

## **Terms of Reference**

### **Ministry of Forests, Lands and Natural Resource Operations – Classification Appeals**

#### **Joint Technical Working Committee**

#### **Process**

##### **Background and Overview of Process:**

The Classification Review Project (CRP) for the Ministry of Forests, Lands and Natural Resource Operations concluded in June 2017. In order to address classification appeals resulting from the CRP as expeditiously as possible, the employer and the union agree to handle these appeals jointly following the process as outlined in this Terms of Reference document.

A joint technical working committee (the Committee) will review and evaluate the appeal files throughout the process, with equal representation of technical experts for the employer and the union on this Committee, and total membership from each side will not exceed three.

The purpose of handling the CRP appeals through a Committee process is to expedite the appeals, while ensuring the process is thorough, transparent, administratively fair, and follows due process. The Committee will only review those appeals that are confirmed to have been completed through the CRP and have been filed with both parties on or before August 31, 2017 (or September 30, 2017 in the case of appellants in the Wildfire Branch, plus any other employees who have been assigned to assist the Wildfire Branch). The parties agree that the Committee process will be as outlined in this document, and further agree to jointly discuss and agree upon any amendments and refinements to the process as an addendum to this Terms of Reference.

Any reclassifications upward resulting from the appeal process will have a retroactive date of April 1, 2011, or the date the actual duties that resulted in a classification change were assigned, whichever is more recent.

**Note:** Technical experts are defined as employer or union staff representatives having taken the full Public Service Job Evaluation Plan training and are fully conversant in PSJEP application.

##### **Joint Committee Process:**

- (1) To facilitate the process, the employer will share in advance of each appeal any evaluation rationale, ratings and relevant available information.
- (2) The Committee will jointly discuss any anticipated issues relating to each appeal, and agrees to the following process:
  - a. Through jointly determined questions tailored to each specific appeal case, the Committee may request the appellant(s) to:
    - i. Confirm that job duties are the same as the profile/description reviewed for the CRP;
    - ii. Clarify any accountabilities/duties that are disputed and why; and

- iii. Provide work examples directed at known/probable factors in dispute that would affect the classification and/or grid level; and
    - iv. For group, or 'et al' appeals, the Committee will ask a representative working group to prepare the questionnaire and requested information, with input from other members to ensure all members not participating in the appeal meeting will have an opportunity to provide input towards the information gathering process.
  - b. The Committee will discuss other potential factors at issue that may make a difference to a position grid level and/or classification level. (e.g., organizational structure, employer redirects duties in areas of fewer resources, use of under-implementation, relevant management information provided for the CRP, etc.).
  - c. Ministry management will be provided the opportunity to review and comment on the information the Committee receives from the appellant(s) in response to the questions.
- (3) After the Committee has reviewed all material and information provided by the appellant(s) and the employer, the Committee will jointly conduct an appeal meeting with the appellant(s) or representative working group, and a management representative as necessary. Meetings will be conducted by teleconference, unless either party identifies a work-site specific classification issue in which case an on-site meeting may be scheduled.
  - (4) After the appeal meeting, the Committee will discuss the ratings and attempt to reach a decision.
  - (5) Where the Committee reaches a joint decision, the employer will provide a written summary of the decision highlighting the agreed rating and rationale to the union to review and provide final feedback/input. The finalized written decision will be signed by a union and employer representative from the Committee and will be final and binding.
  - (6) The parties agree to a one year classification appeal moratorium placed on any position (s) where the Committee has rendered a decision, unless there are significant changes to the job duties.
  - (7) In the event the union and employer do not reach an agreement on the final ratings after the joint appeal review and discussion (including complex/contentious or high impact appeals), the employer will provide a written rationale to the union.
  - (8) The union will respond, in writing, with its rationale identifying the ratings for disputed factor(s), along with a detailed explanation as to why the factor(s) are disputed, based on comparisons to relevant benchmarks/reference jobs, and the parties will attempt to resolve the appeal dispute.


- (9) After further discussion, when the Committee is unable to agree, only those factors remaining in dispute will be submitted to the referee for either an expedited or full hearing as specified below.


#### Referee Process

- (10) The employer's written decision and union response, together with supporting information provided by the appellant(s) and/or the employer, will be provided to the classification referee and a mutually agreed date will be set for both parties to present their respective ratings for the disputed factors to the referee.
- (11) The Committee will request that the referee provide a written decision with reasons based on the Public Service Job Evaluation Plan language and benchmarks/reference jobs, within mutually agreed time frames.
- (12) The referee's decision will have no precedential value unless the parties agree otherwise in advance. Those with no precedential value will not be referred to by the Parties during hearings involving other classification appeal cases.
- (13) The timelines for submitting written decisions/responses above, and any dates that must be set for meetings/discussions with the referee will be discussed and mutually agreed between the parties in writing.

#### Engaging Classification Referee Services:

The union and employer shall equally share the cost of the fees and expenses of the referee. It is agreed that, whenever possible, the parties will hold hearings at the union's offices in Burnaby, or in the employer's offices in Victoria.

  
Sandy Zorn

  
Brent Camilleri

Dated for reference: August 31, 2017