

IN THE MATTER OF AN ARBITRATION

between

Ontario Public Service Employees Union

and

Canadore College

Classification Grievances of Harold Therrien and Gabriel Bédard

Before: Louis M. Tenace

For the College: Dan Michaluk, Hicks Morley
Susan Pratt, Senior Human Resources Consultant
David Cotie, Director, Facilities Operations
Steve Laughlin, Manager, Facilities and Building Services

For the Union: Mary Anne Kuntz, Senior Grievance Officer, OPSEU
Harold Therrien, Grievor
Gabriel Bédard, Grievor (retired)
Glen Harrison, Local 658 OPSEU
Don Major, Local 658 OPSEU

Heard in North Bay, Ontario, Tuesday, April 21, 2009.

AWARD

Harold Therrien is currently employed at Canadore College as a General Maintenance Worker, Payband E (classification effective December 19, 2007). Gabriel Bédard who was employed at Canadore College in a similar capacity at the time of filing of the grievances is now retired. Although they are classified as General Maintenance Workers, the parties agree that some 60% of their duties involve the care, installation and maintenance of locks as well as maintaining a computerized database and paper backup of all keyholders and issued keys to staff across the College and at Nipissing University. In addition, they perform general building maintenance and repairs. This is reflected in the Position Description Form (PDF). They contend that the PDF does not accurately reflect the complexity of their duties as Institutional Locksmiths.

The grievors are seeking reclassification to Payband G or H. Although both grievances specify that they are seeking reclassification to Payband G, their written submission to arbitration asks that I consider awarding them the higher level. The College has objected to this modification on the grounds that the grievors have altered their grievances and are seeking a higher Payband placement than that specified on their grievance forms. The Union has taken the position that the arbitrator is free to make an award higher or lower than what the parties propose. I did not deal with this at the start of the hearing preferring to permit the parties to make their presentations and making a determination, should such be required, in this award.

There are seven factors in dispute between the parties and these are summarized below followed by my conclusions:

1 B. Education – *Management proposes Level 2, 12 Points;*
Union proposes Level 3, 21 Points.

The Union submits that the additional hours of experience needed to acquire and maintain the expertise in Institutional Locksmithing goes well beyond the requirements for a general maintenance person. The grievors completed a 2 to 3-day course in Institutional Locksmithing given by Pinder's Lock and Security Inc., St. Catharine's, Ontario, in 1999 followed by another course of about the same duration on the Key Wizard System, both paid for by the College. This system was set up at the College by Pinder's. These were the only such courses taken by the grievors.

Management pointed out that Note 3 of the Notes to Raters in the Job Evaluation Manual (the Manual) for this factor is clear in that it specifies that any sessions, seminars or training that is required after an incumbent is hired is not to be included for purposes of Factor 1 B.

In this case, the grievors took the courses after they were hired and, as such, they can't be considered for purposes of this factor. While it was agreed by the parties that it was highly unlikely that the College would be able to hire a new employee possessing these

qualifications, it was also agreed that much of the expertise would be gained through on-the-job experience.

I conclude that the rating for this factor should remain unchanged at Level 2, 12 Points.

3. Analysis and Problem-Solving – *Management proposes Level 2, 46 Points;*
Union proposes Level 3, 78 Points.

The Union submitted that the PDF has oversimplified the work performed by the grievors regarding their Institutional Locksmithing duties. It was argued that the incumbents regularly face situations or problems that require further investigation. For example, the loss of a specific key could lead to a variety of unexpected problems affecting an entire department or work area and could engender serious security issues. A rating of Level 3, 78 Points would better reflect the degree of analysis and problem-solving required for this position.

Management submitted that the problems encountered are discrete and readily identifiable with generally straight-forward solutions.

After hearing quite detailed evidence from the parties, I am satisfied that the various “locksmithing” situations or problems facing the incumbents would not be of such a nature as to require in-depth investigation, analysis or judgement. Most solutions would appear to be fairly obvious and not require any serious gathering and analysis of additional information. In most instances, incumbents would refer to their data base and to any pertinent manuals or printed data they would have on hand. In this respect, the Notes to Raters (level 2 versus Level 3) states clearly “There may be some judgement (level 2) in deciding which step to try first, but the analysis, if any, is quite straight-forward (level 2). For level 3, the incumbent would be gathering information, analyzing each new piece of information in relation to the other pieces, and possibly exploring new or unusual directions to seek more information based on the results of the investigation or analysis.”

The rating for this factor remains unchanged at Level 2, 46 Points.

4. Planning/Coordinating – *Management proposes Level 2, 32 Points;*
Union proposes Level 3, 56 Points.

The Union submits that the incumbents regularly have to accommodate other employees' schedules in order to complete their tasks. As an example, they could not repair or replace a lock while a class is in session. Coordination with others is often required. A rating of Level 3, 56 points is submitted as an accurate reflection of the work.

Management believes that the Union has misinterpreted the Manual. In Management's view, this factor is meant to measure organizational and management skills. The incumbents must plan and prioritize their own activities to accommodate the needs of others which is not the case for this position.

I am satisfied that that Management's position in respect of this factor is the correct one and properly interprets the Notes to Raters for Levels 2 and 3.

The rating for this factor remains unchanged at Level 2, 32 points.

6. Independence of Action – *Management proposes Level 2, 46 Points;*
Union proposes Level 4, 110 Points.

The Union submits that the incumbents work independently with little or no supervision other than for the receiving of work orders. This is particularly true when they are performing work at Nipissing University. They do, however, communicate with their supervisors from time-to-time on various tasks to be accomplished. Their duties go well beyond performing regular maintenance work. The incumbents spend 30% of their time maintaining the Key Wizard System database and they have an obvious interest in maintaining its integrity.

Management argued that this factor is meant to measure the level of autonomy of the incumbents. In Management's view, they have very little. If something serious arises, they bring the matter to the attention of their supervisors.

In my opinion, Management has taken too simplistic a view of the various tasks performed by the incumbents. After listening to the parties, it seems clear to me that the incumbents do select the processes to be used in the completion of their duties, albeit by referring to their database and using their own knowledge and experience. They perform their tasks independently of any direct supervision and do work more-or-less autonomously, deciding how they will do their work within the parameters outlined above.

I believe that a rating of Level 3, 78 Points for this factor would be consistent with the dictates of the Manual.

7. Service Delivery – *Management proposes a rating of Level 1, 7 Points;*
Union proposes a rating of Level 2, 29 Points.

This factor looks at the service relationship and the manner in which the position delivers the service. The Manual, in its Notes to Raters for Level 1 states that “service delivery is typically providing answers to customers’ questions”. The Notes to Raters for Level 2 states that “service is provided by determining which option would best suit the needs of the customer”.

Given the nature of the duties of these positions, I must conclude that the incumbents of these positions provide a service to their customers by responding to specific requests (e.g. via work orders) and that they use established methods to respond to these requests, irrespective of whether they involve general maintenance duties or institutional locksmithing work. They may also need to consult another source (e.g. their database) to arrive at an appropriate solution. In my opinion, the best fit for this factor is Level 1.

The factor remains unchanged at Level 1, 7 Points.

8. Communication – *Management proposes a rating of Level 2, 46 Points under*
“Regular/Recurring” and Level 3, 9 Points under “Occasional”;
Union proposes a rating of Level 3, 78 Points under
“Regular/Recurring” and Level 3, 9 Points under “Occasional”.

This factor measures the communication skills, both verbal and written, required by the position. The Notes to Raters attempts to clarify the differences between Levels 2 and 3 by stating that Level 2 “refers to the fact that it is information or data which needs to be explained or clarified” whereas Level 3 “refers to the need to explain matters by interpreting policy or theory in such a way that it is fully understood by others”.

Given the nature of the work and the data provided in the PDF, I have no reason to alter Management’s assessment for this factor which, in my view, fits quite well into the factor definition for Level 2.

The factor remains unchanged at Level 2, 46 Points (Regular/Recurring) and at Level 3, 9 Points (Occasional).

10. Audio/Visual Effort – *Management proposes a rating Level 2, 20 Points;*
Union proposes a rating of Level 2, 35 Points.

The disagreement between the parties related to the degree of concentration required to perform the duties. The Union submits that incumbents are required, on average, to re-pin locks about five times a week, a task that takes some 30-40 minutes of concentration. The Union believes that the PDF does not adequately reflect this.

Management submitted that the repairing and replacing of locksets comprise the core of the incumbents' job. They are skilled and quite familiar with these activities which they perform in a routine fashion. If there are disruptions, their impact would be slight and not affect their concentration. They would easily be able to pick up where they left off.

I am satisfied that re-pinning a lock requires a focussed level of concentration. However, if this concentration is broken, given the nature of the task, it is not fatal. From the submissions of both parties, it was clear that interruptions were not frequent and that focus could be maintained in most instances. In my view, the PDF provides an adequate description for this factor.

The factor remains unchanged at Level 2, 20 Points.

In conclusion, it is my finding that the only rating to be changed is Factor # 6. Independence of Action, from Level 2, 46 Points to Level 3, 78 Points. This would have the effect of increasing the total points by 32 from 390 to 422 points. Applying this to the Payband Determination Schedule found in the Manual raises the positions from Payband E (340-399 points) to Payband F (400-459 points). The completed Data Arbitration Sheet is attached.

I wish to thank the parties for their cooperation and good humour throughout the hearing.

Signed in Ottawa, this 3rd day of May, 2009.

Louis M. Tenace (arbitrator)

Arbitration Data Sheet - Support Staff Classification

College: **CANADORE** Incumbent: **H. THERRIEN** Supervisor: **S. LAUGHLIN**
 G. BÉDARD
 Current Payband: **E** Payband Requested by Grievor: **Gai**

1. Concerning the attached Position Description Form:
 The parties agreed on the contents The Union disagrees with the contents and the specific details are attached.
2. The attached Written Submission is from: The Union The College

Factor	Management				Union				Arbitrator			
	Regular/ Recurring		Occasional		Regular/ Recurring		Occasional		Regular/ Recurring		Occasional	
	Level	Points	Level	Points	Level	Points	Level	Points	Level	Points	Level	Points
1A. Education	2	22			2	22			2	22		
1B. Education	2	12			3	21			2	12		
2. Experience	4	54			4	54			4	54		
3. Analysis and Problem Solving	2	46			3	78			2	46		
4. Planning/Coordinating	2	32			3	56			2	32		
5. Guiding/Advising Others	2	17			2	17			2	17		
6. Independence of Action	2	46			4	110			3	78		
7. Service Delivery	1	7			2	29			1	7		
8. Communication	2	46	3	9	3	78	3	9	2	46	3	9
9. Physical Effort	2	26	3	6	2	26	3	6	2	26	3	6
10. Audio/Visual Effort	2	20			2	35			2	20		
11. Working Environment	2	38	3	9	2	38	3	9	2	38	3	9
Subtotals	(a) 366		(b) 24		(a) 564		(b) 24		(a) 398		(b) 24	
Total Points (a) + (b)	390				588				422			
Resulting Payband	E				I				F			

Signatures:

(Grievor) *(see below)* (Date) **21 APR 09** *Susan Pratt* (College Representative) (Date) **21 APR 09**

Thérèse Fung (Union Representative) (Date) **21 APR 09**

J.M. Suave (Arbitrator's Signature) **21 April 09** (Date of Hearing)

3 MAY 2009 (Date of Award)