

IN THE MATTER OF AN ARBITRATION

BETWEEN:

THE COLLEGE COMPENSATION AND APPOINTMENTS
COUNCIL (FOR COLLEGES OF APPLIED ARTS AND
TECHNOLOGY)

-AND-

ONTARIO PUBLIC SERVICE EMPLOYEES' UNION (FOR
SUPPORT STAFF EMPLOYEES)

EXPEDITED ARBITRATION FOR JOB EVALUATION
ST. CLAIR COLLEGE, WINDSOR
CARETAKER POSITION

Appearances:

Sue McClelland, Florry Lang, Conrad McCulligh, Bev Chortos,
Barry June and Ron Langill for OPSEU

Barry Brown, Patti France and Rick Duguay for St. Clair College

Hearing held January 16, 2008 at Windsor, Ontario
Decision released January 20, 2008 at Georgetown, Ontario

AWARD

1. I was appointed by the parties pursuant to Article 18.4.3.1 of their collective agreement, to hear and determine on an expedited basis, a dispute concerning the job evaluation of St. Clair College Caretakers. The grievances were brought by Conrad McCulligh and Bev Chortos. Barry June, a Caretaker who brought a separate grievance, attended at the arbitration hearing as an observer.

2. In an informal process, I asked questions and heard the views of the grievors, as well as Manager, Richard Duguay. Information and submissions were also provided by the parties' spokespersons, Florry Lang for the Ontario Public Service Employees' Union (OPSEU) and Barry Brown for St. Clair College.

3. Article 18.4.3.2 of the collective agreement requires that the arbitrator issue a brief written notice of decision within 14 days of the hearing.

4. The parties disagree about the rating that should be given on 5 subfactors. I will set out the subfactor in italics, give a brief summary of the parties' positions, the information they rely on, then my decision and the reasons for it.

1B Education

5. This subfactor reads as follows;

*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 prior to commencement that would typically be included in the job posting.*

The Notes to Raters states, *Do not include any sessions, seminars or training that is required after an incumbent is hired....*

6. The employer asserts that this position has no additional requirements and should be rated at Level 1. The union argued that Caretakers are expected to operate small power equipment, be knowledgeable on Emergency Spill Response, the use of power lifts and the transportation of dangerous goods. OPSEU acknowledged that the employer does not specifically require proof of qualifications or certification in any of these areas before hire. OPSEU is concerned that people may be trained in these skills on the job, but never get any recognition in the job evaluation for having acquired these skills.

7. I am constrained to interpret and apply the job evaluation system the parties have created and agreed upon. Since none of the knowledge areas the union points to must be acquired prior to the start of the job, they do not meet the definition of courses to be considered in subfactor 1B.

8. There is a disagreement between the parties about whether all Caretakers are required to have a valid Driver's Licence. I heard that one Caretaker (neither of the grievors) is required to drive a College vehicle daily, delivering mail. Other Caretakers drive College vehicles less frequently, picking up hardware and equipment, or moving furniture, for example. Mr. Duguay said that he does not know whether all of the Caretakers hold a Driver's Licence.

9. The requirement to hold a Driver's Licence is not found in job postings for Caretaker, but at least two postings I reviewed read "Preference will be given to candidates who possess a valid "G" class driver's license". Not all Caretakers are required to drive College vehicles as a regular and recurring aspect of the job. Assuming, without deciding, that an Ontario Driver's Licence is a "specific course" or certification, I am not satisfied that holding a valid licence is a requirement of the job. The appropriate level for this job is Level 1, 3 points.

Experience

10. This subfactor reads as follows;

This factor measures the typical years of experience, in addition to the necessary education level, required to perform the responsibilities of the position. Experience refers to the time required to understand how to apply the knowledge described under "Education" to the duties of the position. It refers to the minimum time required in prior positions to learn the techniques, methods and practices necessary to perform this job. This experience may be less than the experience possessed by the incumbent as it refers only to the time needed to gain the necessary skills.

The employer proposes Level 1 "less than one year". OPSEU argues Level 2 "Minimum 1 year".

11. It is agreed that the job postings for this position, prior to 2007, indicated a requirement for a "minimum of one year of practical work experience in a related environment, preferably in an institutional environment". The College submitted that it has reduced the experience requirement for three reasons; the availability of a full-time supervisor during the afternoon shift, when the majority of Caretakers work, meaning less need for experienced caretakers. In addition, the employer has purchased dispensers for many of the commonly used cleaning products, meaning Caretakers are not regularly required to read and properly measure product concentrates. Finally, the creation of detailed "routines" for each caretaking area, with specified tasks and allotted time periods, means a less experienced caretaker can successfully perform the role.

12. Mr. Duguay said that the College seeks employees with some caretaking experience in an institutional setting but many years of experience are not necessary, because the College wants to train people to its standards and procedures.

13. OPSEU disputed that the changes outlined by the employer justify the reduction in the experience required. Although the “routines” are set out in more detail, the tasks of the Caretaker have not changed and they cannot be performed adequately without the minimum one year of experience previously demanded.

14. This is a difficult matter to determine. The College expects its new hires to be familiar with the range of caretaking tasks, including cleaning, housekeeping, grounds maintenance, furniture moving, room set up and special event operations, and it would prefer that the experience was gained in a setting like its own. It would certainly take more than a few months to gain that experience, closer to one year than to a couple of months. For many years, the College required a minimum of one year’s experience. I am not satisfied that enough has changed in how the tasks are performed on a day to day basis to warrant a reduction in the minimum one year experience requirement.

15. I find that Level 2, 24 points is appropriate for this job. I direct that the Position Description Questionnaire be amended accordingly.

Planning/Coordinating

16. This subfactor reads as follows;

*This factor measures the planning and/or coordinating requirements of the position. This refers to the **organization and/or project management skills** required to bring together and integrate activities and resources needed to complete tasks or organize events. There may be need to perform tasks with overlapping deadlines (multi-tasking) to achieve the decided results.*

The College proposes Level 1, which is defined as, *Planning and coordinating are not normally required. Work is planned by others or determined by procedures. Deadlines are standardized.* OPSEU proposes Level 2, *Plan/coordinate activities and resources to complete own work and achieve overlapping deadlines.*

17. The dispute between the parties is one of interpretation rather than a disagreement about how the work is performed. As the College pointed out, the job evaluation system has only four levels for this subfactor, which must capture, value and distinguish among a wide breadth of different jobs in the bargaining unit. The College argued that the definitions in this subfactor aim to capture project management elements in work, which are not a feature of the Caretakers’ job.

18. OPSEU submitted that Caretakers are regularly required to depart from their “routines”, to set up function rooms and perform other higher priority tasks, while also having to manage their time and determine which of the tasks in their “routine” can appropriately be deferred to the next day. OPSEU pointed out that in fulfilling work orders to set up a room for a function, Caretakers sometimes get detailed layouts, sometimes get no layout, and sometimes get layouts that do not fit the room. This requires the Caretaker to plan the work, search for the resources, such an appropriate

tables and chairs, all while not forgetting to return to their “routine” and modify it as required.

19. I conclude that the Caretakers do not have project management or coordination functions as an aspect of their job. They are not required to bring together disparate elements and resources to create a project or an outcome. Instead they are assigned a set of tasks, their “routine”, which is regularly interrupted by other tasks, such as room set ups. How to perform all of those tasks is determined by standardized procedures, with some role for supervisors in setting out, at the start of the shift, how all of the tasks will be organized and accomplished.

20. I conclude that Level 1, 8 points is appropriate for this job.

Guiding/Advising Others

21. This subfactor reads as follows;

*This factor refers to any **assigned responsibility** to guide or advise others (i.e. other employees, students) in the area of the position’s expertise. This is over and above communicating with others in that the position’s actions directly help others in the performance of their work or skill development.*

The College suggests Level 1, *Minimal requirement to guide/advise others. May need to explain procedures to their employees or students.* OPSEU proposed Level 2, *Guide others so they can complete specific tasks.*

22. The difference between the parties is one of degree. Mr. Duguay explained that new Caretakers and temporary caretakers receive most of their orientation and training on the job from supervisors. He also said that the College makes extensive use of “shadowing” to teach skills to new Caretakers. For example, a new Caretaker may be asked to shadow an experienced Caretaker to disinfect a washroom, or to set up a room for an event. Mr. Duguay confirmed that Caretakers regularly support and learn from one another, but the supervisor is available throughout the shift by radio to answer questions and new Caretakers would expect regular monitoring by the supervisor. The College pointed out that on the afternoon shift, there is one supervisor for 7 Caretakers.

23. OPSEU submitted that more training is carried out by experienced Caretakers than by supervisors, particularly on the shifts where the supervisor, although an experienced manager, does not have caretaking experience.

24. It is difficult to determine which version of events is more likely to occur. Much depends, no doubt, on the skills of the new Caretaker, the availability and skills of the supervisor and the willingness and interest of experienced Caretakers to assist new employees. It is quite possible that each new and temporary Caretaker has had a different training experience.

25. It is common ground that guiding and assisting new Caretakers is not an “assigned responsibility”. Adherence to the definitions in the job evaluation plan is important for consistency and in this instance the definition is helpful. This subfactor focuses on jobs where guiding and assisting others is an assigned task. It is not an assigned task for Caretakers. But even Level 1 anticipates that there can be some role to guide/advise others even where it is not assigned. In my view, that definition acknowledges and captures the role Caretakers play with new and temporary colleagues. I conclude that Level 1, 5 points is appropriate.

Independence of Action

26. This subfactor reads as follows;

This subfactor measures the level of independence or autonomy of the position. The following elements should be considered:

- *The types of decisions that the position makes*
- *What aspects of the tasks are decided by the position on its own or what is decided by, or in consultation with, someone else, such as the supervisor*
- *The rules, procedures, past practice and guidelines that are available to provide guidance and direction*

These considerations, when taken as a whole, will define the parameters and constraints of the position within which the incumbent is free to act.

27. The College proposes Level 1, *Position duties follow specific procedures. Decisions are typically made by selecting between defined options.* OPSEU argues that Level 2 is more appropriate. It reads, *Position duties are completed according to established procedures. Decisions are made following specific guidelines. Changes are made to work routine(s).* The word “procedure” is defined as, *a sequence of steps to perform a task of activity.* “Guideline” is defined as, *a statement of policy or principle by which to determine a course of action.*

28. The grievors and OPSEU gave some examples of the decisions Caretakers make without consulting a supervisor. It may be that tables have been placed in front of a fire extinguisher by students, and the Caretaker will move them, knowing that a hazard has been created. If Caretakers come across wet spills or vomit, they will stop and clean it up, knowing that task is a priority above other routine tasks. OPSEU emphasized that because Caretakers are experienced in hazard prevention, and understand the need to maintain a safe and healthy environment for students and staff, they are required to assess situations as they find them, evaluate the priority over other tasks they have been assigned, and then make a decision about what to do. That process, OPSEU asserts, demonstrates independence of action.

29. The College does not dispute that Caretakers must make decisions to organize their work and to recognize a new priority, like a wet spill, when they find it. Every job

requires incumbents to make decisions. But, the College asserts, the decision-making for Caretakers is not complex and falls within well-defined procedures.

30. In my opinion, a review of the duties and responsibilities of Caretakers reveals that the decisions they make without supervisor consultation are generally fairly basic, although important, as they prioritize among a range of cleaning, housekeeping, grounds maintenance, furniture moving, room set up and special event operations. The “routines” and the procedures of the department provide considerable guidance and a supervisor would be involved in any decision that required a Caretaker to move outside that orbit of these tasks and how to prioritize them. I conclude that the Independence of Action they use fits best within Level 1, for 14 points.

Summary

31. The total points proposed by the College, which is a mix of agreed upon and disputed scores, is 213 points. The union proposed 312 points. The result I arrived at generates a point total of 226 which places the Caretaker in pay band C.

Dated at Georgetown, Ontario, this 20th day of January, 2008.

Mary Ellen Cummings