

Policy Grievance

This is a Policy Grievance hereby filed by the Public Service Alliance of Canada pursuant to Section 220 of the *Public Service Labour Relations Act*.

Details of the Grievance:

1) The bargaining agent grieves that the document distributed to members of the bargaining unit on April 10, 2014 "Confirmation of the Conditions of Employment to Carry, Use and Maintain Canada Border Services Agency (CBSA) Issued Defensive Equipment" ("the Confirmation") is on its face, unreasonable, arbitrary and discriminates against employees contrary to Article 19 of the Border Services (FB) collective agreement. This includes but is not limited to the following aspects:

a) The Confirmation states:

This is to confirm that you occupy a position that has a condition of employment that requires you to carry, use and maintain CBSA-issued defensive equipment, in accordance with the CBSA's policies and directives.

If you have not previously participated in the Use of Force Training Program, which includes control and defensive tactics training and/or duty firearm training and their respective pre-requisites, or if your certification for one of their components has expired or will soon expire, scheduling arrangements will be made by your manager.

Failure to meet and maintain any of the conditions of employment for your position may result in the termination of your employment.

Employees with certified medical conditions or human rights needs were given the Confirmation which will lead to discriminatory treatment for employees requiring accommodation.

b) The supporting documents provided to employees state that employees unable to carry, use and maintain CBSA-issued defensive equipment because of a certified medical condition or human rights need will be placed on leave for up to two-years and registered in CBSA Internal Placement Process for referral to vacant equivalent position that do not require the condition to carry, use and maintain CBSA-issued defensive equipment, as well as lower level positions at the CBSA. The employer's limited characterization of their duty to accommodate is arbitrary, and on its face will lead to discriminatory treatment of employees requiring accommodation.

2) The PSAC further grieves that the documentation given to employees is misleading and in violation of the Collective Agreement including but not limited to the following:

- a) The documents violate the collective agreement's APPENDIX F and the employer's obligation therein to make every reasonable effort to find them a placement opportunity within the Public Service for employees hired prior to August 31, 2007.
- b) The documents violate the collective agreement's APPENDIX G as the employer has yet to meet with the CIU in a joint consultation committee to discuss the strategy for the selection of firearm training participants.
- c) The documents also violate the collective agreement's APPENDIX G as the employer has yet to meet with CIU to establish a joint consultation committee to discuss the strategy for the placement of employees hired prior to August 31, 2007 who are unsuccessful on the firearm training.

3) Corrective Action Requested:

- a. Declare that the Confirmation is discriminatory, arbitrary and unreasonable;
- b. Order the Confirmation be rescinded;
- c. Direct the CBSA to demonstrate that the CDT and arming programs constitute a bona fide occupational requirement of the CBSA Officer positions. ;
- d. Declare that the Treasury Board as the employer has a duty to accommodate to the point of undue hardship and that this duty extends beyond the authority of the CBSA;
- e. Order that the Treasury Board and the CBSA to comply with Article 19 of the Collective Agreement and in so doing address any and all institutional and individual impacts of its discriminatory, arbitrary and unreasonable conduct; and order the employer to comply with all the provisions of the collective agreement
- f. Such other corrective action as the PSAC may request and the Board may allow.

Robyn Benson

Robyn Benson, National President
Public Service Alliance of Canada

Date

April 29, 2014