

IN THE MATTER OF AN ARBITRATION

between

Ontario Public Service Employees Union

and

Fanshawe College

Classification Grievance of Charles Titus

Before: Louis M. Tenace

For The Union: Marg Rae, Local 109
André Savoie, Advisor
Charles Titus, Grievor

For the College: Julie McQuire, Human Resources Consultant
Wayne Sippola, Assistant Manager, Mechanical/Electrical Systems
Deb Grove, Human Resources Consultant

Heard in London, Ontario on December 21, 2009

AWARD

The grievor, Charles Titus, has been employed at Fanshawe College since December 6, 1976 where he began as an apprentice electrician. He went on to obtain a construction and Maintenance licence, including the Interprovincial Seal and Industrial Controls. In August 1988, he obtained an Industrial Electrician Licence. He has also graduated from Fanshawe's Network Cabling Programme. Besides being certified in Fibre Optics installation and testing, he is one of four persons at Fanshawe with the Fire Alarm certification. He is the sole employee responsible for the installation, programming, maintenance and administration of the Paradox and Protégé intrusion alarm systems, the Bosch and Omnicast camera systems and the Ccure card access systems. Also, he does some of the actual fire alarm work as well as conducting the fire alarm drills and the training for the Emergency Response Teams. He is currently classified at payband level G as a Security Systems Specialist.

He filed his grievance on March 14, 2007 seeking to be reclassified to payband level J.

Although there were some issues with respect to the appropriate Position Description Form (PDF) and of the fact that the proper PDF was not given to the Union until the Step 1 grievance meeting, this did not present any obstacle during the course of the hearing as the parties agreed that the differences between the two were not significant.

One of the factors in dispute, 1B (Education), was resolved prior to the hearing. The remaining factors to be resolved are as follows: 2 (Experience); (Guiding/Advising Others); 6 (Independence of Action); 7 (Service Delivery); 8 (Communication). These are set out in detail below:

2. Experience: Management Rating is Level 4, 54 points
Union Rating is Level 5, 59 points

The dispute between the parties is whether there is a requirement for 3 years or 5 years of experience, in addition to the necessary education level, to perform the responsibilities of the position. The Job Evaluation Manual (JEM) states that this factor "refers only to the time needed to gain the necessary skill". It does not equate with the total experience of the incumbent. In this case, there is no question that the incumbent has a very broad and useful experience which, no doubt, enhances his ability to perform his duties. It was also amply demonstrated to me that the incumbent performs his duties very well and that a new employee with a less broad experience might not perform the full range of duties quite so well. Unquestionably, more experience is usually preferable. But this factor seeks to identify what is the minimum experience needed in prior positions. In the absence of any convincing evidence that 5 years of experience was essential, I must agree with management's determination for this factor. However, I would point out that the Union indicated to me that the College had raised the Experience requirement for Electricians from 3 years to 5 years as is being requested by the grievor. While I am not in a position to make a ruling on this matter, I am somewhat perplexed by this decision.

The rating for Experience remains unchanged at Level 4, 54 points.

5. Guiding/Advising Others:

Management Rating is Level 1, 5 points for Regular/Recurring and Level 2, 3 points for Occasional

Union Rating is Level 2, 17 points for Regular/recurring and Level 3, 3 points for Occasional

The College is of the view that the incumbent has only a minimal requirement to guide/advise others and that this does not go much beyond explaining procedures to peers, employees or students and by way of assisting contractors in understanding various schematics at the College. The incumbent does not supervise anyone. The Union, on the other hand, believes that the incumbent does far more than simply explain procedures. For example, it is alleged that the incumbent is frequently required to advise contractors on where to place equipment and, in some cases, about the precise equipment to install. The Union also advanced the argument that the Electricians had recently been upgraded to Level 2, 17 points (Regular /Recurring) and Level 3, 3 points (Occasional) for this factor.

On the basis of the evidence heard, I am convinced that the incumbent's duties require more than providing "details or examples to help others better understand the information". It seems obvious to me that the incumbent has a direct involvement in the effectiveness of the final product being installed. He is the individual who meets with and advises and works closely with the contractors who install the equipment. The grievor offered a multitude of examples whereby the appropriate end result would not have been achieved without his direct involvement.

The argument was advanced that the Electricians had been recently upgraded for this factor to the level being sought by the grievor. Given the nature of the work of Electrician and the PDF for this position, I feel obligated to note that I have some difficulty appreciating that the College has seen fit to upgrade the Electricians in this regard but not the grievor. However, I am not in a position to make any recommendation based on this observation.

I prefer the Union's rating for Guiding/Advising Others which is Level 2, 17 points (Regular/Recurring) and Level 3, 3 points (Occasional).

6. Independence of Action:

Management Rating is Level 2, 46 points

Union Rating is Level 4, 110 points

It is agreed that the incumbent generally receives his instructions through work orders or direct assignments from his supervisor. Major projects are overseen by a Project Coordinator. According to management, the incumbent selects neither the type of

security system to be installed nor its location; such matters are usually pre-determined by the use of the room, the needs of the end users, the project coordinator or the supervisor. The incumbent is free to choose the type of device, wiring layout and the various verification tests to be performed post-installation.

The Union contends that the PDF clearly states that the "incumbent generally organizes and undertakes assignments independently, within the College's health and safety policies and Ontario code requirements". The Union contends further that JEM states for Level 4 that "the only parameters or constraints that are in place to guide the position's decision-making are 'industry practices' for the occupation and/or departmental policies. It was further argued that the incumbent was left to make most decisions since no other employee totally knew or could perform the job.

The parties are far apart on their rating for this factor. I am not surprised as it is the one causing me the most difficulty. There is no question that the grievor is in a unique position. He has an impressive background in several related areas and he is obviously a very capable, trusted, reliable and conscientious employee. But, we are rating the position and not the incumbent. It is true that there are "industry practices" to guide him in his work. But they are not the only constraints. He does operate through work orders which can, at times, be very specific about precisely what must be undertaken. He does consult with his supervisor on a variety of issues as well as with contractors as required. He does not choose where to install a security system or the type of system to be installed. Undoubtedly, because of his knowledge, he is frequently consulted on such matters but such issues are usually predetermined before the work commences. Management, in its submission, has stated that the incumbent "does have the freedom to choose the type of device, layout of wiring (run out through the ceiling to a closet in the hall etc.) and tests to be performed to check operation."

The Notes to Raters in the JEM for Level 3 reads as follows: *specific results or objectives that must be accomplished are pre-determined by others. The position has the ability to select the process(es) to achieve the end result, usually with the assistance of general guidelines. The position has the autonomy to make decisions within these parameters.* It seems to me that Level 3 is the best fit to reflect the duties of this position. I believe that Level 4 as requested by the grievor is excessive. I do not agree that these industry practices as outlined in the JEM are the only constraints upon the incumbent. The reference to "industry practices" with respect to this position reflects, in my opinion, only one aspect of the nature of the work. In my view, Level 3 is consistent with both the PDF and the JEM. I do not agree that Level 2 is appropriate. In my view, it undervalues the PDF.

The rating for Independence of Action is amended to Level 3, 78 points.

7. Service Delivery:

Management Rating is Level 2, 29 points
Union Rating is Level 3, 51 points

The JEM states that "This factor looks at the service relationship that is an essential requirement of the position. It considers the required manner in which the position delivers service to customers..... It considers how the request for service is received..... It then looks at the degree to which the position is required to design and fulfill the service requirement".

A reading of the PDF shows that a request for service will usually come from an end user (the facility user or customer) or from the manager/supervisor who determines the requirement and allocates the task to the incumbent, usually through a work order. The incumbent will then determine the appropriate method and materials needed to do the work. The incumbent may also have to draw up schematics, plan for the installation and carry out the work. According to the College, the incumbent is not required to overly interact with or question the end user since repair/maintenance work is normally done on the basis of need to resolve the problem or maintain operations. The incumbent provides the service by "selecting the best method of delivering the predetermined required service".

The Union, on the other hand, contends that the incumbent must communicate with the customer to get a clear understanding of the customer's needs and "tailor" the work to be done to the customer's and system requirements.

The Notes to Raters in the JEM for Level 2 states as follows: *service is provided by determining which option would best suit the needs of the customer. The incumbent must know all the options available and be able to explain them to the customer. The incumbent selects or recommends the best option based on the customer's need. There is no, or limited, ability for the incumbent to change the options.* The note for Level 3 states that it refers to the need to "tailor service". *This means that in order for the position to provide the right type of service, he/she must ask questions to develop an understanding of the customer's situation ...to customize the way the service is delivered or substantially modify what is delivered so that it suits the customer's particular circumstances.* The concept of "tailoring" as outlined in the JEM, in my view, goes well beyond what is required of the incumbent whose duties seem to fit well within the parameters of the Notes to Raters for Level 2. In my opinion, this is a "best fit" situation.

The rating for Service Delivery remains unchanged at Level 2, 29 points.

8. Communication:

Management Rating is Level 2, 46 points for Regular/Recurring and Level 3, 9 points for Occasional
 Union Rating if Level 3, 78 points for Regular /Recurring and Level 4, 9 points for Occasional

The JEM states that *this factor measures the communications skills required by the position, both verbal and written and includes*

- *communication to provide advice, guidance, information or training*
- *interaction to manage necessary transactions*

- *interpersonal skills to obtain and maintain commitment and influence the actions of others*

Written communication includes letters, reports, proposals or other documents.

Based on the contents of the PDF and of the evidence provided at the hearing, it seems clear that the bulk of the incumbent's communication requirements consists of dealings with peers, supervisors and/or contractors. The Union agreed with this during the hearing. It is difficult to dispute the fact that when dealing with supervisors and contractors, there is a definite expectation of a commonality of language and technical competence, even though in some rare cases, this may not be so. It was also stated that at times it was necessary for the incumbent to explain or train students and various College personnel in the use of certain alarm and/or card access systems. Understandably, this is not the communication of highly technical information. There is no real need for most users to understand the technical aspects and details of an alarm system or how to gain access through a door using a swipe card or key fob.

As set out in the JEM, **Notes to Raters**, "Explain" and "interpretation" in 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" whereas level 2 "refers to the fact that it is information or data which needs to be explained or clarified". It is clear to me that Level 2 is the appropriate one for this position.

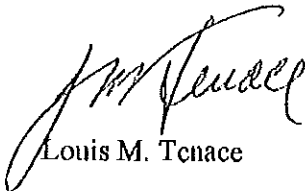
Concerning the "Occasional" rating for this position, I am satisfied Level 3 captures the essence of the communication requirements for this position which is the explaining and interpreting of information to secure understanding and, at times, it may involve communicating technical information and advice.

The rating for Communication remains unchanged at Level 2, 46 points (Regular/Recurring) and Level 3, 9 points (Occasional).

Summary:

The ratings for Factor 5 (Guiding/Advising Others) are amended to Level 2, 17 points (Regular/Recurring) and Level 3, 3 points (Occasional);
The rating for Factor 6 (Independence of Action) is amended to Level 3, 78 points).
The Total Points are thus increased from 501 to 545 which situates the position within payband II (520-579).

Signed in Ottawa, this 29th day of December 2009



Louis M. Tenace

Arbitration Data Sheet - Support Staff Classification

College: PAUSHAW Incumbent: CHARLES TITUS Supervisor: WAYNE BIPOLA
 Current Payband: G Payband Requested by Grievor: J

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	4	48			4	48			4	48		
1B. Education	4	30			4	30			4	30		
2. Experience	4	54			5	69			4	54		
3. Analysis and Problem Solving	3	78			3	78			3	78		
4. Planning/Coordinating	2	32			2	32			2	32		
5. Guiding/Advising Others	1	5	2	3	2	17	3	3	2	17	3	3
6. Independence of Action	2	46			4	110			3	78		
7. Service Delivery	2	29			3	51			2	29		
8. Communication	2	46	3	9	3	78	4	9	2	46	3	9
9. Physical Effort	2	26	3	6	2	26	3	6	2	26	3	6
10. Audio/Visual Effort	2A	20			2A	20			2A	20		
11. Working Environment	3	69			3	69			3	69		
Subtotals	(a) 483		(b) 18		(a) 628		(b) 18		(a)		(b)	
Total Points (a) + (b)	501				646				545			
Resulting Payband	G				J				H			

Signatures:

Charles Titus
(Grievor)

Dec 2/09
(Date)

James Dominic Daulton
(College Representative) (Date)

Mark Kar
(Union Representative)

Dec 21/09
(Date)

John Russell
(Arbitrator's Signature)

21 Dec 09
(Date of Hearing)

29 Dec 09
(Date of Award)