

IN THE MATTER OF AN ARBITRATION

between

Fanshawe College

and

Ontario Public Service Employees Union (Local 109)

Classification Grievance of Peter White

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Before: Louis M. Tenace

For the Union: André Savoie, Chief Steward  
Ron Kelly, Chief Steward, Classification  
Peter White, Grievor

For the College: Jay Henry, Human Resources Consultant  
Dave Smith, Manager  
Julie McQuire, Observer/Advisor

Heard at London, Ontario, May 4, 2010

## AWARD

The grievor, Peter White, is a Retail Service Customer Service/Sales Representative at the Fanshawe College bookstore. He was first employed at Fanshawe on January 4, 1988 and has been working at the bookstore since approximately 2000.

His regular responsibilities include dealing with students and the public to assist them with information and requirements of course learning aids and books. This also requires him to deal with online orders, receiving payment and arranging for shipping to various destinations. He responds to both counter and telephone inquiries. In addition, he assists in the administration of the meal card system by registering meal card sales on a computerized system and provides meal plan information to various user groups. He also manages accounts for students under Workers' Compensation and the Awards and Scholarships programs. Given that the nature of the work is that of a bookstore, he must pack and unpack books as well as other merchandise, and move and display them as required.

According to the College, the position is classified at Payband B; the Union disputes this and alleges that it is classified at Payband C. The grievor is seeking a Payband D level.

The Union has also suggested that this grievance should be dealt with by an arbitration board rather than the expedited process. The College is opposed. At the hearing, the Union did not advance any significant argument for referring the grievance to a board and I concluded that there was no rational reason for doing so.

The other preliminary matter to be resolved was whether the grievor was classified at the Payband B or C level at the time of the grievance. The basis for the Union's argument was that a Seniority List was published on December 12, 2009 which showed the grievor classified at the Payband C level. Further evidence showed that the grievor had for a long period of time been classified at the Payband B level and that the Seniority List in question was simply in error. Nothing had actually changed in the grievor's classification. Clearly, the grievor's classification was at the Payband B level and a data entry error on a seniority list does not change that classification. Had the seniority list in question shown the grievor at something lower than Payband B, there would have been an immediate request from the Union to correct it, once discovered. The grievor's current classification was and remains at the Payband B level.

I turn now to the Factors in dispute.

**Guiding/Advising Others:**

The College rating is Level 1, 5 Points(*Regular/Recurring*); Level 2, 3 points (*Occasional*);

The Union rating Level 2, 17 Points (*Regular/Recurring*)

The grievor's Position Description Form (PDF) states that the incumbent has a "Minimal requirement to guide/advise others. The incumbent may be required to explain procedures to other employees or students." The example cited therein states as follows: "As a front line customer service person incumbent regularly explains store procedures to students and answers questions." The Job Evaluation Manual (JEM) states that this "refers to any assigned responsibility to guide or advise others (e.g. other employees, students, clients) 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 JEM goes on to say that "support Staff in the Colleges cannot formally 'supervise' others .....however, there may be a requirement to guide others using specific job expertise".

The College position is that there may be an occasional requirement for the incumbent to explain matters to students concerning the meal plan or textbook requirements and recognizes this by allocating 3 points (Level 2) to it. The Union alleges that the incumbent guides full-time and part-time staff in addition to assisting students with their Meal Plan requirements. This occurs at various times during the "rush" seasons when there is an increased volume of student inquiries.

It seems to me that this position involves more than simply explaining procedures to students about texts and meal plans. Moreover, when part-time staff are brought in, the incumbent's role is magnified. Certainly, the incumbent's functions meet the requirements of the JEM Level 2 in terms of "guiding" others so they can complete a specific task. While I recognize that the incumbent does not supervise anyone, it is clear that without the guidance and training provided by the incumbent, the part-time staff brought in at various times of the year would be hard pressed to fulfill their roles. On a lesser scale, it also applies to the incumbent's dealings with students.

**I believe that the rating for this factor should be Level 2, 17 Points (Regular and Recurring).**

**Independence of Action:**

The College rating is Level 1, 14 Points (*Regular and Recurring*); Level 2, 9 Points, (*Occasional*);

The Union rating is Level 2, 46 Points (*Regular and Recurring*).

The PDF for the position states as a Regular and Recurring function, that the "Day to day activities and work is performed independently following established guidelines and procedure" and that "Past practice, store procedures, manuals, catalogues and store and college policy" are in place to guide the incumbent. The type of decisions made by the

incumbent includes resolving minor complaints, providing refunds for books within stated guidelines and refunding meal plans within prescribed guidelines.

The Union believes that because the incumbent makes decisions with respect to each customer, that this means a higher degree of independence of action. The College position is that this is covered by existing guidelines, past practice and procedures as well as College policy and that while there is limited scope for some independence of action, it is constrained. In recognition of this limited scope, the College has accorded the position an Occasional rating of Level 2, 9 Points.

The JEM outlines the various elements that are to be considered in evaluating this factor and that "These considerations, when taken as a whole, will define the parameters and constraints of the position (in)which the incumbent is free to act".

I agree that there is limited scope for independence of action for the incumbent of this position because of the guidelines, procedures, etc. that are in existence. The incumbent applies these guidelines. Undeniably, there are times when the incumbent may deviate but, from what I heard, these occasions are rare. In my view, the College position is a best fit for this factor.

**The College rating of Level 1, 14 Points (Regular and Recurring) and Level 2, 9 Points (Occasional) is proper.**

**Communication:**

The College rating is Level 1, 14 Points (*Regular and Recurring*); Level 2, 9 Points (*Occasional*);

The Union rating is Level 2, 46 Points

The PDF states that the main thrust of the communications aspect of this position is responding to questions from customers relating to products carried in the Bookstore and their location. In addition, the incumbent responds to questions and explains processes to students about the Meal Plan. Simply put, the incumbent provides front-line service at the Bookstore service counter. This entails answering the telephone, handling routine customer inquiries, helping customers find merchandise, unpacking and packing books, setting up and removing products/texts in the Bookstore, ordering materials and assisting in the administration of the Meal Plan system.

The College believes that the communications aspects of the position are quite straightforward and are what one normally would expect from a front-line sales counter position. The College allows for something beyond Level 1 (the exchange of routine information using courtesy and active listening) insofar as the incumbent occasionally deals with individuals involving the exchange of information that requires explanation and/or interpretation (e.g. the Meal Plan system)

The Union alleges that the incumbent communicates specific information related to the course or program of study in which the student is enrolled, i.e. information about course materials and book requirements as well as the Meal Plan in terms of where and how the money may be used. The incumbent is also responsible for book buy back which some times leads to confrontational situations with customers.

While I can agree that the incumbent communicates with clients, I do not see the communication going beyond what one would expect in a front-line service function involving the exchange of routine information. It involves answering questions and explaining processes and not providing explanations and interpretation of information or ideas. While it is true that the incumbent has certain responsibilities with respect to the Meal Plan, that is but one of the duties. It was also established that the Meal Plan source documents were all available to individuals as well as being posted in the book store. I also understood that the instances of confrontation and abuse with clients was a very infrequent occurrence. I agree with the College rating for this factor.

**The rating for this factor remains at Level 1, 14 Points (Regular and Recurring) and Level 2, 9 Points (Occasional).**

**Physical Effort:**

The College rating is Level 1, 5 Points (*Regular and Recurring*); Level 2, 6 Points (*Occasional*);

The Union rating is Level 2, 26 Points (*Regular and Recurring*)

Both parties are here referring to the fact that the incumbent must from time-to-time lift, unpack and pack boxes of books, stock shelves, move materials around the book store and other various functions involving the lifting of materials. The College believes that light lifting of books or boxes of books is the norm for this position (Level 1) with an occasional need to lift or move heavier items of a moderate nature (Level 2). The Union insists that this is a regular and recurring function and that, most of the time, the items are heavier and should more appropriately be placed at Level 2.

The PDF describes a daily requirement for *lifting* and *walking* for up to 1 hour at a time as well as a weekly requirement for *carrying* for up to 1 hour at a time. In terms of lifting, the PDF describes the lifting involved as being both light and medium. Assuming the PDF is accurate, in my view, the Physical Effort for this position goes beyond what is cited as an example in the Notes to Raters in the JEM for Level 1, i.e., "Occasionally lifting/carrying paper in order to restock a printer or photocopier as part of the normal office etiquette." Clearly, the incumbent of this position must lift boxes of books and books and other objects of various weights as a regular and recurring function.

**This factor is now rated at Level 2, 26 Points (Regular and Recurring).**

**Audio/Visual Effort:**

The College rating is Level 1, 5 Points (*Regular and Recurring*);

The Union rating is Level 3, 35 Points

The Union believes that the position requires extensive audio-visual effort of up to 2 hours at a time to supply course orders, course material review, course supply orders and meal plan updates; moreover, there are interruptions by students seeking information. In the College's view, all of the examples from the PDF are regular duties of the incumbent and they do not require any higher than usual level of concentration or focus.

I agree with the College's evaluation and I do not see any reason to deviate from its rating for this factor. The duties are such that focus can be maintained notwithstanding any interruptions that might occur.

**The rating for this factor remains at Level 1, 5 Points.**

**Working Environment:**

The College rating is Level 1, 7 Points (*Regular and Recurring*) and Level 2, 9 Points (*Occasional*);

The Union rating is Level 2, 38 Points (*Regular and Recurring*)

The Union bases its rating on two aspects: it alleges that the position involves the threat of physical abuse and harm from students and that the work area is crowded and noisy. The College's view is that the incumbent works behind a customer service counter in an open office area which is shared with other employees. It allows that the incumbent may, on occasion, encounter an agitated customer and consequently, attributed an Occasional rating at Level 2, 9 Points for this factor. I was unable to elicit any example of a physical threat made to the incumbent of the position. As for the allegation of a "crowded and noisy" work area, no convincing evidence was offered.

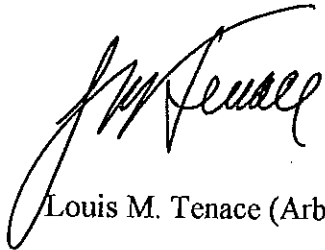
I agree with the College's evaluation and I do not see any reason to deviate from its rating for this factor.

**The rating for this factor remains at Level 1, 7 points (Regular and Recurring) and Level 2, 9 Points (Occasional).**

**In summary, I have accepted the Union's rating of Level 2, 17 Points for Guiding/Advising Others as well as the Union's position of Level 2, 26 Points for Physical Effort. This results in a new total of 231 points which, based on the Pay Determination Schedule, places the grievor at Payband C (220-279 points).**

The Completed Arbitration Data Sheet is attached.

Signed in Ottawa, this 10<sup>th</sup> day of May, 2010

A handwritten signature in black ink, appearing to read "Louis M. Tenace". The signature is fluid and cursive, with a large initial "L" and "M".

Louis M. Tenace (Arbitrator)

Arbitration Data Sheet - Support Staff Classification

College: **FANSHAWE** Incumbent: **PETER WHITE** Supervisor: **AL NEAL**  
 Current Payband: **B** Payband Requested by Grievor: **D**

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	1	9			1	9			1	9		
1B. Education	1	3			1	3			1	3		
2. Experience	2	24			2	24			2	24		
3. Analysis and Problem Solving	2	46			2	46			2	46		
4. Planning/Coordinating	2	32			2	32			2	32		
5. Guiding/Advising Others	1	5	2	3	2	17			2	17		
6. Independence of Action	1	14	2	9	2	46			1	14	2	9
7. Service Delivery	1	7			1	7			1	7		
8. Communication	1	14	2	9	2	46			1	14	2	9
9. Physical Effort	1	5	2	6	2	26			2	26		
10. Audio/Visual Effort	1	5			2	35			1	5		
11. Working Environment	1	7	2	9	2	38			1	7	2	9
Subtotals	(a)	171	(b)	36	(a)	329	(b)		(a)	204	(b)	27
Total Points (a) + (b)		207				329				231		
Resulting Payband		B				D				C		

Signatures: *Peter C. White* *Ally* *May 4/10*  
 (Grievor) (Date) (College Representative) (Date)

*[Signature]* *May 4/10*  
 (Union Representative) (Date)

*[Signature]* *4 May 10* *10 May 10*  
 (Arbitrator's Signature) (Date of Hearing) (Date of Award)