

February 15, 2018

Sean Kelly  
Department of Justice  
Labour and Employment Law Group  
L'Esplanade Laurier  
140 O'Connor Street, 12<sup>th</sup> Floor  
Ottawa, ON, K1A 0R5

Dear Mr. Kelly:

**Re: National Police Federation and Treasury Board – new statutory freeze complaint  
Our File No.: 37664-12**

I have enclosed with this letter a copy of a “statutory freeze” complaint filed on this date. The nature of the issue is set out in the Schedule to the complaint.

I have instructions to advise the RCMP and Treasury Board, on a without prejudice basis, that the NPF does not object to the specific term or condition of employment that is the subject of this complaint – namely, the requirement that candidates for a promotion complete a certain training course. The NPF has concerns about whether Corporals and Sergeants will have a full opportunity to take this course, but the NPF recognizes that the RCMP’s Learning, Training and Development Manual (“LDTM”) requires that Corporals and Sergeants be enrolled in these courses as soon as practicable after their promotion (articles 3.4 and 4.5).

The NPF’s main concern in this matter is that the RCMP has made this change to a term or condition of employment during the “freeze period” without consulting with the NPF.

Therefore, I have instructions that if Treasury Board applies under s. 56 of the *FPSLRA* for a Board order permitting this change to the terms and conditions of RCMP members, the NPF will consent to that order. Further, if the Board grants the requested order, the NPF will also discontinue this complaint.

May I please hear from you by March 9, 2018 in response to this letter

Yours truly,

  
Chris Rootham

cc: Brian Sauve

Form 16  
(Section 57)

COMPLAINT UNDER SECTION 190 OF THE ACT

Public Service Labour Relations Act

NOTICE: (1) The original and one copy of this complaint must be filed with the Board.

(2) Information relating to the proceedings is subject to the Board's Policy on Openness and Privacy. In accordance with that policy, the Board conducts its hearings in public, except in exceptional circumstances. It also provides public access to case files and posts its decisions electronically on its website. The Board's Policy on Openness and Privacy is posted on the Board's website.

1. Complainant information:

Mr.  Mrs.  Miss  Ms.

Last or family name (print in block letters): National Police Federation

First name (print in block letters):  
\_\_\_\_\_

Mailing address:

Apartment (if applicable): \_\_\_\_\_ Number and street: 105-6 Gurdwara Road  
City: Ottawa Province or Territory: Ontario Postal code: K2E 8A3

Telephone numbers (where we can reach you):

Home: (\_\_\_\_\_) \_\_\_\_\_  
Office: (\_\_\_\_\_) \_\_\_\_\_

Fax numbers (where we can reach you):

Home: (\_\_\_\_\_) \_\_\_\_\_  
Office: (\_\_\_\_\_) \_\_\_\_\_

E-mail address: bsauve@npf-fpn.ca

Name of authorized representative (if applicable): Christopher Rootham, Nelligan O'Brien Payne LLP

Mailing address (if different from above):

Apartment (if applicable): 300 Number and street: 50 O'Connor St.  
City: Ottawa Province or Territory: Ontario Postal code: K1P 6L2

Telephone number: ( 613 ) 231-8311 Fax number: ( 613 ) 788-3667

E-mail address: christopher.rootham@nelligan.ca

**2. Respondent information:**

Name: Treasury Board of Canada

Mailing address:

Apartment (if applicable): \_\_\_\_\_ Number and street: 90 Elgin Street

City: Ottawa Province or Territory: Ontario Postal code: K1A 0R5

**3. Paragraph of the *Public Service Labour Relations Act* on which the complaint is based:**

- 190(1)(a) Failure to comply with section 56 (duty to observe terms and conditions).
- 190(1)(b) Failure to comply with section 106 (duty to bargain in good faith).
- 190(1)(c) Failure to comply with section 107 (duty to observe terms and conditions).
- 190(1)(d) Failure to comply with subsection 110(3) (duty to bargain in good faith).
- 190(1)(e) Failure to comply with section 117 (duty to implement provisions of the collective agreement) or 157 (duty to implement provisions of the arbitral award).
- 190(1)(f) Failure to comply with subsection 125(1) (duty to observe terms and conditions).
- 190(1)(g) Unfair labour practice within the meaning of section 185.

**4. Concise statement of each act, omission or other matter complained of, including dates and names of persons involved:**

See attached  
\_\_\_\_\_  
\_\_\_\_\_

**5. Date on which the complainant knew of the act, omission or other matter giving rise to the complaint:**

20/11/2017  
(dd/mm/yyyy)

*Complete sections 6 and 7 only if the complaint alleges an unfair labour practice prohibited by paragraph 188(b) or (c) of the Public Service Labour Relations Act and if the employee organization has established a grievance or appeal procedure.*

**6. Date on which a grievance or appeal was presented in accordance with any procedure that has been established by the employee organization:**

\_\_\_\_\_  
(dd/mm/yyyy)

Where information on more than one person is required in a section or the space provided is not sufficient, please attach additional pages of same-sized paper.

**7. Date on which the employee organization has provided the complainant with a copy of a decision with respect to the grievance or appeal referred to in section 6:**

\_\_\_\_\_  
(dd/mm/yyyy)

**8. Steps that have been taken by or on behalf of the complainant for the resolution of the action, omission or other matter giving rise to the complaint:**  
See attached


**9. Corrective action sought under subsection 192(1) of the *Public Service Labour Relations Act*:**  
See attached

**10. Other matters relevant to the complaint:**  
See attached

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I, the undersigned, (duly authorized representative of the complainant), file this *Complaint under Section 190 of the Act*.

Date: 15/02/2018  
(dd/mm/yyyy)

  
\_\_\_\_\_  
(signature of complainant or authorized representative)

Counsel

\_\_\_\_\_  
(office held with the complainant, where applicable)

## **SCHEDULE**

### **Overview**

1. This is a complaint concerning changes to the terms and conditions of employment relating to the qualifications members of the Royal Canadian Mounted Police (“RCMP”) must possess prior to applying for and obtaining a promotion.
  
2. The National Police Federation (“NPF”) complains that the employer has altered the terms and conditions of employment that are applicable to employees in the proposed bargaining unit, contrary to s. 56 of the *Federal Public Sector Labour Relations Act* (“FPSLRA”).

### **Complainant and Status of Application for Certification**

3. The NPF is an employee organization representing “RCMP members”, as that term is defined in s. 2 of the *FPSLRA*.
  
4. On April 18, 2017 the NPF applied for certification of a bargaining unit comprised of all RCMP members. That application has not yet been decided by the Board.

### **Change in qualifications for promotions**

5. On November 20, 2017, the RCMP amended its Promotion Policy (contained within chapter 4 of broader policy document entitled the Career Management Manual or “CMM”). The amended policy requires that RCMP members complete two new courses (the Supervisor Development Program or “SDP” and the Manager Development Program or “MDP”) prior to

being eligible for promotion to the ranks of Sergeant and Staff Sergeant respectively. The amended provisions of the Promotion Policy read as follows:

10.1.10 A member who is promoted to Sgt. after 2018-03-31 must successfully complete the Management Development Program (MDP) before applying for promotion to S/Sgt.

10.1.11 A member who is promoted to Cpl. after 2019-03-31 must successfully complete the Supervisor Development Program (SDP) before applying for promotion to Sgt.

6. The policy goes on to state that this requirement may only be waived in extraordinary circumstances, for example maternity/parental leave.
7. The RCMP announced this amendment to the Promotion Policy on November 20, 2017.

### **Breach of Statutory Freeze**

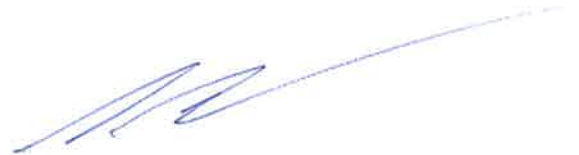
8. The requirement that RCMP members take the SDP and MDP to progress to a higher rank is a new term or condition of employment of RCMP members. That term or condition of employment did not exist prior to the NPF's application for certification – in other words, members could advance in rank without taking those courses.

9. This particular change – adding a qualification to be appointed to a higher rank – is capable of being contained in a collective agreement and, therefore, the term or condition of employment falls within the scope of the statutory freeze.
  
10. Finally, the change to this term or condition of employment has occurred during the “freeze period” set out in s. 56 of the *FPSLRA*.

**Relief Sought**

11. The NPF seeks the following relief:
  - a. A declaration that the RCMP’s decision to apply amend the Promotion Policy in the manner set out above violated s. 56 of the *FPSLRA*; and
  - b. Such further and other relief as counsel may advise and this Board deem fit to grant.

Date: February 15, 2018



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Christopher Rootham