

**IN THE MATTER OF AN ARBITRATION**

**BETWEEN:**

**Municipal Property Assessment Corporation**

**- and -**

**OPSEU**

**(Multiple Grievances CSR Job Competitions**

**Area 2 - Office 13 - Oshawa/Durham)**

**Before:**

**William Kaplan  
Sole Arbitrator**

**Appearances**

**For the Employer:**

**Doug Gray  
Hicks Morley Hamilton Stewart Storie LLP  
Barristers & Solicitors**

**Daniel Fogel  
Hicks Morley Hamilton Stewart Storie LLP  
Barristers & Solicitors**

**For the Union:**

**Peggy Smith  
Elliot Smith  
Barristers & Solicitors**

**Anne Lee  
Grievance Officer, OPSEU**

**This matter proceeded to a hearing in Toronto on March 10, 2004.**

### **Introduction**

In May 2001, MPAC announced a major reorganization. As part of this reorganization, a number of new bargaining unit positions were filled through a competitive process, including the position of Customer Service Representative (CSR). A total of 707 applications were received for the 225 unilingual positions available and 57 applications received for the 37 bilingual positions available. Of the 707 applicants for the unilingual position, only one applicant was screened out at the resume review stage. A more intensive screening took place with respect to the french language positions. A number of job competitions took place more or less simultaneously. In the result, some CSR applicants obtained other positions. In the end, 674 CSR applicants were interviewed. By early April, 2002, 262 job offers were made and accepted. A large number of grievances were subsequently filed. Given the volume of grievances in this job competition and in several others occurring at the same time, the parties negotiated a protocol for their expeditious and fair resolution in a process of mediation/arbitration.

The CSR job competition grievances relating to Area 2 - Office 13 - Oshawa/Durham, proceeded to a hearing held in Toronto on March 10, 2004. The parties were advised, before the first case was heard, that it was my view, having carefully considered the collective agreement, the submissions of the parties, and the governing authorities, that the first step in the process was for the candidates to establish relative equality. It was also my view that absent exceptional circumstances, the assessment would be based on interview scores. Finally, it was indicated to the parties that remedy would be tailored as appropriate.

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All potentially affected incumbents were notified of these proceedings and their right to attend and participate. Appropriate arrangements for disclosure were made. A large number of incumbents did attend and made representations. These representations, together with the detailed written briefs of the parties and the submissions made by union counsel, the grievors, and management counsel at the hearing, have all been given careful consideration. It should be noted that a number of these grievances were resolved, obviating any need for a hearing.

**Award**

Except as follows, all grievances are dismissed including, without limiting the generality of the foregoing, grievances numbers 10 thru 14 on the union list because all available positions have been filled with grievors with greater seniority. In that regard, it should be noted that the grievance of Jean-Paul Maurice did proceed to hearing. The grievor did not establish relative equality and his seniority date is only July 19, 1996. His allegations of discrimination are not germane and do not, in the circumstances, constitute an exceptional circumstance to be properly considered in this matter.

1. Carl Goodrich to be awarded next available CSR position in Area 2 - Office 13 - Oshawa/Durham after Marcel Moreau obtains the first available CSR position.

**Conclusion**

I remain seized with respect to the implementation of this award.

DATED at Toronto this 15th day of March 2004.



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William Kaplan, Sole Arbitrator