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January 26, 2010

Mr. Cameron Walker
Grievance Department
Ontario Public Service Employees Union
100 Lesmill Road
Toronto, Ontario
M3B 3P8

Dear Mr. Walker:

Re: Georgian College and Ontario Public Service Employees Union
Classification Grievances of J. Brown, J. Peacock, A. ter Stege, M.
Westbrooke #734902

Please find enclosed a hard copy of my award in this matter. Another copy has been forwarded to your office as an email attachment.

Also enclosed is my account. Would you kindly bring it to the attention of the appropriate union official.

Yours truly,



Ian Springate

Cc: Mr. T. Podziemski ✓

IN THE MATTER OF AN ARBITRATION
BETWEEN:

GEORGIAN COLLEGE
("the College")
and

ONTARIO PUBLIC SERVICE EMPLOYEES UNION
("the Union")

AND IN THE MATTER OF CLASSIFICATION GRIEVANCES OF JILLIAN
PEACOCK, JOHN BROWN, ANNETTE TER STEGE AND MIKE
WESTBROOKE (#734902)

ARBITRATOR: Ian Springate

APPEARANCES:

For the College: Lori Bell, Spokesperson
Cathy Brown, Director, Human Resource
Services
Grant Strasser, Manager, Business Systems
Joyce Goheen, Human Resource Consultant

For the Union: Tony Podziemski, Spokesperson
Dagmar Sepper, Chief Steward
John Brown, Grievor
Jillian Peacock, Grievor
Annette ter Stege, Grievor
Mike Westbrooke, Grievor

HEARING: In Barrie on December 8, 2009

AWARD

INTRODUCTION

The four grievors are classified as Programmer Analysts in the College's Information Technology Division. By way of grievances dated June 1, 2007 they contended that they were improperly classified.

In October 2008, well after the grievances were filed, the College prepared a new position description form ("PDF") for the grievors' positions. At the hearing the Union indicated that it was prepared to accept the wording of this PDF except for an entry relating to educational requirements.

The PDF contains a position summary which states that the grievors are responsible for determining solutions to the information needs of users. It notes that this includes analyzing information problems, determining options and developing altering or procuring manual and computer processes. It also states that the grievors offer guidance to managers on data issues, develop and maintain the corporate database and mining techniques, offer on-going training to users and work with external agencies to transfer data and ideas.

The College classified the grievors' positions at payband J under the applicable job evaluation system. In their grievances the grievors contended that they should be classified at payband K. In August 2007, following a step one grievance meeting, the College raised its rating for the factor of physical effort. In November 2008, as a result of a review of the education and experience factors for all College information technology positions, the College changed its rating for the 1B aspect of the education factor. This involved a decrease from level 2 to level 1. The Union did not challenge the College's ability to make such a reduction but at the hearing noted the inconsistency in the College's position.

The dispute between the parties about the appropriate payband now centers on the different manner in which they rate the 1B aspect of the education factor as well as how they rate the factor of service delivery.

The College's current ratings for all eleven job factors identified in the job evaluation system result in a total of 682 points for the grievors' positions. The ratings proposed by the Union for the two factors in dispute would raise this to 722 points, within the 700 to 759 point range required for payband K.

THE FACTOR OF EDUCATION

The applicable job evaluation manual notes that the factor of education has two components. The first, labeled "1A", identifies the minimum level of formal education required to perform the responsibilities of a position. The parties agreed on a level 4 rating for this component worth 48 points. This rating is appropriate when a position requires a three year diploma or degree or equivalent.

The second component, labeled factor "1B", considers whether in order to perform the responsibilities of a position an incumbent requires certain specific additional education. The job evaluation manual contains the following statement with respect to the 1B education factor:

1B In order to perform the responsibilities of the position, is there a requirement for specific course(s), certification, qualification, formal training or accreditation in addition to and not part of the educational level noted above in 1A. Include only requirements that would typically be included in the job posting/PDF as a mandatory requirement.

The manual also contains the following Notes to Raters:

1. Course(s) or certification that are part of the formal education referenced in 1A are not to be included. For example, if the PDF states a 1-year certificate in Section 1A and in 1B asks for additional computer courses, such as electronic spreadsheet, raters need to determine whether that skill or knowledge would be part of the 1-year certificate before rating.
2. Use today's educational levels and standards to determine whether the additional requirement is included in the formal education referenced in 1A or should be listed in 1B.
3. Do not include any sessions, seminars or training that are required/or conducted after an incumbent is hired. For example, familiarization sessions on internal processes, email, or computerized record systems. Also exclude any courses that are designed to bring a particular employee's skills up to required levels, courses for general personal development (e.g. interpersonal skills, leadership) or courses for general skills development, unless completion of that course would be mandatory.
4. If, after an incumbent is hired, job responsibilities change so that there is a requirement for additional education (as defined by 1B above) and that

change would subsequently be included in the job posting/PDF, then those additional educational requirements must be considered.

5 There are many professions that require an individual to renew his/her licence on a regular basis (e.g. nursing). Courses to maintain a professional designation are not considered under this factor.

As noted above, the College now assigns a level 1 rating to the 1B component. This rating is worth 3 points. Such a rating is appropriate when there are no educational requirements for a position other than those noted in IA. The Union argues in favor of a level 3 rating worth 21 points. Such a rating applies to additional educational requirements obtained through a course or courses of between 101 and 520 hours. The intervening level 2 rating is applicable when a position requires additional education obtained through course(s) with a total of 100 hours or less.

In support of its contention that the grievors' positions are entitled to a level 3 rating the Union relies on the fact that while in their current positions the grievors have taken a variety of courses. It contends that the skills obtained in this training are now required for the grievors' positions and accordingly would be included in any job posting. The Union relies on Note to Raters #4, which states that if after an incumbent is hired job responsibilities change so that there is a requirement for additional education and the change would subsequently be included in any job posting/PDF, those additional educational qualifications must be considered.

The PDF under the 1A education factor calls a three year diploma/degree or equivalent. It goes on to describe the applicable field of study as follows:

Computer science

A degree in the field of computer Science including courses in ORACLE forms, SQL, PL/SQL, Oracle webtool kit, JAVA and JAVASCRIPT or an equivalent combination of relevant education and practical experience.

In its brief the Union included a November 10, 2008 job posting for a Peoplesoft Programmer Analyst which included the following required qualifications for the position:

Postsecondary diploma/degree, or an equivalent combination of relevant education and practical experience.

Extensive experience in the field.

Experience developing test cases utilizing proven testing methodologies.

Recent working experience supporting and implementing PeopleSoft information system applications, including the HR modules. Preference for version 9.0. Minimum requirement – version 8.8.

Excellent skills in PeopleSoft/People Tools – including People Code.

Also included in the Union's filings was a November 11, 2008 posting for a Programmer Analyst position which contained the following listed qualifications:

Post-secondary diploma / degree in Computer Science including courses and or experience in PL/SQL, Oracle PDK, Oracle Web tool kit, JAVA (J2EE) / JAVASCRIPT, OAIM, WSDL.

Extensive experience in the field.

Experience in Banner (Registration, Finance) is an asset.

The Union spokesperson contended that in and prior to 2007 the College sent the grievors for training to allow them to support Banner and Oracle. He submitted that this training was not provided as part of computer courses offered at either the University of Toronto or Georgian College. For her part the College spokesperson referred to a three year program offered at Centennial College which she contended does offer the courses referred to in the PDF.

The grievors report to Mr. Grant Strasser, the Manager of Business Systems. At the hearing Mr. Strasser described the Centennial program as one that meets the College's requirements. The grievors subsequently raised the issue of whether the Centennial program had been offered in 2007 when the grievances were filed. The College spokesperson indicated that the College had looked at the program in 2008 in connection with the College's review of education and experience ratings.

At the hearing the grievors indicated that the knowledge and skills required for their positions is continually changing and they could not perform their duties without the training they had received while in their current positions. They further indicated that the College has plans for them to receive certain training in the future. They argued that this past and future training has been or will be incorporated into job postings and accordingly it is training that should be recognized in the 1B rating.

The spokesperson for the College acknowledged that the grievors have taken work shops and courses but submitted that they did so after they had been hired into their positions. She contended that Note to Raters #3 indicates that such training is not to be taken into account.

The College spokesperson pointed that when rating the factor of experience the College had assigned a level 6 rating, the highest possible. This reflects a minimum of eight years relevant experience. The College spokesperson contended that this level of experience is an effective way of building skills for the grievors' role. She also said that the College has a long history of staff learning software and systems by using them on the job. She asserted that if additional training were to be viewed as mandatory then the College would want to reduce the experience factor and re-evaluate the grievor's positions.

As noted above the grievors report to Mr. Strasser. At the hearing Mr. Strasser said that when hiring a Programmer Analyst the minimum education that he looks for is a three year diploma or degree. He said that he also looks at the complexity of the program that an individual has taken as well as the nature of their experience. He said that individuals can learn new computer languages through experience. The union subsequently asserted that learning a new language by working with it is the worst possible way to learn and that training is required to learn best practices. The Union also contended that experience is a separate factor and should not be taken into account when rating the factor of education.

The grievors work in a field that is constantly evolving and on-going training is utilized to keep them current in the field. Note to Raters #3 states that training received after an incumbent is hired is not to be taken into account. Accordingly, the College's action in providing training to the grievors after they were hired and its intention to provide them with additional training in the future does not by itself meet the requirements for anything more than a level 1 rating. Further, any training received by the grievors after they were hired that is now offered as part of college or university three year programs in computers cannot result in credit for factor 1B in light of Note to Raters #2 which states that today's educational levels and standards are to be applied.

Note to Raters #4 provides that if after an incumbent is hired job responsibilities change so that there is a requirement for additional education that would subsequently be included in a job posting / PDF those additional educational requirements must be considered. Accordingly, training received by the grievors after they were hired in consequence of a change in their job responsibilities but which is not available through three year college or university programs might justify recognition in a 1B rating. This would only be the case, however, if such training were a requirement that would be included in a PDF or job posting. The Union's contention at the hearing was that the training received by the grievors after they were hired fits within this category as will certain future training which the College has indicated the grievors will be required to obtain.

In terms of possible future training it would be inappropriate for me to speculate as to whether the College will in the future make such training a mandatory qualification for prospective employees and, if it does, whether at that time the training will be available as part of university and college programs.

With respect to the training the grievors have already received the Union indicated that computer programs offered at the University of Toronto and Georgian College in 2007 did not cover all of the training asked for in the PDF. Mr. Stasser's evidence, however, indicated that in 2008 when the College looked at the matter a Centennial College program did meet all of the College's requirements. It does not appear that either party actually conducted an extensive review of programs offered at different education institutions in Ontario. Accordingly, I do not know the general availability of the courses in question.

More importantly, the language used in the PDF and in the job postings does not mandate that a new hire have the training in question. Rather these documents make allowance for a candidate's practical on-the-job experience. The length of the minimum experience credited to the grievors' positions, namely eight years, is consistent with such an approach. In addition, no challenge was raised to Mr. Strasser's evidence that the minimum he looks for when hiring is a three year diploma or degree and that he also looks at the program followed by an individual as well as their experience. Mr. Strasser indicated that individuals are able to learn new languages through on-the-job experience. While the Union took issue with the wisdom of such an approach it did not contend that a computer language cannot be learnt through on-the-job experience. I note that the issue in this case is not what is the best or most appropriate approach for individuals to acquire requisite knowledge but rather what is the approach of the College when assessing the qualifications required for a position. The College is entitled to determine what it is willing to accept as a minimal level of acceptable performance from a new hire.

Taking all of the above considerations into account I am not satisfied that by way of the wording of the PDF or job postings, or by its actual practice, the College now makes the training that was received by the grievors after they were hired a precondition for new hires. Rather, the evidence indicates that the College is willing to accept pre-hire practical experience and, for processes not identified on the PDF or a job posting, post-hire training as well. This justifies a 1 rating for the 1B education factor. Accordingly, I confirm the level 1 rating assigned by the College.

SERVICE DELIVERY

This factor looks at the service relationship that is an assigned requirement of a position. It considers how a request for service is received and the degree to which the position is required to design and fulfil the service requirement.

The College rated this factor at level 3 worth 51 points. The Union argues for a level 4 rating, the highest rating possible, worth 73 points. The relevant level definitions as well as term definitions are as follows:

3. Tailor service based on developing a full understanding of the customer's needs.

4. Anticipate customer requirements and pro-actively deliver service.

Tailor - to modify or adapt with special attention in order to customize it to a specific requirement.

Anticipate - given advance thought, discussion or treatment to events, trends, consequences or problems; to foresee and deal with in advance.

Proactive - to act before a condition or event arises.

A Note to Raters states that the term "customers" refers to the people or groups of people who receive the services delivered by a position. Another note to raters includes the following comments designed to clarify the differences between levels:

Level 3 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. The customer's request must be understood thoroughly. Based on this understanding, the position is then able to customize the way the service is delivered or substantially modify what is delivered so that it suits the customer's particular circumstances.

Level 4 means that the position designs services for others by obtaining a full understanding of their current and future needs. This information is considered in a wider context, which is necessary in order for the position to be able to structure service(s) that meet both the current stated needs and

emerging needs. The position may envision service(s) before the customer is aware of the need.

During the hearing the grievors referred to a number of projects where they said they had independently identified potential benefits to clients and initiated projects to achieve those benefits without a client having raised a particular business requirement. The spokesperson for the College challenged certain of these examples contending that the client involved had in fact first identified a need. She did, however, acknowledge that there had been times when the grievors had anticipated potential benefits for users without the users having recognized them. She also acknowledged that in those circumstances the grievors' actions might have qualified for a level 4 rating for service delivery.

Mr. Strasser stated that about 100 projects per year have been assigned to the four grievors. He said that for five to ten of these the grievors would have worked on projects where the customer had not previously identified a business need. He said that for these projects the actual process of identifying a need would have taken five to ten percent of the project cycle. Based on these numbers the spokesperson for the College contended that the time the grievors spent in anticipating and identifying a need represented one to five percent of their work. She said that this might justify a level 4 rating but only on an occasional basis. Such an occasional rating would justify an additional six points.

Contrary to the thrust of the College's argument about how to measure the relevant time the criteria for a level 4 rating does not refer only to anticipating customer requirements. It also refers to situations where an employee would "pro-actively deliver service". This language suggests that it is not only the time involved in thinking about and anticipating customer requirements that is to be measured but also the work involved in delivering service. Based on Mr. Strasser's evidence I conclude that the type of situations in issue represent between five and ten percent of the grievors' work. Standing by itself, however, this level of activity still only justifies the level 4 rating on an occasional basis proposed by the College.

The parties disagree as to whether certain other of the grievors' functions also justify a level 4 rating.

Mr. Strasser said that after a customer raises a business need a grievor will meet with the customer to gain a full understanding of their need and then decide on the best solution to meet the need. He said that sometimes the matter is straightforward, for example the creation of an additional column on a report, while at other times it is not so clear, such as when there is a need to design an interface between two systems. He noted that the ability to design a technical solution to a client's problem falls within the

expertise of the grievors. The spokesperson for the College submitted that a client will identify a business need, a grievor will interview the user to clarify the problem and then the grievor will find a solution. She contended that being a good problem solver is not the same as anticipating business needs. She described a business need as being within the domain of the customer while the technical expertise is the domain of the Programmer Analyst.

The College in its brief contended that formal projects are proposed by business users and approved by the Department Manager. It said that the business users identify their requirements for software changes and Programmer Analysts use those requirements to build technical specifications. It argued that a grievor does not anticipate customer needs in this process. It said that he or she will problem solve while working through the business process with users, but the need is defined by the client. The brief also said that periodically on more complex projects the grievors may help the user identify the needs by demonstrating / explaining what the software capabilities are and drawing out the potential business applications with the user but in all cases the decision to apply the process rests with the client.

The Union contended that after a client has identified a need a grievor when deciding how to meet that need must take into account future requirements as well as other areas of the College. In support of this position it relied on the language in the PDF referred to below. At the hearing one of the grievors said that for projects the first thing that he does is identify current and future needs. Another of the grievors said that on a regular basis the grievors sit in on meetings with clients and offer advice, including noting flaws in clients' plans based on what will be happening in the future.

The PDF lists several examples designed to show the nature of the grievors' service delivery. The first example is described as happening on a weekly basis. It occurs when a new software project has been approved by the College and a grievor has been tasked to implement the software. The PDF describes how this is carried out, in part, as follows:

The incumbent initiates the project by gaining a full understanding of the project and the business processes impacted.

...

The incumbent organizes and leads a series of meetings to design new business processes, software interfaces, data and reporting requirements.

It is the duty of the incumbent to research alternative solutions, envision current and future requirements, consider the needs of other areas

within the college, research new technology and ascertain if and how it may aid or hinder the proposed software solution as well as provide technical expertise on design methodologies.

The second example listed in the PDF involves situations where a new script, report, form, data element or government requirement has been identified and a grievor is asked to provide their expertise. The PDF indicates that a grievor will deal with this type of situation on a daily basis. It states that an incumbent will carry out the function, in part, as follows:

The incumbent gains a full understanding of the requirements and the business processes involved.

...

The incumbent researches possible solutions and assesses their technical and functional feasibility. The incumbent initiates a dialogue with the client promoting the solution that best fits the client's needs, considering both current and possible future requirements as well as the impact on other college department and business processes.

The PDF also lists three other examples, none of which make direct reference to considering future requirements. One relates to requests to test new software and provide training to a user group, which is stated to occur on a weekly basis. Another involves a client contacting the IT department regarding a problem with software, which is stated to also occur on a weekly basis. The third example relates to infrequent requests to investigate new technology for the College, which can involve attending a conference hosted by the vendor.

It is apparent that when clients raise current needs the grievors are regularly expected to develop a full understanding of their need and to tailor services to meet the need. This meets the criteria for a level 3 rating. At issue is whether on a regular basis the grievors also go beyond this and anticipate customer requirements and proactively deliver service.

In the types of situations under consideration a grievor's involvement will be triggered by a need expressed by a client rather than the grievor having taken the initiative. As indicated above, however, the job evaluation manual defines the term "anticipate" in the level 4 definition as giving advance thought, discussion or treatment to events, trends, consequences or problems; to foresee and deal with in advance. The Note to Raters respecting a level 4 rating indicates that such a rating is appropriate

where an employee designs services for others by obtaining a full understanding of their current and future needs and considers the information in a wider context so as to be able to structure current stated needs and emerging needs. This language does not disqualify forward looking thought, discussion and treatment that follow upon a client raising an immediate business need. The Note to Raters also says that an incumbent "may" envision services before the customer is aware of the need. This language does not make this type of insight a mandatory pre-condition for a level 4 rating.

The wording of the first example set out in the PDF, which is said to occur on a weekly basis, states that a grievor will "envision current and future requirements, consider the needs of other areas in the College." The second example, which is said to occur daily, states that a grievor will promote a solution "considering both current and possible future requirements as well as the impact on other College departments and business processes". Both examples meet the language set out in the level 4 Note to Raters. Further, these examples occur on a regular basis, both weekly and daily. When to this is added those occasions when the grievors actually initiate projects I am satisfied that the grievors' actions meet the requirements for a level 4 rating on a regular and recurring basis.

Having regard to the foregoing I find a level 4 rating to be appropriate.

CONCLUSION

As noted above, the various ratings assigned by the College resulted in the grievors' positions receiving a total of 682 points. An additional 22 points related to a level 4 rating for the factor of service delivery raises the total to 704 points. This brings the grievors' positions within the 700 to 759 range for payband K. Accordingly, I find that the grievors should be compensated at the payband K rate.

I retain jurisdiction to address any issues of compensation that may arise out of this award which the parties are unable to resolve.

Dated this 26th day of January 2010.



Arbitrator

N

Arbitration Data Sheet - Support Staff Classification

College: Georgian College Incumbent: Reacock, Westbrooke, Brown, TerSteege Supervisor: Grant Strasser
 Current Payband: J Payband Requested by Grievor: K.

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	1	3			3	21			1	3		
2. Experience	6	86			6	86			6	86		
3. Analysis and Problem Solving	4	110			4	110			4	110		
4. Planning/Coordinating	3	56			3	56			3	56		
5. Guiding/Advising Others	3	29	4	3	3	29	4	3	3	29	4	3
6. Independence of Action	4	110			4	110			4	110		
7. Service Delivery	3	51			4	73			4	73		
8. Communication	3	78	4	9	3	78	4	9	3	78	4	9
9. Physical Effort	1	5	2	6	1	5	2	6	1	5	2	6
10. Audio/Visual Effort	3	50			3	50			3	50		
11. Working Environment	2	38			2	38			2	38		
Subtotals	(a) 664		(b) 18		(a) 704		(b) 18		(a) 704		(b) 18	
Total Points (a) + (b)	682				722				704			
Resulting Payband	J				K.				K			

Signatures:

(Grievor)

(Date)

[Signature]
(College Representative)

8/24/09.
(Date)

(Union Representative)

(Date)

[Signature]
(Arbitrator's Signature)

DEC 8, 09
(Date of Hearing)

JAN. 26 '10
(Date of Award)