



National Joint Council

First Aid to the General Public – Allowance for Employees

20.4.231

December 15, 2010

Background

The employee grieved the department's refusal to pay the First Aid Allowance of \$300 per year as per the NJC First Aid Allowance Directive.

Bargaining Agent Presentation

The Bargaining Agent representative indicated that the grievor meets all four requirements under section 5.1 of the Directive and therefore qualifies for the first aid allowance.

The Bargaining Agent representative indicated that the requirement to provide first aid is not specified in the grievor's current work description or in the key activities set out in that work description. The risks to officers and the general public were more clearly demonstrated in the previous work description.

The Bargaining Agent representative indicated that the grievor's regular duties are those set out in the work description and pertain to the grievor's legal responsibilities to protect Canadians by preventing the entry into Canada of persons and goods which could jeopardize the safety of Canadians. These types of duties clearly call for first aid to be provided in the context of protection activities or critical incident situations. As such, the grievor is required to provide first aid in addition to regular duties.

The Bargaining Agent representative maintained that the department requires all officers trained in arming and use of force to have a first aid certificate. All new recruits must also obtain a first aid certificate before they will even be considered for a position as an officer. The fact that the employer requires all officers trained in arming and use of force to have a first aid certificate is indicative that the officers are required to provide first aid, not only to co-workers but also to the general public. The risk of incident inherent to the position is the reason why officers must be certified.

The Bargaining Agent representative referred to the following policies in support of its position that the grievor is "formally required by the department to be available on a regular basis to provide, in addition to their regular duties, first aid to the general public:"

- Section 98 of the Department's "[translation] policy and procedures on the custody and control of detainees" (Chapter 2, Part 6 of the Department's enforcement manual), which requires that officers who are certified provide first aid to detainees if necessary. The representative suggested that a detainee is a member of the general public;
- Section 4.1 of the Department's "[translation] manual on stress management resulting from a critical incident", which states that the first step after a critical incident is to administer first aid;
- Paragraph 54 of the Department's "[translation] arming and use of force policy" which states that officers will take immediate and appropriate steps in order to obtain medical

attention for persons injured resulting from use of force. Officer will not refuse medical care to anyone who makes a request, unless they cannot do so safely; and

- Appendix A of the Department's "[translation] policy on arming initiative" lists a mouth-to-mouth reanimation kit and a mouth protector and latex gloves as optional equipment for the duty belt.

The Bargaining Agent representative also referred to Part 1 Chapter 1 section 2 of the *Québec Charter of Human Rights and Freedoms* which states that "every human being whose life is in peril has a right to assistance and that every person must come to the aid of anyone whose life is in peril, either personally or calling for aid, by giving him the necessary and immediate physical assistance, unless it involves danger to himself or a third person, or he has another valid reason".

The Bargaining Agent representative indicated that an employee does not volunteer to provide first aid; he/she is under an obligation to do so, under the *Charter*, the Department's manual on stress management resulting from a critical incident, and the Department's policy and procedures on the custody and control of detainees.

Departmental Presentation

The Departmental representative does not dispute that the grievor meets three of the four requirements under section 5.1 of the Directive but disagrees that the grievor is "formally required by the department to be available on a regular basis to provide, in addition to their regular duties, first aid to the general public."

The Departmental representative indicated that in the absence of a definition of the phrase "general public", it is relevant to refer to the Rioux 2009 PSLRB 57 decision in which the adjudicator states that "in accordance with Le Nouveau Petit Robert, the phrase "general public" describes "[translation] [...] basically, a major part of the public [...]" [translation].

It's a phrase that describes the population in general." When asked by a Committee member whether the department considered a "detainee" to be a member of the general public, the Departmental representative indicated that yes, a "detainee" for the purposes of section 98 of the Department's policy and procedures on the custody and control of detainees, is a member of the general public.

The Departmental representative indicated that the grievor was never formally required to provide first aid to the general public. In fact, no disciplinary measures would be imposed if the grievor refused to provide first aid to a member of the general public.

The Departmental representative indicated that the work description for officers is silent with respect to the requirement to provide first aid to the general public. Furthermore, the bargaining agent was informed on both September 19 and December 4, 2007, in the context of a policy health and safety committee meeting, that employees were not formally required by departments to be available on a regular basis to provide, in addition to their regular duties, first aid to the general public.

The Departmental representative challenged the significance of the departmental policies quoted by the Bargaining Agent representative.

- With respect to the Department's "[translation] policy on training prerequisites", the departmental representative indicated that this policy only states that employees must possess a valid first aid certificate. There are no provisions in the policy requiring employees to provide first aid to the general public. The general public does not participate in the arming training. Employees are required to obtain a valid first aid certification so they are able to provide first aid to their co-workers if necessary in the course of the training.
- With respect to the Department's "[translation] manual on stress management resulting from a critical incident", the departmental representative indicated that these directives

and procedures specify that as a first step, management must immediately be informed of critical incidents following first aid treatment or medical care or any intervention. In no way does this require employees to provide first aid to the general public.

- With respect to the Department's "[translation] use of force policy", the departmental representative indicated that paragraph 54 does not compel employees to provide first aid. The intent of paragraph 54 is to ensure that BSOs are able to assist, to the extent possible, an injured person. That assistance can manifest itself in a number of ways; the officer can make contact with emergency services, can stay with the injured person until emergency services arrive, can, at his discretion provide first aid, etc.

Executive Committee Decision

The Executive Committee considered and agreed with the report of the Occupational Health and Safety Committee which concluded that the employee had not been treated within the intent of the First Aid to the General Public – Allowance for Employees Directive. The Committee agreed that the employee met all four (4) eligibility criteria under section 5.1 of the Directive to qualify for the \$300 annual allowance. As such, the grievance is upheld.