

**CANADIAN HUMAN RIGHTS TRIBUNAL TRIBUNAL CANADIEN DES
DROITS DE LA PERSONNE**

OFFICE AND PROFESSIONAL EMPLOYEES

INTERNATIONAL UNION, LOCAL 404

Complainant

- and -

CANADIAN HUMAN RIGHTS COMMISSION

Commission

- and -

ATOMIC ENERGY OF CANADA LIMITED

Respondent

AND:

**CANADIAN OFFICE AND PROFESSIONAL
EMPLOYEES' UNION, LOCAL 404**

Complainant

- and -

CANADIAN HUMAN RIGHTS COMMISSION

Commission

- and -

ATOMIC ENERGY OF CANADA LIMITED

Respondent

RULING

MEMBER: Karen A. Jensen 2007 CHRT 35
2007/08/10

[1] The Chalk River Technicians and Technologists - 404 ("CRTT"), have requested an Order substituting CRTT-404 for the Complainant, Office and Professional Employees

International Union, Local 404 ("OPEIU") in a complaint filed against Atomic Energy of Canada Limited ("AECL"). The Respondent has consented to the motion.

[2] The complaint, alleging a violation of s. 10 of the *Act*, was lodged in May 2002, by OPEIU.

[3] OPEIU was the bargaining agent for a unit of clerical and administrative employees of AECL at its Chalk River location in 2002, when the complaint was lodged. In June of 2004, the Canadian National Committee of OPEIU exercised its right to autonomy under the OPEIU Constitution and became the Canadian Office and Professional Employees' Union, Local 404 ("COPE"). COPE instructed Local 404 to change its name and letterhead, and the employer was advised of the Local's new name. Thereafter, COPE, continued to deal with AECL on behalf of the employees in the bargaining unit, but under the name of COPE, without objection from the AECL.

[4] A second complaint, alleging a violation of s. 11 of the *Act*, was filed on November 14, 2005, by COPE. The two complaints were referred to the Tribunal and it was agreed that they would be dealt with together.

[5] In April 2006, COPE was replaced, by order of the Canada Industrial Relations Board, by CRTT as the bargaining agent for the unit.

[6] COPE authorized CRTT to settle and withdraw both complaints on its behalf.

[7] CRTT and COPE have entered into Minutes of Settlement with AECL resolving the two complaints. OPEIU was provided with the Notice of Motion to change the name of Complainant and has not responded.

[8] It is clear from the Affidavit of Suzanne Sheridan-Cole, who was the vice-president of OPEIU when the s. 10 complaint was filed, that COPE stepped into the shoes of OPEIU and assumed all of its responsibilities and obligations with respect to representing the interests of the members of the bargaining unit. Thereafter, CRTT stepped into the shoes of COPE and assumed the latter's legal obligations when it became certified as the new bargaining agent.

[9] Section 36 of the *Canada Labour Code* provides that a successor union assumes the responsibilities of the predecessor union as bargaining agent for the purposes of the collective agreement.

[10] The Tribunal has granted amendments to complaints in order to clarify the legalities of the situation and where no prejudice will result to the respondent (*Gaucher v. Canada (Armed Forces)* 2005 CHRT 1). The Tribunal has also granted motions to substitute a party where it was satisfied that although the party had changed in status, it continued to exist as an amalgamated company and had assumed all of the legal rights and responsibilities of the previous party (*Bozek v. MCL Ryder Transport Ltd.* 2002 CanLII 45937 (C.H.R.T.)).

[11] In the present case, the Tribunal finds that substituting the name of CRTT for OPEIU in the s. 10 complaint is appropriate for the following reasons:

COPE, CRTT and AECL all consent to the motion;

As it was entitled to do under the OPEIU Constitution, COPE has assumed the responsibilities held by OPEIU;

Under the *Canada Labour Code*, CRTT is the successor in law to the representational rights possessed by COPE;

There is no apparent adverse impact on the rights of the alleged victims, nor has anyone suggested as much.

[12] CRTT has not asked that it be substituted as the complainant in the s. 11 complaint. This is presumably because COPE and CRTT participated in the settlement negotiations and COPE authorized CRTT to settle the matter on its behalf.

[13] Therefore, the request to change the name of the Complainant in the s. 10 complaint to CRTT is granted.

"Signed by"
Karen A. Jensen

OTTAWA, Ontario
August 10, 2009

PARTIES OF RECORD

TRIBUNAL FILES:	T1163/4506 and T1222/3407
STYLE OF CAUSE:	Office and Professional Employees Internation Union, Local 404 v. Atomic Energy of Canada Limited Canadian Office and Professional Employees' Union, Local 404 v. Atomic Energy of Canada Limited
RULING OF THE TRIBUNAL DATED:	August 10, 2007
APPEARANCES:	
Cathy Lace	For the Complainants
No one appearing	For the Canadian Human Rights Commission
Mary J. Gleason	For the Respondent