Newspaper of the Provincial Council of Social Affairs

CANADIAN UNION OF PUBLIC EMPLOYEES

VOLUME 20 N°1 / **May 2007**

The Review

Getting back a real negotiating power

IN THIS ISSUE

CPAS Conseil provincial des affaires sociales — FTQ SCFP

NEGOTIATION WITH AN EMPLOYER, ALSO A GOVERNMENT HAVING THE POWER TO LEGISLATE, IS NOT A SINECURE. WHEN THE GOVERNMENT DECREES OUR WORKING CONDITIONS IT BECOMES BY THE SAME TOKEN BOTH JUDGE AND PARTY. IT LOSES THEN ALL CLAIMS TO NEUTRALITY.

The gradual implementation of a legislative stranglehold

The history of negotiations over the last 35 years in the public sector is littered with recourse to special laws or threats to use them.

Along the way, a law on essential services has been added, which in fact, is preventing us from exercising a true balance of power. Generally, during a strike we must provide 90% of services normally offered.

Finally, in order to respect this law on essential services, the government has enacted the well known Law 160. This rip-off law provides for important fines for members, union officers and the union itself for each strike day when such services are not provided. It provides also on that occasion the lost of a year of seniority.

We can see all the arsenal put in place to limit, restrict and if need be cancel our right to free negotiation.

Gradual insensibility of the population

Face with the use of such an alternative, there has never been any negotiation without the government mentioning, at least, that the threat of a special law would be used. There was however a political price to pay for this government when it decided to impose its views. This became a kind of acknowledgement of a failure that it had to defend. There was however some effort made to really negotiate and attempt to reach an agreement.

Gradually, during the last rounds of negotiation, because we kept on hearing of special laws, the population ended up believing that it was a natural way to settle issues. The political price to pay for a government considering such recourse continued to diminish.

The icing on the cake however was during the last round of negotiation. Indeed, the government then decided to enact Law 142 imposing the initial offer from the employer. Let's remember that this offer included a salary freeze for 2 years and 9 months starting with the beginning of the collective agreement. Therefore, the government never negotiated; and yet most political commentators in the media considered a few weeks later that this was positive elements of its plateform.

Gradual deterioration of our working conditions

We cannot be surprised that, considering this context, our working conditions are deteriorating. We are not the ones saying so, but the Institut de la statistique du Québec. According to this government agency, we are lagging behind in comparison with practically all other categories of employees in Québec.

Of course, the pay equity settlement has somewhat improved the comparative position of several job titles. However, it is not sufficient, far from it, to catch up with other sectors in Quebec, if only with the private.

Get out of the current iron collar

We must evidently get out of the current iron collar that in fact is inducing us to go around in circles. We must get important amendments to the current legislative structure of our negotiations so that they can take place without the government wiggling itself out of its obligations. This is the essence of a resolution that what recently adopted at the CUPE-Québec convention.

This resolution provides also that we join all other union organizations currently active in the public sector so that together we define the parameters allowing us to reach this objective.

Mobilization is essential

But a real union is not a union structure. A real union is composed of members, of all its members, who together decide to rally to act, to make their voice heard better in order to obtain justice

TO BE CONTINUED ON PAGE 4

FIRST GLOBAL ASSESSMENT OF LOCAL NEGOTIATIONS

A huge undertaking for local negotiating committees

LOCAL NEGOTIATIONS ARE PRESENTLY ONGOING IN MOST ESTABLISHMENTS OF THE HEALTH AND SOCIAL SERVICES NETWORK. ALTHOUGH SOME ARE OVER WITH, SOME ARE JUST STARTING THE PROCESS.

You will remember that local negotiation is integrated within Law 30 enacted by the Charest government in December 2003, and that it provides mainly for two things:

- merger of unions within each healthcare institution in the province, regrouped by job category;
- decentralization of negotiation of most provisions of the collective agreement that must, from now on, be negotiated by the local parties.

Strict rules govern this local negotiation. Once the union merger step is completed, a 2-year count backwards starts. The employers and the local unions must agree on 26 issues now negotiated locally otherwise a mediator/arbitrator is designated to settle between the project of the employer or that of the union, while respecting the two following criteria: not generate any additional cost for the employer while maintaining services to the clientele.

Why did the government wish to decentralize the negotiation?

We were told officially that the employers wanted local negotiation to better meet the needs of the population in order to adapt the provisions of the collective agreement to the local and regional specificities. But, isn't the true motivation the exploitation of the workers who, isolated locally and governed by constraints of strict negotiations, find themselves in a bad position to challenge their employers? The answer lies within the question.

Union locals, supported by their union officials, had to regroup quickly to face the music. Alas, we are observing just about everywhere in the network that quite often, the employers are not well organized (when not organized at all) to start the negotiation. Indeed, many employers lack resources, particularly in small institutions, to plan the negotiation, write texts and act as spokespersons. Quite often they are unprepared and have but little time to devote to what now must be a priority. On the other hand, it is also difficult for the unions to find resources, but they are generally better prepared, they know the collective agreement better than the employers and they are more familiar with its interpretation and its application, therefore, of its shortcomings and corrections that must be made. Those who did not want local negotiation are those who can better adapt a text to the reality.

What is the risk associated with the employers' lack of resources? Let's remember that the ongoing local negotiation encompasses a continuity of negotiated issues, which means that unless there is a common will by both parties to want to reopen this negotiation, these provisions negotiated or imposed by an arbitrator will exist forever! It is therefore imperative not to make any mistake. Unions are well aware of that.

CHUQ Negotiating Committee : Denis Marcoux, Claudette Blais, Carl Dubé, Katty Paradis and Stéphane Landry. Jocelyn Tremblay, spokesperson and advisor for CUPE-Québec was absent when the picture was taken.

What is the status of local negotiations in the network?

As mentioned previously, CUPE Union locals affiliated to PCSA have not all reached the same level in their negotiation. At the time of writing, almost all those who have reached their deadline (two years after the union merger) have been able to reach an agreement with the employer without an arbitrator. Evidently, the difficulties encountered have not been the same for all, but all have been able to clear the hurdles successfully. Furthermore, the provisions negotiated are, globally, quite similar from one place to the next. We are also happy to see that no major concessions had to be made by local negotiating committees to reach an agreement. We cannot but notice that a colossal amount of work has been done by these local committees to maintain acceptable working conditions for their members. With the conditions described previously, there is no doubt once again, that the union, in spite of repeated endeavors by the government to destabilize it, is meeting this new challenge brilliantly.

Even so, a few local unions have stumbled against employers who were unprepared and/or unorganized. Consequently, the issues not settled have been sent to the mediator/arbitrator. For the time being, we are awaiting with great interest the decisions concerning these disputes. In an upcoming article, we will provide more information on these decisions.

For the time being, we are concentrating our efforts to support our local unions who are starting or continuing this significant round of negotiation for their members. Stay tuned ….

The Couillard Reform did not deliver !

EVEN THOUGH THE CHAREST GOVERNMENT DID SAY IN 2003 THAT IT WANTED TO GIVE PRIORITY TO HEALTH SERVICES, COMMUNITY GROUPS MOBILIZED UNDER THE UMBRELLA OF THE COALITION SOLIDARITÉ SANTÉ ARE DENOUNCING THE FAILURES OF MINISTER COUILLARD'S REFORM.

Various spokespersons from unions, communities and popular groups have voiced, with conclusive and positive proofs, the blunders and the discrepancies of this new reform that has created super-institutions in all the Quebec regions and this, without providing additional services to the population at the sites.

«*It is as if we gave carte blanche to the healthcare network administrators to give themselves better working conditions without increasing the number of unionized employees or doctors at the sites! So, the hiring of more administrators has deepened the decision-making structure and generated also an administrative chaos and a slow reaction typical of huge organizations. Who finally won in this merger of institutions other than the administrators themselves?* » commented Guy Jolicoeur, spokesperson for FTQ, at a press conference.

According to Jacques Fournier, resource person and chief-editor of the magazine «Interaction communautaire», the reform is a total failure and the biggest losers are social services, which lost the most to the benefit of the curative sector. «*Even though the ministry is bragging that the results of its reform have brought the health system closer to the population, at the sites, it is not at all the case. We are witnessing a reduction and a dehumanization of services to society's most vulnerable, senior citizens and handicapped.* »

«*The morale of the employees has never been so low*, resumed Mr. Jolicoeur. *The mega-structure cannot meet the daily needs of institutions anymore, and we are witnessing a make-do approach in order to maintain services to the population. The result: tired and overworked employees and junior administrators, who do not know where to turn for help in order to comply with agency directives that are also dictated by top officials of the ministry in Quebec.*

Consequently, numerous employees are leaving and their colleagues are left with heavy workloads; the managers are constantly attending meetings to redefine their mandates leaving employees without support and having to fend for themselves. Great reform indeed, when one considers the devastating impact on the services to the population! »

Classification of job titles vs pay equity

IN DECEMBER 2005, THE QUEBEC GOVERNMENT IMPOSED BY DECREE SOME PROVISIONS FOR THE EMPLOYEES WORKING IN THE PUBLIC SECTOR. IN THE HEALTH AND SOCIAL SERVICES NETWORK, THIS DECREE INCLUDED THE IMPOSITION OF SEVERAL AMENDMENTS TO THE CLASSIFICATION OF JOB TITLES.

During discussions preceding the imposition of this decree, we shared our apprehensions with the employer as to the important difficulties that could be generated by the merger of job titles before pay equity is settled.

The government decided to go ahead and the decree imposed the merger of certain job tiles creating new salary scales that would become effective on December 15, 2005 or November 21, 2006, as the case may be.

The settlement of the pay equity took place on December 21, 2006, resulting in the modification of salary scales of job titles predominantly held by women having obtained salary adjustments. These salary adjustments apply to the original job titles for the period ranging from November 21, 2001 and November 21, 2007.

The difficulties that we had raised previously resurfaced. For certain persons, the merger of the job tiles was more advantageous while for others it was pay equity. These situations occurred more specifically with office positions. A negotiation was initiated and the interunion coalition has attempted to get the most advantageous situation for each person. This is what we call «the best of both worlds». We have gained since the government had to inject 20 million in the settlement.

Evidently, the interunion coalition made of all union organizations in the health and social services sector has not reached 100% of its objectives since a number of improprieties remain to be sorted out for certain individuals for the period between April 1st to November 21, 2007. These improprieties are particularly frustrating for those who are involved and let say it bluntly, rightly so.

The only consolation however is, finally, the combination of the two elements i.e. the merger of the job titles for office employees and the settlement of pay equity will give these employees a better salary. A better salary than if only one of the two elements had applied.

What are the objectives targeted with the agreement entered into on December 21 with the treasury board?

The general rule is that any individual holding on December 15, 2005 or on November 20, 2006 as the case may be, a position with a job title entitled to pay equity is assured to receive at least the salary associated with this job title until the date of the last payment of pay equity, i.e. November 21, 2007

Particulars involving clerical/office positions

On November 21, 2006, the provisions of the decree relative to the nomenclature started to apply for clerical/office positions. All these positions have been regrouped into four categories: administrative officer, class 1, class 2, class 3 and class 4. The salary scale for the best paid job title was the one retained in each of the categories. These four new job titles include quite often more echelons than the old job titles that have been regrouped. Article 7.17 of our collective agreement specifies that when this integration takes place all pertinent experience must be recognized.

For that reason, many individuals have had access to one or some higher echelons than those of their original job title.

The combination of these two factors is such that several persons have obtained, from November 21, 2006, a better salary than the one they would have received with their old job title, even once adjusted with pay equity.

The agreement entered into on December 21, 2006 allows these employees to maintain this better salary until November 21, 2007 unless the salary of their former job title once adjusted with pay equity and with the 2% on April 1st is higher. In such a case, they will then receive the highest salary.

Finally, on November 22, 2007, all those with these job titles will be integrated in the new salary scales for administrative officers 1, 2, 3 and 4. This integration will be done then at the echelon equivalent or immediately higher of the salary the employee was receiving on November 21, 2007.

There are, however, two exceptions to this rule: the employee who, after a personnel movement accedes to one of the administrative officer job titles or the employee hired after November 20th. In these two cases, this employee integrates immediately the new salary scales for administrative officer.

These new salary scales:

- Maintain the pay equity adjusted salary of the better paid original job title included in the regrouping
- Increase the number of echelons for administrative officers classes 2, 3 and 4

Particulars for employees registered on the recall list

Article 3.1 of the agreement provides that: «*When an employee is assigned to a new job title arising from a merger, the employee is remunerated on the basis of the rate or the salary scale of the most populous job title for which he was registered on the recall or availability list on December 15, 2005 or November 20, 2006, as the case may be, until November 21, 2007*».

This provision can generate occasionally unseemly situations. Hence, as the salaried employee of the recall list is remunerated according to the most populous original job title among those that have been regrouped, his salary may be higher or lower than those doing the same work.

This is, assuredly, one of the perverse effects of the agreement. These problematic issues will come to an end on November 21, 2007.

In conclusion

As you may have noticed, it is not a perfect agreement, far from it. Perfect agreements are exceptional anyway. But it is the best one the interunion coalition was able to get on December 21, 2006. Its application has raised so many «iniquities» that we are not planning on twiddling our thumbs.

We must attempt everything to try to correct the incongruities that came up.

It is with this in mind that we have mandated the FTQ Negotiation Co-ordinator to reopen the discussions, both with the other union confederations and the Treasury Board, in an attempt to convince them to correct these major remaining incongruities during the transition period.

PAY EQUITY

This pay equity issue is quite a saga! Let's go over the outstanding events marking the development of this project for the health and social services sector.

November 21, 1996 **Law on Pay Equity enacted by the Quebec Government. Chapter IX of this law provides for an employer that has, in the past, carried out some work on salary relativities, to be exempted from the provisions of the law. This is the case for the government.**

November 21, 2001 **Date when, according to the law, salary adjustments emanating from the application of pay equity start to become due.**

June 7, 2002 **CUPE begins to contest Chapter IX of the Law on Pay Equity legally with the first groups having been wronged by this provision.**

2003 **A one-year extension of the collective agreement to work on the pay equity project even if the government is maintaining its position, that it is exempted from the provisions of the law.**

January 9, 2004 **The Quebec Superior Court ruled in our favour and annulled Chapter IX provisions of the Law on Pay Equity.**

November 3, 2006 **In a decision, the Pay Equity Commission ruled that salary adjustments in our dossier would be spread over 7 payments from November 21, 2001 to November 21, 2007.**

February 18, 2007 **Salaries for job titles entitled to a salary adjustment are raised of 6/7 of the anticipated adjustment.**

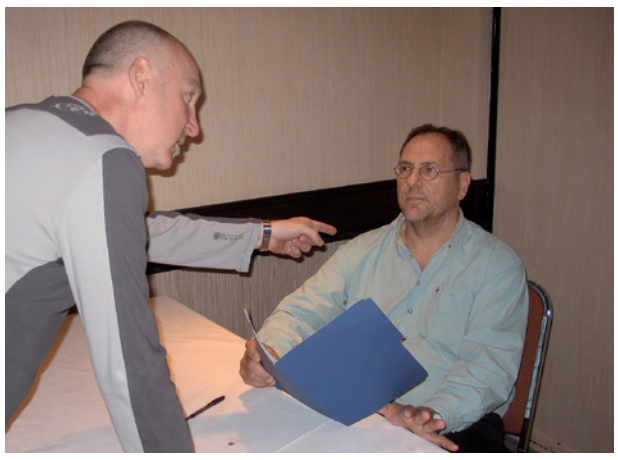
March 30, 2007 **Retroactivity is paid for the amounts due from November 21, 2001 to February 18, 2007.**

November 21, 2007 **Salary for job tiles entitled to pay equity will be raised of the last 1/7 of the adjustment that was granted.**

When employee safety is compromised…

«*ONLY 35 MINUTES LEFT BEFORE THE END OF MY SHIFT*», LUCIE SAID TO HERSELF, A SOCIAL WORKER ASSIGNED IN THE PSYCHOSOCIAL DEPARTMENT IN A MONTREAL CLSC. IT IS AT THIS VERY MOMENT THAT JOAQUIM ENTERED THE ROOM, A VERY UPSET YOUNG MAN WHO, EVEN BEFORE OPENING HIS MOUTH, PUT A HUNTING KNIFE IN FRONT OF HER.

«*I want to tell you that I want to commit suicide and that you must not try to stop me, otherwise I could hurt you*». The young man went out of her office and left the establishment. The social worker, dumbfounded, stayed put and wondered what had really happened. Three days later, she was still going over the motives for this action by this client, but she knew that she had been terrified and that if she had reacted she would probably be dead now or badly hurt. She described the incident to a colleague who suggested to her to mention it to the health and safety union representative.



After an investigation, the health and safety union representative is positive; there is a lack of safety for the employees in this Montreal area CLSC. The union executive is informed and a complaint is filed right away with the CSST; they in turn sent an inspector and interrogated those responsible, both employer and union representatives. The investigator visit the workplace and several safety elements are brought up to this attention.

Investigator's report: the employer must produce within a delay of 30 days an action plan aiming at correcting the discrepancies relative to safety in the establishment and for its employees. The employer must, among other things, implement procedures in case of aggression (what to do when clients are aggressive and threatening), train workers on risk of aggression and make the place more secure by installing panic buttons, access controls to the establishment, security guards, etc.

At the same time, an operational parity committee is set up to meet without delay the pressing demands to secure the workplace. The employer, while being forced, recognizes the urgency of the situation and must work twice as hard to meet the conclusions of the report from the CSST investigator. The complaint filed with CSST did not fall on deaf ears; it allowed things to move along and sent a clear message to the employer that unionized employees would not be left to fend for themselves when the time would come to face the aggression of a client.

In conclusion, the safety of the workers in the healthcare sector is not only a personal affair; it is also the affair of the unions and particularly of the health and safety committees that must demand preventive measures from employers who are quite often negligent.

END OF REPRESENTATION VOTES IN THE HEALTH AND SOCIAL SERVICES SECTOR

CUPE comes out on top !

IN DECEMBER 2003, THE CHAREST GOVERNMENT ENACTED UNDER A GAG ORDER TWO LAWS THAT WOULD CHANGE DRASTICALLY THE HEALTH AND SOCIAL SERVICES IN QUÉBEC. LAW 25, MERGING VARIOUS HEALTH INSTITUTIONS UNDER THE SAME ADMINISTRATIVE HAT AND LAW 30, IMPOSING A DIVISION OF UNION UNITS.

The latter provided for only four union units per administrative centre, units based on job categories. In contempt of the most elementary union rights and freedom of association, the Charest government prevented the creation of general certification units or the upkeep of small organizations, and this triggered a huge campaign of union allegiance votes that would eventually shake up all the unions within the health and social services sector.

After two years of raiding, forced victories or heartbreaking losses, CUPE put an end to this saga with a major gain in the Beauce region. Indeed, last November, CUPE won two votes, where it was in contention, at Centre de santé et de services sociaux of Beauce–a net gain of approximately 300 members, at the expense of CSN.

In the personnel category called para-technical, for trades and auxiliary services (approx. 537 employees), CUPE picked up 347 votes and CSN 142. Six ballots were rejected. Before the vote, CSN had about 200 members in this category. CUPE was victorious getting 71% of expressed votes.

In the office personnel category, technicians and administrative professionals (approx. 214 individuals), CUPE obtained 131 votes and CSN 60. Four ballots were rejected. CUPE won 66% of expressed votes.

In the two other categories of employees, FIIQ (Nurses) and APTS (professionals), both realized gains by defeating CSN.

These two victories in Beauce consolidated the strength of CUPE in the Québec-Chaudière-Appalaches region, in the health and social services sector. You will recall that in March 2005, CUPE had realized a major gain in Québec by securing the adhesion of 3,000 members at Centre hospitalier universitaire de Québec (CHUQ).

So, CUPE ends this long series of allegiance votes on a happy note. « *While the initial forecasts did predict a possibility of losses of several thousands of members for the CUPE, everyone mucked in and, across Quebec, we finished with a net gain of approximately 1,500 members, commented Serge Morin, advisor and responsible for the Quebec recruiting office. We have not only maintained our position but, globally, we have made gains. It is simply remarkable!* » he concluded.

CONTINUED FROM PAGE 1

Getting back a real negociating power !

No government will give us the gift to reform our negotiation plan that we wish for. To get it, each and everyone must become involve in this battle that we are planning to lead as widely as possible during the upcoming months.

The next negotiation in the public sector in Quebec must be a real negotiation.

The Review

Newsletter published by the
Conseil provincial des affaires sociales (CPAS).
CPAS is the amalgamation of the Unions of the Health & Social Services Sector of the Canadian Union of Public Employees (FTQ)
President: Marcel Girard
Secretary General: Claude Turcotte
Co-ordinators: Guy Jolicoeur, Stéphane Landry and Claude Turcotte from the Information committee with the contribution of the CUPE Information service
Copy Editor: Manon Pépin
Graphic Artist: Anne Brissette
Translator: Monique Mansell
Printers: Atelier Québécois Offset 1998 inc.
Printing: 12,000 copies in French 1,000 copies in English