

IN THE MATTER OF AN ARBITRATION

BETWEEN:

ONTARIO PUBLIC SERVICE EMPLOYEES UNION, LOCAL 418  
(hereinafter called the Union)

- and -

ST. LAWRENCE COLLEGE  
(hereinafter called the College)

- and -

CLASSIFICATION GRIEVANCE OF MS. YVONNE FLEMING  
(hereinafter called the Grievor)

SOLE ARBITRATOR  
Professor Ian A. Hunter

APPEARANCES:

FOR THE UNION: Mr. Ric Bresee, President, Local 418

FOR THE COLLEGE: Mr. Jim Gibson, Manager Labour Relations, Health & Safety

AN ARBITRATION HEARING WAS HELD AT ST. LAWRENCE COLLEGE  
ON JANUARY 13, 2010

## DECISION

### (1) Introduction

The grievance of Ms. Yvonne Fleming alleges improper classification. Ms. Fleming is currently classified as a Library Technician, Payband 'F', at the St. Lawrence College, Kingston campus. Ms. Fleming works thirty-five (35) hours per week and reports to Ms. Wanda Williams, Director of Student Services. There is an agreed P.D.F. for the position (Exhibit 2). The P.D.F. was revised in 2008 and signed off by the parties on October 8, 2008. The content of the P.D.F. is not in dispute.

The parties supplied me with written briefs as required in advance of arbitration. An arbitration hearing was held in Kingston, Ontario on January 13, 2010.

### (2) An Overview of the Position

The Library Technician provides library assistance to all library patrons (faculty, staff, students, and the general public).

The College has three (3) libraries; in Kingston, Brockville and Cornwall. There is a Chief Librarian who has overall responsibility for the three (3) branches. There are five (5) Library Technicians as follows: one (1) at Brockville (Payband 'E') and one (1) at Cornwall (Payband 'E'). The other three (3) Library Technicians at the Kingston campus: two (2) at Payband 'E' (although both, in fact, are currently "grandfathered" at Payband 'G'), and the Grievor, Ms. Fleming, at Payband 'F'. The Grievor's higher classification

(Payband 'F' vs. Payband 'E'), the College brief informs me, is in recognition of her additional responsibilities for providing assistance to less experienced staff, and because she is recognized as the College expert on the library database (SIRSI).

The Library Technician position requires a two (2) year College Diploma or equivalent; the Grievor's position requires a minimum of three (3) years Experience (versus two (2) years for the other Library Technicians).

The Duties and Responsibilities of the position break down as follows:

- |     |  |     |
|-----|--|-----|
| (1) | Patron support and circulation routines  | 45% |
| (2) | Acquisition, processing and maintenance of the library's general and special collections | 20% |
| (3) | Administrative operations and support  | 25% |
| (4) | Orientation and training, including group tours for new users, etc.                      | 5%  |
| (5) | Other duties as assigned   | 5%  |

Both the Grievor and her Supervisor, Ms. Williams, confirmed the rough accuracy of these time estimates.

The Grievor acts as a lead and resource person for all project planning purposes within the library. She reviews projects to ensure that there is sufficient staff and hours available to complete the projects. The Grievor may choose to assign staff to a project, or she may initiate changes to the workflow within the project to ensure completion. At the request of the Librarian, the Grievor will investigate operational issues, analyse options for change and make recommendations, for example, on special collections, display of materials, or circulation desk configuration.

The Grievor provides direction and advice to library staff (including part-time staff, and students). She regularly assists with their skill development and demonstrates the current procedure for the execution of day-to-day activities. She provides direction to all library employees (including the other Library Technicians) on activities relating to SIRSI (the main library database).

The Grievor has assigned responsibilities for fines and collections; she is the only Library Technician with such responsibilities.

### (3) Job Factors Agreed

The parties are agreed on the following job factor ratings:

<u>Job Factor</u>	<u>Level</u>	<u>Points</u>
1A. Education	3	35
1B. Education	1	3
2. Experience	4	54
5. Guiding/Advising Others	4	41

7. Service Delivery	2	29
---------------------	---	----

(4) Job Factors in Dispute

The parties dispute the following job factors:

3. Analysis and Problem Solving

This factor measures the level of complexity involved in analysing situations, information, or problems of varying levels of difficulty; and in developing options, solutions or other actions.

The College has rated this factor Regular - Level 2: "Situations and problems are easily identifiable. Analysis or problem solving is straightforward. Solutions may require modification of existing alternatives or past practices." The College has also rated this factor Occasional, Level 3: "Situations and problems are identifiable, but may require further inquiry in order to define them precisely. Solutions require the analysis and collection of information, some of which may be obtained from areas or resources which are not normally used by the position."

The Union has rated this factor Regular, Level 3 (*supra*) and Occasional, Level 4: "Situations and problems are not readily identifiable and often require further investigation and research. Solutions require the interpretation and analysis of a range of information according to established techniques and/or principles."

I note, first, that the P.D.F. (Page 7-8) gives three (3) examples of problem solving required: (1) assisting patrons to find appropriate resources; (2) retrieving delinquent materials and fines from patrons; and (3) dealing with materials received from publishers in poor condition.

Each of these situations or problems is readily identifiable and the solutions are relatively simple and straightforward. Level 2 is appropriate for these regular, recurring situations.

The P.D.F. also gives three (3) examples of occasional problems: (1) full text links on EBSCO (an online journal database) do not display during patron research; (2) patron wishes to use alternative research services; and (3) patron complaint/conflict resolution.

The College submits that these occasional problem solving requirements fall comfortably within Level 3. I agree.

The Union brief provided additional, and different regular (multiple daily patron requests; weekly standard reports derived from SIRSI), and occasional (assisting patrons required to access information in an unfamiliar resource; dispute resolution) examples of problem solving. From the evidence of the Grievor, I am satisfied that these examples are more than adequately addressed by a rating of Regular, Level 2, Occasional Level 3.

The Grievor testified that the most complex, recurrent problems she encounters involve either (a) reference questions, or (b) database issues. She gave as an

example of the former a student who came into the library with her mother to look up comparative demographic studies relating to the health care system. The Grievor noticed them at a terminal looking puzzled; after about ten (10) minutes she approached them, ascertained the topic, and suggested other sites they might search for additional information. Later, when the student had obtained more information, she assisted the student in putting that information “into a nursing context”.

The Grievor gave this illustration of a database issue; a student searching the journal database, EBSCO, from home, cannot get access and phones the College library. The Grievor would first try to determine if the problem was the student's computer or the library's problem. If the problem was that library access had been frozen (e.g. because of an unpaid fee) she would rectify that. If she could not rectify the library's computer problem, she would call I.T. for assistance.

On structure, the Grievor testified that her days are structured (she spends two (2) hours per day on the Reference Desk) and with daily and weekly recurrent tasks and reports, but she cannot predict on any given day what will come up.

From the evidence of the Grievor, which was unchallenged by the College, I find that the situations and problems encountered are readily identifiable; and problem solving is relatively straightforward. Occasionally (and particularly in the collection of overdue fines and return of materials) the analysis and problem solving required in the position reaches Level 3.

Analysis and Problem Solving	- Regular	- Level 2	- 46 Points
	- Occasional	- Level 3	- 9 Points

#### 4. Planning/Coordinating

This factor measures the planning and/or coordinating required in the position.

The College has rated this factor Level 3: “Plan/coordinate activities, information or material to enable completion of tasks and events, which affect the work schedule of other employees.”

The Union rates this factor Level 4: “Plan/coordinate and integrate activities and resources for multi-faceted events, projects or activities involving other employees. This typically involves modifying these individuals’ priorities for activities/projects to meet objectives.”

The Manual (page 16) indicates that Level 4 planning and coordination would typically involve “... multiple inputs and complex tasks, frequently requiring the coordination of activities or resources of a number of departments, such as a major campus renovation or major technology upgrade.” There was no evidence before me, either from the Grievor or the College, of this kind of planning/coordination; nor would one expect that kind of planning/coordination requirement in a Library Technician position.

What the incumbent does do is to plan and coordinate a variety of tasks; and she determines how a number of routine assignments are to be carried out. She deals

with frequent requests for material and information. She plans and coordinates staffing levels at the Reference Desk and on occasional larger projects (e.g. the Annual Inventory).

The Grievor is the lead technical employee within the library for ongoing maintenance and administration of the library database (SIRSI). As such, she fields questions from students and staff about SIRSI, and the College has recognized that additional responsibility in her Payband level.

There was no evidence before me that the Grievor plans or coordinates College-wide or multi-faceted events (conferences, seminars, etc.), nor was there any evidence that her work requires modification of other employees' priorities or schedules to meet her objectives. In other words, I heard no evidence that would support a rating at Level 4.

Planning/Coordinating

- Level 3

- 56 Points

#### 6. Independence of Action

This factor measures the level of independence or autonomy in the position.

The College has rated this factor at Level 2: "Position duties are completed according to established procedures. Decisions are made following specific guidelines. Changes may be made to work routine(s)." Occasional, Level 3: "Position duties are completed according to general processes. Decisions are made following general guidelines to determine how tasks should be completed."

The Union rates this factor at Level 4: "Position duties are completed according to specific goals or objectives. Decisions are made using industry practices and/or departmental policies."

The Manual (page 20) directs raters to consider the following elements:

- types of decisions that position makes;
- what types of tasks are decided by incumbent alone; versus what decided in consultation with others (e.g. Supervisor);
- rules, procedures, and past practices available to provide guidance and direction.

Many of the functions performed by the incumbent (e.g. enforcement of library fines; providing direction to users; purchasing within library guidelines) are routine, and are performed within established policies and guidelines. Level 2 best fits these functions.

But there are other assigned duties and responsibilities that exceed Level 2. For example, the incumbent's responsibility for maintaining the library database (SIRSI). Here the incumbent may have dealings with I.T. personnel, exploring technological options to keep the system operating as it should. The College accepts that this is a specific, assigned function; the College brief referred to the Grievor as "... the tri-campus expert with respect to the library database".

It was the Grievor's evidence, unchallenged by her Supervisor, Wanda Williams, that she acts autonomously in her day to day duties. Without consultation with her

Supervisor, she is empowered to (a) staff the library desks; (b) institute projects that will require allocation of part-time staff; (c) accept or refuse donated materials (on the evidence, a daily issue) and (d) enforce, alter or forgive library fines which will have a dramatic impact on a student's future.

This level of autonomy is not adequately addressed by a Level 2 rating, with an Occasional, Level 3 (the College's position). It is not adequate because the autonomous functions are not "occasional", they are daily, they are regular and recurring. The Union proposes Level 4 but, on the evidence, the position does not meet the Level 4 criteria.

From the uncontradicted evidence of the Grievor, I find that Independence of Action should be evaluated at Level 3.

Independence of Action                      - Level 3                      - 78 Points

## 8. Communication

This factor measures verbal and written skills required by the position.

The College has rated this factor Level 2: "Communication involves the exchange of information that requires explanation and/or interpretation."; Occasional, Level 3.

The Union has rated this factor Level 3: "Communication involves explaining and/or interpreting information to secure understanding. May involve communicating technical information and advice."

I note, first, that the College brief accepts the fact that the incumbent (a) must communicate technical information; and (b) must ensure that this is understood by a non-technical audience. The brief states: "On occasion the incumbent is required to explain policy or technical information in such a way as to ensure it is fully understood by the audience ...". This admitted fact alone suggests to me a Level 3 rating.

But I was left in no doubt about this after hearing Ms. Fleming's uncontradicted evidence. Her communication breaks down roughly as follows: with students - 80%; with faculty/staff - 15%; with community users - 5% . Almost all such communication is verbal. With respect to Reference Desk communication she is invariably "interpreting information to secure understanding". Sometimes this includes "technical information and advice".

The Grievor is also engaged in communication with students over material that is overdue and the consequent fines. Mr. Bresee, who ably presented the Union case, suggested that this amounted to "negotiation". Since the Grievor has the authority to reduce, or even cancel, the fine, this submission has some basis. While I do not consider that this is a regular and recurrent aspect of the Grievor's duties - as "negotiation" is defined in the Manual (page 25) - I do accept that the College has undervalued the Communication requirement, and that it fits solidly in Level 3.

Communication

- Level 3

- 78 Points

## 9. Physical Effort

This factor measures the degree and frequency of physical effort required in the position.

The College has rated this factor Level 1: light physical effort; Occasional, Level 3 (i.e. heavy).

The Union has rated this factor Level 2: moderate physical effort; Occasional, Level 3.

The P.D.F. (page 20) indicates that lifting and carrying is a daily requirement, one (1) hour at a time. The Union brief made it clear that the Union's proposed rating is based on the requirement to lift and carry books.

Ms. Fleming testified that she is carrying books, loading book trolleys, and generally heavy lifting "every working day". Whether it is books left behind by students, or loading the trolleys so that books can be re-shelved at night, the position involves "moderate" lifting all day, and occasionally (e.g. during summer inventory) "heavy" lifting.

Ms. Williams testified and did not dispute any of the Grievor's assertions.

The evidence, therefore, supports the Union's proposed evaluation.

Physical Effort	- Regular	- Level 2	- 26 Points
	- Occasional	- Level 3	- 6 Points

## 10. Audio/Visual Effort

This factor measures audio/visual effort required in the position, by considering (a) the degree of attention or focus required; and (b) disruptions to concentration, multi-tasking requirements, etc..

The College has rated this factor Level 1: “Regular & recurring short periods of concentration; or occasional long periods of concentration.”

The Union proposes a rating for this factor of Level 2: “Regular & recurring long periods of concentration; or occasional extended periods of concentration.”

The Manual clarifies (page 29) that “short” here means up to thirty (30) minutes at a time; “long” means up to two (2) hours at a time.

The P.D.F. (page 21) makes it clear that concentration may be broken by (a) the demands of other core duties; (b) problem solving required by other staff; or (c) multi-tasking. The parties are agreed that the incumbent’s focus is interrupted, and the issue between them is the degree to which the focus is interrupted. Given that is the dispute, it is important that I keep in mind Notes to Raters # 5 and #6 (Manual, page 28):

5. In determining what constitutes an interruption or disruption, you must first decide whether the “disruption” (eg. customer requests) is an integral or primary responsibility of the position (e.g. customer service, registration/counter staff, help desk, information desk). Then consider whether these activities are the primary or secondary aspect of the job. For example, if an individual has no other assigned tasks or duties while tending to customer requests, then those requests can not be seen as disruptions.
6. Consider the impact of the disruption on the work being done. For example, can the incumbent in the position pick up where he/she left off or has the interruption caused a disruption in the thinking process and considerable time is spent backtracking to determine and pick up where he/she left off.

From the evidence of the Grievor, and these Notes to Raters, I have concluded that the College’s rating is correct.

Audio/Visual Effort

- Level 1

- 20 Points

### 11. Working Environment

This factor examines the extent to which there are hazardous or undesirable elements in the workplace.

In this case there are none.

However, this factor also considers the extent to which the incumbent must deal with difficult or potentially dangerous persons.

The College has rated this factor Regular, Level 1; Occasional, Level 3. The Union proposes a rating of Regular, Level 2; Occasional, Level 3.

The P.D.F. summarizes the “verbal abuse” issue as follows:

- (1) Dealing with abusive people; verbal abuse is received from aggressive patrons who are derogatory or threatening in speech - Frequency Weekly.
- (2) Dealing with abusive people who pose a threat of physical harm - Infrequently.

Since both parties agree on an Occasional rating of Level 3, the issue between them narrows to the frequency with which the Grievor is exposed to abuse. The Grievor frequently works on the circulation desk where she has face to face contact with library patrons, some of whom are disgruntled. She has also primary responsibility for the collection of overdue library materials and fines.

Ms. Fleming testified that it is the collection of overdue materials and fines which regularly exposes her to abusive patrons. She testified that “on a slow day” she might have five (5) reports of overdue material; on a busy day in excess of twenty (20).

Patrons with overdue material are first notified electronically, then by two (2) warning letters. The final warning letter includes an assessment of “charged replacement cost” (usually ninety dollars (\$90)) plus the accumulated fines. Within a few days of receiving that letter, the patron is asked to meet with the Grievor. The Grievor estimated that in such meetings she receives some form of verbal abuse (or threatening body language, or shouting, or books slammed down) in approximately forty percent (40%) or fifty percent (50%) of cases.

From the evidence, I support the Union's evaluation of this factor:

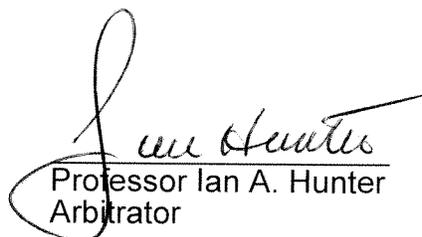
Working Environment	- Regular	- Level 2	- 38 Points
	- Occasional	- Level 3	- 9 Points

(5) Decision

The grievance of Ms. Yvonne Fleming is allowed. The Grievor's position is to be reclassified at 528 points, Payband 'H'. I remain seized to deal with any issue which may arise in the implementation of this Decision.

I have appended a completed Arbitration Data Sheet.

Dated at the City of St. Thomas this ~~14~~ day of FEBRUARY, 2010.

  
Professor Ian A. Hunter  
Arbitrator

## ARBITRATION DATA SHEET - Support Staff Classification

College: St. Lawrence      Incumbent: Yvonne Fleming      Supervisor: Wanda Williams

Current Payband: E      Payband Requested by Grievor: H

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 Level	Points	Occasional Level	Points	Regular/ Recurring Level	Points	Occasional Level	Points	Regular/ Recurring Level	Points	Occasional Level	Points
1A. Education	3	35			3	35			3	35		
1B. Education	1	3			1	3			1	3		
2. Experience	4	54			4	54			4	54		
3. Analysis and Problem Solving	2	46	3	9	3	78	4	9	2	46	3	9
4. Planning/ Coordinating	3	56			4	80			3	56		
5. Guiding/ Advising Others	4	41			4	41			4	41		
6. Independence of Action	2	46	3	9	4	110			3	78		
7. Service Delivery	2	29	3	6	2	29			2	29		
8. Communication	2	46	3	9	3	78			3	78		
9. Physical Effort	1	5	3	6	2	26	3	6	2	26	3	6
10. Audio/Visual Effort	1	20			2	35			1	20		
11. Working Environment	1	7	3	9	2	38	3	9	2	38	3	9
Subtotals	(a)	388	(b)	48	(a)	607	(b)	24	(a)	504	(b)	24
Total Points (a) + (b)		436				631				528		
Resulting Payband		F				I				H		