

IN THE MATTER OF AN EXPEDITED CLASSIFICATION ARBITRATION

B E T W E E N:

ONTARIO PUBLIC SERVICE EMPLOYEES UNION
(FOR SUPPORT STAFF)
(hereinafter called the "Union")

- and -

COLLEGE COMPENSATION and APPOINTMENTS COUNCIL
(FOR COLLEGES OF APPLIED ARTS and TECHNOLOGY)
In the form of MOHAWK COLLEGE
(hereinafter called the "College")

- and -

GRIEVANCE of LIBRARY TECHNICIAN INFORMATION SERVICES
OPSEU File No. 2009-0241-0005
(hereinafter the "Grievors", "Technicians" or "LTs")

ARBITRATOR:

Richard H. McLaren, C.Arb.

REPRESENTING THE COLLEGE:

Dan Michaluk - Counsel
Fred Deys - Director, Workforce Planning
Jo-Anne Westerby – Dean Teaching,
Learning & Quality & College Librarian
Hillary Moir - HR Labour Relations Assisstant

REPRESENTING THE UNION:

Trent Jarvis – Co-op Consultant &
Spokesperson
Christine Chiasson, Library Technician
Andriana Drakos, Library Technician
Deb Morissette, Local 241 President

A HEARING in RELATION to this MATTER WAS HELD at HAMILTON, ONTARIO
on 2 DECEMBER, 2010

AWARD

The Library Technician Information Services (hereafter the “Technicians”), also known as the “Chiasson Group” is comprised of six (6) grievors who are currently at Level F of the new Classification System and are seeking a placement at Level H, with retroactive compensation to March 2007. Over the course of the last four (4) years, the Grievors and the College have been unable to reach an agreement on the Position Description Form (PDF). Further, the Grievors dispute the wording in the PDF currently used by the College stating that it does not adequately reflect the position and “the assigned job is improperly evaluated.” The College undertook a process to review and approve new job descriptions. An extended period of time passed and the College failed to act on the review and approval process. Following the lengthy delay and the implementation of the new classification system, several library technicians left their positions and new hires accepted positions on the understanding that their wages would be adjusted accordingly if the grievance was successful.

Background

The Technicians spend most of their work-time staffing the high-volume public service desks at the College’s two library locations. Four of the Technicians work at the Fennel Campus library, while the other two work at the Applied Health Sciences library within McMaster University. The services provided by the Technicians at the work desk involve answering walk-up inquiries, receiving calls, answering e-mails and using online “chat” applications. Their services are provided to current students, staff and faculty, and from time to time, the general public.

One LT works on the reference desk and one is roving through the library. The work schedule covers 4 hours on each task. The following day a Technician would spend 2 hours in the office working on projects; followed by 2 hours at the e-Library and then back

to the office to cover the telephone lines etc. In general, 31 hours out of 35 are spent manning the reference desk or roving the library, with the balance spent in the office on other activities. The College in the PDF indicates that 75% of an LT's time will be devoted to assisting "*Mohawk's diverse client group in searching and locating appropriate information*". The Union has assessed this aspect of the PDF at 50%. According to the College, a further 15% of a LT's time is spent on projects with 5% each on staffing in the evenings and performing other as needed duties. The Union adjusts these aspects of the PDF at 20% for projects and agrees with the 5 & 5 split. The Union would assign the remaining 20% as 10% on instructing the diverse group in the use of computers and related software and equipment and 10% on scheduling hiring and training of staff members.

Whatever the percentage, the core activity is the "front line" service responsibility of the LT and involves handling course-related assignments in accordance with a procedure for handling assignment based questions. A good deal of the time, the same assignments are given to students by faculty from term-to-term. Thus, it becomes repetitive to a degree to provide the front line service responsibilities. These similar assignments are collected and put in a repository.

Preliminary Matters

The arbitration data sheet signed off by the College and the Union in October of 2010 reveals the following four factors are in dispute: # 3. Analysis and Problem Solving; factor #4. Planning/Coordinating; #7. Service Delivery and #10. Audio/Visual Effort.

It was the submission of the College at the outset of the arbitration hearing that it is up to the Union to bring the evidence in support of their grievance. The College will not, and is not required to justify their rating in this proceeding. Rather, the Union must meet the onus placed upon it to establish its case. I agree with this submission and will apply it where it is appropriate to do so.

It was agreed by both parties' representatives that the LTs who have left the position and others who have commenced working in the Department after the implementation of the new classification system will be included in this award. Such individuals will have the benefits of this award, should any adjustment in classification be ordered as a result of these proceedings.

Factors in Dispute

Each of the factors in dispute is dealt with below under separate headings.

3. Analysis and Problem Solving: Ratings: College Level 2 / Union Level 4

This factor measures: (a) the level of complexity involved in analyzing situations, information or problems of varying levels of difficulty; and (b) developing options, solutions or other actions.

The College submits that generally speaking, the level of analysis or problem solving is straightforward. Specifically, the College states that problems are "easily identifiable" and responses are "quite structured". The College argues that there are three dimensions on which the responsibilities of the level are differentiated. They are: i) the type of problem solved; ii) the scope of information typically required to address the problem; and, iii) the scope of judgement.

The College proposes that the Level 2 rating used in determining the scope of information and the scope of judgment typically required to address problems is precisely outlined in the Support Staff Job Evaluation Manual (May 2009) (the "Manual"). The College asserts that the extension of gathering more information, possibly from unfamiliar sources, is that which distinguishes the solution obtained from the modification of existing

alternatives or past practices required for a Level 3 rating. It is the “above and beyond” concept which escalates this factor to the Level 4 determination that “situations and problems are not readily identifiable...” and “require the interpretation and analysis of a range of information” not dependent on known patterns, formulas, or decision-making models.

The Union submits that the level and points currently assigned do not comply with the definition in the Manual on the basis that Level 2 does not correctly, nor adequately, define what occurs on a daily basis. The Union suggests that the daily multitude of situations presented to the Grievors is much more than straight forward or easily identifiable. The Union further states that the points and level assigned should be at Level 4. The Union claims that the wording in the PDF is not only poor, but outdated, and does not encompass the complexity of the duties performed by the Grievors. The Union is of the opinion that examples provided in the PDF are better suited to other factors in the Manual. The Union further asserts that certain examples should be “replaced with the in-depth reference example”. The Union believes sound analysis and problem solving skills are key elements in the Grievors’ position. The Grievors must be ready to respond to any and all inquiries, each unique in its own way.

(i) Evidence

The evidence of the Grievors is that the user population being served by the LTs is an ethnically diverse one; composed of young, immature, never before away from home students of many ethnic backgrounds, and older second career students and students who have lost their jobs and are considerably older than many of the other students. Many members of the diverse user population, for differing reasons, have limited knowledge of computers and need a considerable amount of start-up assistance.

(ii) Findings

I find that this is a factor where the Union must establish that it has met the onus of being a Level 4 factor. When it has not, then the College rating ought not to be disturbed

at Level 2. The Union in its brief submits that the Level 3 is not in compliance with the definition as outlined in the Support Staff Job Evaluation Manual (October 2008) (“the Manual”).

The diverse user population poses challenges in the delivery of service but does not change the analytical work that must be done for the user. The analytical work requires regular and recurring response to queries and problems arising from course assignments and projects. The time spent with one individual may be extended by the ethnicity or other aspects of the users experience or knowledge of computer software but the analytical work does not alter for the employee. The experience of the LT informs them on how to deal with the different types of students but does change the regular nature of the inquiries. The user may slow the LT down in the time it takes to provide his or her service. This occurs for a variety of reasons, including lack of software and computer knowledge. Nevertheless, the true nature of the inquiry may be discerned by the use of the reference interview technique in which all LTs are trained.

At Level 4, the LT would be required to deal with problems that are not readily identifiable and often require further investigation and research. There is no evidence that the LT needs expert knowledge. What the LT position requires is that the LT have a full and up to date knowledge of the resources that may be available to deal with an inquiry and to use those resources in the course of their work. I was not given any examples by the Union of situations where further investigation and research was required. Rather the examples provided involved incomplete questions or poorly identified issues caused by a lack of knowledge or understanding by the patron as to what it is he or she wants. The work of the LT does not require the interpretation and analysis of a range of information. It requires the refining and narrowing of the scope of the question asked until the information the student is looking for is obtained. The LT does not have to analyze a range of information as is suggested in the Manual in order to be working at Level 4.

For all the foregoing reasons I find that the Union has not met it's onus to establish

that the work of the LT is at Level 4. Therefore, I confirm the rating of the College at Level 2.

4. Planning and Coordinating: Ratings: College Level 2R + 3O / Union Level 3R + 4O

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

The College submits that the difference between Level 2 and 3 is clear. Level 2 involves planning and coordinating to complete one’s own work, while Level 3 requires planning and coordinating the work of other employees. Level 4 planning involves “multiple inputs and complex tasks, frequently requiring the coordination of activities or resources of a number of departments. At this level, the position would have the authority to require others to modify their schedules and priorities”. The College states that the three examples of planning in the PDF include: scheduling reference appointments with students; making time to participate in professional development as well as reviewing new resources; and conducting project work. All the examples involve activities and resources to complete an individual’s own work while achieving overlapping deadlines. Simply stated, the College is of the opinion that the Grievors do not have assigned responsibility for planning each other’s activities. While the College has awarded a Level 3 occasional rating for Planning and Coordinating, it’s position in this hearing is that there are no responsibilities that warrant a Level 3 rating.

The Union submits that the LTs are involved in the planning and coordination of a variety of proceedings and are responsible for ensuring the efficient operation of Information Services. The PDF examples are amplified by the evidence at the arbitration hearing which demonstrates a greater planning and coordinating role.

(i) Evidence

The Grievors do their own scheduling of their work week. They must also look daily to all the service points and co-ordinate with the co-op and circulation students to ensure that there is adequate daily coverage given illness, holidays, and other unplanned factors such as snowy days. It was the Dean's evidence that the manager did the scheduling and the LTs were responsible for the assignments on the basis of guidelines and that the scheduling was done for a whole semester instead of every two weeks. While I do not disbelieve the Dean, I find her removed from the actual daily operation and accept that the system works more with the oversight of the manager, while the LTs do the scheduling as they have attested to.

The Grievors also note that there are frequently overlapping deadlines in the project aspects of their job. They must manage the different project work they are doing. The LT is involved in this planning and contributes towards getting the work accomplished.

Another aspect of the LT's work involves the assessment of 3 different software products and the evaluation of which one to put in use in the College computer systems. The LTs are likewise involved in the planning and coordination of various promotional events, including the College open house and some 4 or 5 other promotional activities of the College.

(ii) Findings

Using the College's PDF for an LT, the planning aspect of the job comprises 15% of the time. The Union places this percentage at 20%. Regardless of the difference in the annual percentage, it is a far less time span in the job than the analysis factor.

I find that the LTs are involved in the scheduling and planning of their work and it is on a bi-weekly basis. It does affect more than just the schedule for the LTs themselves for it can affect the manning of the circulation desk, and sometimes the work of the co-op

students (an area which is in transition and about which there was considerable disagreement as to what is currently going on with these individuals). Nevertheless, the LTs do seem to have a role to play in the process. The evidence of the Grievors' would indicate they spent more time in the engagement of the project itself than they do planning the actual project. Therefore, I find that the LTs do select methods for scheduling the work assignments. They do have to plan and coordinate both the projects they are engaged in and the schedule of others in the work place. Their own output affects the planning and coordination of the projects as well.

I find that some of the work of the LT is focused on completion of assigned activities within established deadlines or procedures which is Level 2. However, I find that the work of the LT's is more than that and does fit within the manual description at Level 3. There is planning involved in the projects and it is not merely completing assigned activities within established deadlines. There are decisions made around scheduling that do affect others.

I find that the Union has met it's onus to establish that the proper evaluation of the factor ought to be at Level 3 and not at Level 2 as the College has rated the position. In so finding, I note that the College has rated the position as occasionally at Level 3. I have found that there is more going on at Level 3 than the College has given credit. It is for this reason that I have found the factor to be at the higher level.

(i) *The Occasional Element within the Factor*

In order to be recognized, the "occasional" level must be at a higher factor level than that assigned to the "regular & recurring" level, which I have found above to be at Level 3. I have taken account of the higher level in rating the factor and do not find that there is justification for a finding that some aspects of the job are occasionally at Level 4. Therefore, I have rejected the request of the Union that the Occasional rating be at the Level 4.

7. Service Delivery: Ratings: College Level 3 / Union Level 4

This factor looks at the service relationship that is an assigned requirement of the position. It considers the required manner in which the position delivers service to customers and not the incumbent's interpersonal relationship with those customers.

The College has rated this factor at Level 3: The Manual states that Level 3 refers to the need to "tailor service". In order to provide the right type of service, the questions asked must be pertinent to develop a thorough understanding of the customer's situation and therefore by default, the Technician will customize their line of questioning to fit each particular circumstance. It is the specific questioning that determines the outcome and the path chosen by each Technician. This is precisely what the LT does. It is the Technician who identifies the problem and tailors the service necessary to solve the problem.

It is submitted by the Union, that when the incumbents respond to an inquiry via email, IM chat or Virtual reference; they are designing services and anticipating customer requirements and proactive delivery service. The Union submits that the incumbents must understand and determine the nature of the problem or request. A series of questions is asked to develop an understanding of the patron's interest or need.

(i) Evidence

The Grievors submit that it is very important to be effective to put the student at ease while they ask their questions. In the roving portion of the job, LTs must be proactive in dealing with students who may need assistance but have not asked for it, as well, they must respond to those they encounter who ask for assistance. In either case, on receiving an inquiry, they do use multiple resources including other libraries and sometimes university library resources.

There was no evidence from the College on this factor.

(ii) Findings

A significant proportion of an LT's work is at a high-volume service desk. The work is performed by tailoring their services through the reference interview process to answer the non-basic inquiry of the diverse user. That is squarely within Level 3 in the Manual. There is no evidence that the job function is at Level 4 where the LT would have to design services for the user by "obtaining a full understanding of their current and future needs." There is no evidence to justify any departure from the rating of the College. I confirm the Level at 3.

10. Audio/Visual Effort: Ratings: College Level 2FM / Union Level 3FI

This factor evaluates the amount of audio or visual effort needed to measure: (a) the degree of attention or focus required; and (b) the activities over which the position has little or no control that make focus difficult. A further consideration in determining points for this factor is whether an employee's focus is maintained or interrupted. The level definitions, as well as terms used in the definitions, read as follows:

- 1. Regular & recurring short periods of concentration; or occasional long periods of concentration.*
- 2. Regular & recurring long periods of concentration; or occasional extended periods of concentration.*

Short period - up to 30 minutes at one time.

Long period - up to 2 hours at one time including scheduled breaks.

The Union submits there are many disruptions and there is considerable background noise given that the library is a central meeting place. The LTs are constantly juggling tasks relating to reference, assistance with circulation, answering reference calls, answering reference virtual chats, explaining procedures to users and delegating and supervising tasks of the CSEP and Co-op staff.

The College submits that it is putting the Union to the strict proof that the regular and recurring period of concentration is longer than two hours. With regard to the focus factor,

the College submits that there is no justification for a focus interrupted rating because the primary responsibility of the job is to answer inquiries through communication media and to multi-task while doing so. The duties do not warrant a focus interrupted rating.

(i) Evidence

The Grievors made the point that the LT has no control over who comes to see them. They explained how the library is a meeting place and not a quiet reflective place and that makes the job more difficult.

The College called no evidence.

(ii) Finding

Level 3 requires “extended period of concentration”. Level 2 requires regular and recurring long periods of concentration with perhaps some extended periods. To provide service to a patron, there is no evidence that the work for a single patron takes 2 hours or more. In fact, for the most part even 30 to 45 minutes would generally not be required for a single patron’s problem, although it may on occasion. Accordingly, on a single inquiry there is no requirement for an extended period of concentration. If the period of concentration is considered to span the entire time on the reference desk or roving then there is equally no basis to be at Level 3.

I must also determine if the focus is interrupted. In fact, this does not occur very frequently. There may be a barrage of questions from a single user and the LT may be multi-tasking while dealing with that user, but the interruptions while dealing with a single patron’s inquiry are limited. I do not accept the Union submission that the focus is interrupted. Therefore, I rate the factor as being at Level 2 Focus Maintained.

CONCLUSION

The total points, when adjusted as rated by this award, are “regular & recurring” 446 “occasional” 9, for a total of 455. That places the Payband within Level F, the range in the Manual being between 400 – 459. See the attached rating sheet.

There is a change in the point total but it is insufficient to move the Grievors out of the Payband in which they have been rated by the College. Therefore, there is no need for a retroactive adjustment to the pay of the Grievors or those who have either left the LT position or entered into it since this matter has been under consideration.

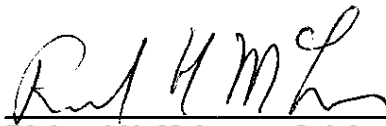
I turn now to the parties differences in the PDF language and on the allocation of time within the various tasks. The parties are requested now that they have the outcome of this arbitration award to re-examine the PDF and determine if they can settle their differences. If they are unable to do so and wish to put to me submissions by conference call for the final resolution of the differences I am available to do so within the time period in which I remain seized of the remedy in this matter. (See discussion below.)

The parties are hereby directed to take the necessary steps in order to implement this decision. If there are any disputes as to the implementation of my award, I retain jurisdiction to resolve those disputes and issue a supplementary award to complete the process of ensuring that the remedy is complete and the Grievors are made whole to the extent that may be required.

I will remain seized of this matter with jurisdiction to complete the remedy in this award for a period of 45 days from the date herein. Either party may on written request to the Arbitrator ask me to reconvene the hearing for the purposes of determining the remedy aspects of this award. If no written request is received within the stipulated time frame, I

will no longer retain jurisdiction over the implementation of the remedy arising from this Award.

DATED at LONDON, ONTARIO THIS 22nd DAY of DECEMBER, 2010.

A handwritten signature in black ink, appearing to read 'R. H. McLaren', written over a horizontal line.

**Richard H. McLaren, C.Arb.
Arbitrator**

Arbitration Data Sheet - Support Staff Classification

College: Midwest College
 Incumbent: Trish Blanton, Elizabeth Ornelas, Sarah Clark, Nancy Whitehorn, Andrena Drake, Lori Gerly
 Supervisor: Archie Johnson

Current Payband: 2 Payband Requested by Griantor: 10

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 Position Description is from: The Union The College

Position	Management				Union				Arbitrator			
	Required Positioning		Occasional		Required Positioning		Occasional		Required Positioning		Occasional	
	Level	Points	Level	Points	Level	Points	Level	Points	Level	Points	Level	Points
10. Secretary	3	85			3	88						
10. Secretary	1	5			1	8						
2. Receptionist	3	21			2	19						
3. Academic Aide/Program Advisor	2	40			4	110						
4. Planning Specialist	2	42	5	7	3	61	4	7	3	56		
5. Clerical/Support Office	3	60			3	63						
6. Independent of Union	3	44	1	7	2	49	3	8				
7. Office Manager	3	67			4	75						
8. Communication	3	70			3	76						
9. Hybrid/Other	1	6			1	6						
10. Academic Aide	2	20			3	37						
11. Working Agreement	2	36			2	31						
Subtotal	(10) 462		(1) 6		(1) 282		(1) 4		(1) 1		(1) 1	
Total Points (M) + (U)	468				283				2			
Proposed Payband	F				H							

Signatures: Archie Johnson Sarah Clark Trish Blanton Elizabeth Ornelas Nancy Whitehorn Andrena Drake Lori Gerly

Grievor: _____ Date: Oct 22/10 College Representative: _____ Date: _____

Union Representative: Archie Johnson Date: 22 Dec/10 22 Dec/10
 Arbitrator: _____ Date of Hearing: _____ Date of Award: _____

Christy
Chen