any of the classifications or positions are renamed, the employer shall advise the union.

I shall remain seized of any issue as to whether the employer has created any unwarranted new positions within the classifications of Communications Coordinator, Administrative Coordinator or Internal Auditor after the date of this award.

I direct that the employer pay the union the amount of \$50,000 within sixty (60) days as compensation for any lost union dues or any other monetary claim arising out of these grievances.

I remain seized of any other issue respecting the implementation of this award.

DATED at Toronto this 14th day of July 2003.

A handwritten signature in black ink, appearing to read 'W. Kaplan', written over a horizontal line.

William Kaplan, Sole Arbitrator