Date: 20240917

File: 569-02-42490

Citation: 2024 FPSLREB 129

Federal Public Sector Labour Relations and Employment Board Act and *Federal Public Sector Labour Relations Act*

Before a panel of the Federal Public Sector Labour Relations and Employment Board

BETWEEN

PUBLIC SERVICE ALLIANCE OF CANADA

Bargaining Agent

and

TREASURY BOARD
(Department of Fisheries and Oceans)

Employer

Indexed as
Public Service Alliance of Canada v. Treasury Board (Department of Fisheries and Oceans)

In the matter of a policy grievance referred to adjudication

Before: Christopher Rootham, a panel of the Federal Public Sector Labour Relations and Employment Board

For the Bargaining Agent: Marie-Pier Dupont, counsel

For the Employer: Simon Ferrand, counsel

Heard by videoconference,
June 4 to 7, 2024.
(Written submissions filed June 11, 2024.)

I. Overview

[1] This policy grievance is about whether fishery officers are entitled to a $10.00 transfer at sea allowance when they climb from a Zodiac watercraft onto a fishing vessel they are inspecting and another $10.00 when they get back onto their Zodiac.

[2] I have concluded that they are entitled to the transfer at sea allowance for doing so.

[3] Collective agreement interpretation involves discerning the intention of the parties through the text of the agreement, viewed in its surrounding context. In this case, the surrounding context provided very little assistance in interpreting the clause creating the allowance. The parties did not discuss how the clause would apply to fishery officers when negotiating it, and there was no evidence of how the clause has been applied to other employees who receive it. While referring to it as an allowance (which is a defined term) might have provided some clue to its meaning, the parties to this collective agreement use that term in a variety of ways that are inconsistent with its definition, so that the definition of allowance cannot provide a clue as to the meaning of this clause. Finally, there is no other textual context in the rest of the collective agreement that sheds light on the meaning of this clause.

[4] Therefore, this case comes down to the dictionary definition of the word "transfer". After reviewing that definition and the parties' submissions, I have concluded that boarding a fishing vessel from a Zodiac fits within the meaning of the verb "transfer". I have allowed the grievance, issued a declaration to that effect, and ordered the Treasury Board ("the employer") to pay this allowance. My detailed reasons for this conclusion follow.

II. Preliminary objection to admitting a bargaining proposal as evidence

[5] Five witnesses testified in this case: three for the Public Service Alliance of Canada (PSAC), and two for the employer. Rather than summarize each witness's testimony in turn, I will set out the facts provided by the witnesses when appropriate in this decision. The parties also introduced documents into evidence that I will also refer to only when helpful.

[6] The employer objected to one of PSAC's proposed documents. The parties argued that objection at the outset of the hearing. I informed the parties that I allowed

the employer's objection. I provided short verbal reasons when doing so and told the parties that I would provide longer reasons in this decision.

[7] PSAC wanted to introduce into evidence a proposal made by the employer in collective bargaining. The employer's proposal was to specifically exclude fishery officers from the ambit of the transfer at sea allowance when they enter ships in the normal course of their duties. In essence, the employer's proposal was to change the collective agreement so that it expressly would bear the meaning it urges me to adopt.

[8] The employer initially objected to the document because it is marked "without prejudice". However, the parties concluded a collective agreement after the proposal was made without agreeing to that proposal. Settlement privilege does not protect a document marked "without prejudice" when the document is introduced to prove the existence of an agreement or to help interpret its terms; see *City of Ottawa v. IATSE, Local 471*, 2017 CanLII 142568 (ON LA) at 9, and *Union Carbide Canada Inc. v. Bombardier Inc.*, 2014 SCC 35 at para. 35. The document would have been admissible despite being marked without prejudice.

[9] Nevertheless, I did not permit PSAC to introduce that exhibit because it was a bargaining proposal made in 2021. As I will explain later, PSAC and the employer agreed to the language that I need to interpret in 1989. They agreed to extend its ambit to fishery officers in 2017. PSAC and the employer negotiated renewal collective agreements signed in 2020 (expired June 21, 2021) and 2023 (expiring June 21, 2025). The proposal was made in the round of bargaining that led to this most recent agreement.

[10] The part of the clause that I need to interpret has not changed since 1989. Had the employer made its proposal in 1989, or even in 2017 when it agreed to extend this allowance to include fishery officers, its proposal would have been relevant in discerning the parties' shared understanding of the meaning of its terms. However, a proposal made in 2021 tells me nothing about what the parties intended in 1989 or 2017. As stated in *Bendix Home Systems Ltd. v. United Brotherhood of Carpenters & Joiners of America, Local 3054*, 1975 CanLII 2149 (ON LA), "[i]t would be impossible and improper to conclude that any article in the new agreement necessarily implies anything about the meaning of any article in the old agreement." The same applies to bargaining proposals: it is impossible to conclude that a proposal in 2021 implies anything about the meaning of an article agreed to in 1989 and 2017. This is especially

true in this case because PSAC filed this policy grievance in 2018, three years before the employer made its proposal.

[11] PSAC pointed out that the Federal Public Sector Labour Relations and Employment Board ("the Board", which in this decision also refers to any of the current Board's predecessors), in *Professional Institute of the Public Service of Canada v. National Research Council of Canada*, 2013 PSLRB 88 at para. 85, referred to a bargaining agent's proposal in 2011 (and used the proposal against it) when interpreting an agreement reached in 2009. However, the paragraph cited was not relevant to the decision because the Board had already decided that the collective agreement was clear and interpreted against the bargaining agent. The Board was simply pointing out that even if it had considered extrinsic evidence (which included but was not limited to that proposal), it would not have helped the bargaining agent anyway. Also, neither party in that case appears to have argued about the admissibility of that evidence. I cannot take that paragraph as authority for admitting into evidence a proposal made years after an agreement was reached.

[12] On a final procedural point, the parties submitted 48 authorities between them. They did not refer to all of them during their arguments. I have not listed them all, but I read them all despite not hearing argument about all of them; I will refer to or quote only from those that I found most helpful in deciding this case.

III. Analytic approach to interpreting clause K-4.01

[13] The parties agree that interpreting a collective agreement is a contextual exercise. To quote from *Ewaniuk v. Treasury Board (Department of Citizenship and Immigration)*, 2020 FPSLREB 96 at para. 45, the words in a collective agreement "… must be read in their entire context, in their grammatical and ordinary sense, and harmoniously with the scheme of the agreement, its object, and the parties' intention." As Arbitrator Burkett put it in *Air Canada v. Air Canada Pilots Association*, [2012] O.L.A.A. No. 164 (QL) at para. 39, an arbitrator or adjudicator is "more than a linguistic technician" and is "… required to bring to bear a specialized knowledge of labour relations generally and of collective agreement applications specifically in order to decipher the meaning of the contested language read in context."

[14] My role starts with the text and then moves on to its context. In this case, this context comprises the factual context, the bargaining context, and the textual context

(i.e., other provisions in the collective agreement). I will address each element in turn and then combine them to interpret the collective agreement.

IV. Text of the collective agreement provision at issue

[15] This grievance is about the transfer at sea allowance, found at Appendix K of the collective agreement between the Treasury Board and PSAC for the Technical Services group (TC) that expired on June 21, 2018 ("the collective agreement"). It reads as follows:

*****Appendix K***	*****Appendice K***
Special Provisions for Employees Concerning Diving Duty Allowance, Vacation Leave With Pay, National Consultation Committee and Transfer at Sea	***Dispositions spéciales pour les employé-e-s concernant l'indemnité de plongée, le congé annuel payé, le comité national de consultation et le transbordement en mer***
…	[…]
K-4: Transfer at Sea Allowance	***K-4 Indemnité de transbordement en mer***
K-4.01 *When an employee is required to transfer to a skip, submarine or barge (not berthed) from a helicopter, ship's boat, yardcraft or auxiliary vessel, the employee shall be paid a transfer allowance of ten dollars ($10) except when transferring between vessels and/or work platforms which are in a secured state to each other for the purpose of performing a specific task such as de-perming. If the employee leaves the ship, submarine or barge by a similar transfer, the employee shall be paid an additional ten dollars ($10).*	***K-4.01*** *Lorsqu'un employé-e doit être transbordé sur un navire, un sous-marin ou une péniche (non accostée) par hélicoptère, embarcation de navire, bâtiment de servitude ou bâtiment auxiliaire, il ou elle touche une indemnité de transbordement de dix dollars (10 $), sauf lorsqu'il ou elle est transbordé entre des navires ou des plates-formes de travail amarrées les uns aux autres afin d'effectuer une tâche particulière telle que la démagnétisation. Si l'employé-e quitte le navire, le sous-marin ou la péniche par un transbordement semblable, il ou elle touche dix dollars (10 $) de plus.*

[Emphasis in the original]

[16] The parties agreed that the word "skip" in the first line of the English version of clause K-4.01 was a typographical error and it should read "ship". The parties renewed this clause in the next collective agreements for the bargaining unit that expired June

21, 2021, and expiring June 21, 2025, respectively. The language did not change except for correcting the typographical error; however, the parties removed what used to be article K-2 so that clause K-4.01 is now numbered clause K-3.01.

V. Factual context behind this grievance and collective agreement

A. The duties of fishery officers

[17] This policy grievance is about fishery officers working for the Department of Fisheries and Oceans ("DFO"). DFO employs approximately 900 fishery officers. They are classified in the General Technical ("GT") occupational group. Fishery officers perform a variety of duties related to inspections and the enforcement of the *Fisheries Act* (R.S.C., 1985, c. F-14) and its regulations. Some work on a ship, some in an airplane, and some in an office. On any given day, as many as 200 fishery officers are performing inspections and enforcing fishing regulations on open water.

[18] For the purposes of understanding this policy grievance, the parties each called one witness to describe how fishery officers work on open water. Their evidence did not differ in any important way.

[19] A fishery officer will live for 2 weeks at a time on a large coast guard vessel. Each day, when weather permits, the coast guard will drop a boat into the water by using a crane. The boat used is a rigid inflatable boat between 22 and 27 feet long, commonly called a Zodiac. Zodiac is a brand name that is so famous that it has come to colloquially represent an entire genre of product — like Band-Aid.

[20] Fishery officers then spend part of their day driving around an area of water in the Zodiac. Most of the time, there are two fishery officers in a Zodiac that is piloted by a coast guard coxswain. Sometimes, one of the two fishery officers pilots the Zodiac instead, or there can be three fishery officers on the Zodiac. Fishery officers will then inspect fishing vessels in an area of water close enough to the coast guard ship to maintain radio contact.

[21] Fishing boats in open water must register in advance where, when, and what they will be fishing as a condition of their fishing licence. Most recreational fishing boats are relatively small and easy to inspect. The fishery officer in charge of the Zodiac picks a boat to inspect, and the coxswain will pilot the Zodiac next to the recreational fishing boat. The fishery officer will observe the recreational boat and

speak with the fishers to make sure that it is where it is supposed to be, fishing what it is supposed to, and otherwise complying with the regulations and its licence.

[22] Commercial fishing vessels are much larger. Therefore, fishery officers sometimes have to board them to inspect them properly. They pilot the Zodiac next to the commercial vessel, which usually drops a rope ladder down to the Zodiac. One or more fishery officers climb up the rope ladder, inspect the commercial vessel, and then climb down the rope ladder into the Zodiac. They then move on to the next vessel.

[23] PSAC's witness was a former fishery officer currently employed at DFO in other duties. He provided a log of his activities from July 7, 2017 to September 6, 2019, and his claims for the transfer at sea allowance during that period. He had some days when he did not board any commercial fishing vessels for inspection. His busiest day was July 23, 2018, when he boarded 12 commercial fishing vessels. He also explained the entirely understandable danger in boarding commercial fishing vessels from a Zodiac, particularly in high waves or when the commercial fishing vessel is less than helpful with the boarding. He gave one example of unhelpful behaviour when fishers in a commercial fishing vessel tried to convince him to use an unsecured pool ladder to climb onto their large trawler because they had buried their safer rope ladder under the fish that they had caught.

[24] Both witnesses agreed that fishery officers have considerable discretion about which vessels to inspect and can decide whether to board them for inspection. Fishery officers are also responsible for deciding whether it is safe to go out on the Zodiac for inspections and when to come back to the coast guard ship for meal breaks or because they have been out on the water too long and are too tired to continue.

[25] Finally, sometimes fishery officers have to conduct armed boardings. PSAC's witness said that he had never had to because he worked on the west coast, and armed boardings were more common for foreign fishing vessels on the east coast. The employer's witness similarly shed no light on armed boardings.

B. Using the factual context to narrow PSAC's claim

[26] PSAC's former fishery officer made a claim for a transfer allowance every time he climbed in or out of the Zodiac. For example, on July 7, 2017 he did not board any commercial fishing vessels. Instead, he got into his Zodiac at 12:15, returned to his coast guard ship (the CCGS Captain Goddard) at 12:40, got back into the Zodiac at

13:32, and then returned to the CCGS Captain Goddard for the day at 15:45. He claimed four transfer at sea allowances for that day.

[27] During closing argument, I pressed PSAC's representative about these claims. Ultimately, PSAC's representative agreed that climbing down from a coast guard ship to a Zodiac and back up to the coast guard ship does not generate the allowance. To explain, I will repeat the wording of the clause, this time extracting all but the key provisions for the purposes of explaining this point (and adding further emphasis):

K-4.01 *When an employee is required to transfer* ***to a skip*** *…* ***from*** *a …* ***ship's boat*** *… the employee shall be paid a transfer allowance of ten dollars ($10)… If the employee leaves* ***the*** *ship … by a similar transfer, the employee shall be paid an additional ten dollars ($10).*	***K-4.01*** *Lorsqu'un employé-e doit être transbordé* ***sur un navire*** *[…]* ***par*** *[…]* ***embarcation de navire*** *[…] il ou elle touche une indemnité de transbordement de dix dollars (10 $) […] Si l'employé-e quitte* ***le*** *navire […] par un transbordement semblable, il ou elle touche dix dollars (10 $) de plus.*

[Emphasis added]

[28] There is no dispute that a Zodiac is a "ship's boat". Clause K-4.01 applies when an employee transfers **from** a Zodiac to a ship. It also applies when the employee leaves **the** ship by a similar transfer. The use of the definite article "the" means that the clause is about a specific ship, namely, the ship that the employee transferred to from a Zodiac.

[29] Therefore, when the fishery officer climbed from the CCGS Captain Goddard to the Zodiac at 12:15 on July 7, 2017 he was transferring **to** a ship's boat from a ship, not **from** a ship's boat to a ship. This did not trigger the allowance. The allowance is triggered only when he transfers to a ship from the Zodiac; when he leaves the ship that he climbed onto from the Zodiac, he receives the allowance again. He never transferred to the CCGS Captain Goddard by Zodiac. As he explained, he transferred to the CCGS Goddard on a dock, while the ship was secured.

[30] PSAC's representative ultimately agreed with this interpretation of clause K-4.01. This means that by the time closing arguments had concluded, this case was about whether fishery officers are entitled to a transfer at sea allowance when they climb aboard a commercial fishing vessel from a Zodiac and then again when they climb back aboard the Zodiac. This reduces that one fishery officer's claim from $6200 (or 620 ship transfers at $10.00 each) to approximately $3720 (or 372 ship transfers)

for the period from July 7, 2017, to September 6, 2019. I say "approximately" because there are a small number of claimed transfers that I did not understand fully. I did not press for details because I do not need to know the exact number of transfers made by this one fishery officer to decide this policy grievance.

[31] Finally, PSAC pointed out that it is possible that other fishery officers boarded their coast guard ships for the first time by Zodiac instead of while it was docked. If this happens, then clause K-4.01 includes each instance when the fishery officer gets on and off the coast guard ship and Zodiac until the coast guard ship is docked again. For example, if the coast guard ship breaks down and the fishery officer moves to another coast guard ship by Zodiac, it triggers clause K-4.01 for all subsequent Zodiac embarkations and disembarkations until the fishery officer walks on land or a berthed ship. I have no evidence indicating that this happens, but I also have no evidence to rule it out.

VI. Bargaining context

A. History of the transfer at sea allowance

[32] To understand the bargaining context behind clause K-4.01, it is necessary first to understand the history of bargaining unit structure in the federal public administration. Bargaining units with the Treasury Board as their employer are defined on the basis of occupational groups. When collective bargaining was first introduced, each occupational group negotiated its own collective agreement. This meant that the Engineering and Scientific Support group ("the EG group") had one collective agreement, and the GT group had another. In 1999, as a result of the implementation of legislative amendments made in the *Public Service Reform Act* (S.C. 1992, c. 54), many bargaining units represented by PSAC were consolidated into a smaller number of bargaining units. Six bargaining units were consolidated into the TC group, which meant that 6 collective agreements had to be merged into one document; see *Public Service Alliance of Canada v. Treasury Board*, [1999] C.P.S.S.R.B. No. 88 (QL).

[33] In the collective agreement for the EG group negotiated on May 17, 1989, PSAC and the Treasury Board agreed to include a transfer at sea allowance in Appendix B of that collective agreement. The allowance was only $5.00 at the time, but otherwise its wording was the same as the current clause K-4.01. Other bargaining units negotiated the same transfer at sea allowance in the late 1980s or early 1990s, such as the General Labour and Trades unit (now part of the Operational Services (SV) bargaining unit represented by PSAC), as described in *Chisholm v. Treasury Board (Transport*

Canada), [1992] C.P.S.S.R.B. No. 94 (QL), and the Ship Repair East bargaining unit represented by the Federal Government Dockyard Trades and Labour Council (East), as described in *Federal Government Dockyard Trades and Labour Council (East). v. Treasury Board (Department of National Defence)*, 2015 PSLREB 33 ("*Dockyard*") at para. 26.

[34] In the next collective agreement negotiated after the EG and GT bargaining units were merged into the current TC bargaining unit, the parties took some provisions that were unique to the EG group and put them in Appendix K to the collective agreement. Appendix K stated in its title that it applied only to the EG group. In this way, employees in the EG classification were entitled to the transfer at sea allowance, but employees in the GT or other classifications in the TC bargaining unit were not.

[35] In 2017, PSAC and the Treasury Board negotiated a renewal of the TC group collective agreement. PSAC called its negotiator as a witness in this case. He explained that PSAC proposed making all of Appendix K applicable to the entire TC group because PSAC wanted all classifications in this unit treated the same. He said that the employer's negotiator pointed out that one of the articles (K-3) would make no sense to apply to other classifications because it was about a national consultation committee for meteorological technicians, all of whom are classified EG, and that one of the provisions (article K-2) was more beneficial for the employer than for employees, so she wanted to make sure that PSAC wanted to give that benefit to the employer for other employees too. PSAC modified its proposal so that articles K-2 and K-3 would remain applicable only to EG employees, and the parties agreed that articles K-1 and K-4 would apply to all employees in the bargaining unit. Therefore, the heading to Appendix K was changed to reflect that, and the EG-specific nature of articles K-2 and K-3 were set out in the headings for those articles. The parties also agreed to increase the transfer at sea allowance from $5.00 to $10.00.

[36] Finally, as I mentioned earlier, the collective agreement language remains unchanged today after two more rounds of collective bargaining.

B. The bargaining context is unhelpful in this case

[37] I found this bargaining context interesting but ultimately unhelpful in interpreting clause K-4.01.

[38] PSAC argued that the purpose behind the transfer at sea allowance was to compensate employees for dangerous duties. However, neither party presented

evidence from the 1980s' negotiation of this allowance. I have no idea whether the parties had this or some other purpose in mind when they first negotiated the allowance, and I strongly suspect that the parties have long forgotten why they agreed to this allowance roughly 25 years ago. Its purpose eludes me.

[39] Additionally, PSAC's negotiator testified that he never discussed whether or how this allowance would apply to fishery officers with the employer. Bargaining history is probative only when the evidence is consensual, in the sense that the evidence has to disclose a shared understanding of the meaning of the terms in the agreement; see Brown & Beatty, *Canadian Labour Arbitration*, 5th ed., at chapter 3:74. This means that bargaining history is relevant only when a message about the interpretation of a provision was communicated to the other party. For example, had PSAC's negotiator told the employer's negotiator that it wanted to include GT employees in clause K-4.01 so that fishery officers would receive the allowance for boarding ships during inspections, or had the employer's negotiator told PSAC's negotiator that it agreed to extend clause K-4.01 to fishery officers but only because they would not receive it when boarding ships during inspections, it would have been helpful context for me to interpret the collective agreement. But there was never that type of discussion when the clause was negotiated.

[40] Instead, I am left with the impression that the parties did not think carefully about the implications of this change for fishery officers or, if they were thinking about it, they did not discuss it with each other.

[41] This is not an unusual thing. Collective bargaining is complicated. Parties often agree to language in order to reach an agreement without having fully thought out every consequence of their agreement. The bargaining unit in this case had roughly 10 000 employees, and its collective agreement was negotiated at the same time as three other collective agreements with bargaining units comprising in total roughly 120 000 employees; it is not unexpected that the parties might not have thought about or discussed how this clause would apply to roughly 900 fishery officers.

[42] Finally, as the Federal Court of Appeal put it in *Delios v. Canada (Attorney General)*, 2015 FCA 117 at para. 36 in response to an argument that an adjudicator's interpretation of the collective agreement was unfair to one party:

> *[36] Behind this finding is the adjudicator's specialized and expert appreciation that in any collective agreement — often a document of considerable length and complexity — there will be issues left on*

> *the table, unresolved. Collective bargaining can be tough, each side must make difficult compromises, and so there are any number of things in the final deal that can seem unfair or inequitable to the parties. As the adjudicator noted, it is not for him to modify the text of the agreement to address those issues.…*

[43] It is my job to interpret the agreement that the parties reached, not to decide either party's subjective intended consequences of that agreement. I am also not here to judge whether it is fair to pay a $10.00 allowance to fishery officers for climbing on and off Zodiacs.

C. There is no past-practice evidence either

[44] While not the same thing as bargaining evidence, I also have no evidence about the past practice of how DFO treated EG employees for this allowance. PSAC called a labour relations officer to testify that fishery officers in fact wanted to be paid this allowance, which is why PSAC grieved. When I asked the labour relations officer about whether EG employees ever travelled on Zodiacs and whether they were paid the allowance for doing so, the labour relations officer testified that he understood that hydrographers received the allowance before 2017 and that they continued to receive it. When I asked him what he knew about their duties, he candidly admitted that he knew that the Greek word "hydro" meant water and so assumed that hydrographers worked on water as well as in a laboratory, but otherwise he did not know whether they got on and off Zodiacs in the same way as fishery officers or even whether they were EG employees.

[45] The employer called a former Director of Integrated Business Solutions at DFO to testify. He retired in 2021. He never supervised fishery officers, although he travelled on a Zodiac once to better understand their work so that he could purchase kit for them. He also did not know how hydrographers spent their time on the water, although at least he could confirm they were in the EG classification. The employer's witness also tried to give evidence of past practice by claiming that fishery officers were paid the transfer at sea allowance when they boarded French and Portuguese fishing vessels for lengthy stays in the 1990s but not for other boardings; however, when shown that this cannot have been true because fishery officers were not eligible for the allowance until 2017, he admitted that he had just heard stories about this payment from other retirees and that it might have been a voluntary payment for telephone cards so that fishery officers could use a satellite telephone.

[46] Neither witness had information that could give me insight into when and to whom the transfer at sea allowance was paid to hydrographers, other EG employees, or to any other employees covered by a collective agreement that had a transfer at sea allowance before or after 2017.

[47] This is a case in which bargaining history and past practice would have been extremely helpful in better understanding this clause. However, I have no evidence about why this allowance was introduced for some employees in the 1980s, why fishery officers were not included in the 1980s, or under what circumstances other employees were or are paid this allowance. As far as the evidence before me goes, the parties did not discuss how this clause would apply to fishery officers with each other when they extended the allowance to GT employees in 2017. I am left with the distinct impression that by 2017 PSAC did not understand what it was asking for, and the employer did not understand what it was agreeing to.

[48] I can draw no help from the bargaining context in this grievance; therefore, I will not discuss it further.

VII. Textual context for the transfer at sea allowance

[49] As I said earlier, the main issue in this case is whether boarding a commercial fishing vessel from a Zodiac, and then returning to the Zodiac, is a transfer.

A. Other uses of the word "transfer" are unhelpful

[50] The word "transfer" is used elsewhere in the collective agreement to refer to moving from one job to another, such as in clauses 36.01 (dealing with giving three months' notice of a transfer in job location) and 38.14 (dealing with vacation credits when an employee transfers from a position in a separate agency to the core public administration). Neither party argued that this could be a contextual clue to the meaning of the word "transfer" in clause K-4.01. I agree that a transfer for the purposes of clause K-4.01 cannot be a permanent or long-term change in job. I also note that the French version of the collective agreement uses different words in clauses 36.01 and 38.14 (the noun *mutation* or the verb *muter*) on the one hand and in clause K-4.01 (the verb *transborder*) on the other.

B. The use of the word "allowance" is unhelpful too

[51] The employer argues that I should interpret the word "transfer" alongside the word "allowance" because the heading of this clause calls it a "Transfer at Sea

Allowance". The word "allowance" is defined in the collective agreement as follows: "'allowance' … means compensation payable for the performance of special or additional duties."

[52] The employer then took me to the job description for fishery officers and pointed out that one of the duties of the position was "conducting boarding's [*sic*]". The employer argues that since boarding is one of the duties in their job description, fishery officers cannot be paid an allowance for it because it cannot be a special or additional duty if it is in the job description. The employer had two bases for this submission: one was classification principles, and the other was a more textual argument.

1. Classification principles are unhelpful in this decision

[53] The employer called the director of classification at DFO as a witness. She described that the classification level of a position depends on a points system. A position earns points in five categories (one of which has three sub-categories) through the duties it performs. She testified that when classifying the fishery officer positions, two sub-categories are their level of physical effort and environmental hazards, and that boarding generated points under those two sub-categories.

[54] The employer reasons that this means that fishery officers are already paid for boarding commercial fishing vessels since the act of boarding earns them points that contribute to the classification level of that position. The employer further reasons that this means that boarding commercial fishing vessels cannot be a special or additional duty warranting an allowance.

[55] The employer provided a copy of the classification evaluation standard for the GT classification. Fishery officers are classified either GT-4 or GT-5; supervisors are classified GT-5, and regular fishery officers are classified GT-4. Their point totals and classifications are summarized in the following charts, which are included in the employer's exhibits:

GT-4:

Factor	***Degree***	***Points***
Knowledge	*4*	*175*
Technical Responsibility	*B2*	*128*
Contacts	*B3*	*75*
Conditions of Work		
Concentration	*2*	*23*

Physical Effort	*3*	*50*
Environment and Hazards	*C2*	*35*
Supervision	*A1*	*10*
Total		***496***

GROUP & LEVEL: GT 04
(GT-04 Range: 431-520 points)

GT-5:

Factor	***Degree***	***Points***
Knowledge	*5*	*210*
Technical Responsibility	*C2*	*164*
Contacts	*C2*	*85*
Conditions of Work		
Concentration	*2*	*23*
Physical Effort	*3*	*50*
Environment and Hazards	*C2*	*35*
Supervision	*C3*	*44*
Total		***611*** *GT 05 (521-620)*

GROUP & LEVEL: GT-05
(GT-05 Range: 521-620 points)

[56] The 50 points for the physical effort sub-category are the maximum available for both levels. If the position had the lowest amount of physical effort, it would still get 10 points. Similarly, the environment and hazards total is close to the maximum: C indicates the highest possible severity of the hazard, and 2 (out of 3) indicates its frequency. A rating of A1 (the lowest in both scales) generates 10 points.

[57] The reason I am saying this is that if the physical effort and environmental hazards points were reduced to their lowest numbers, both positions would have the same classification and be paid the same. Both positions would lose 65 points (i.e., move from 85 points to 20). This means that the GT-4 position would have 431 points — which is still a GT-4 classification. This also means that the GT-5 position would have 546 points — which is still a GT-5 classification.

[58] I understand the employer's position in the abstract that it does not want to pay an allowance for a duty that already is used to calculate an employee's base pay. However, the facts of this case help show the problem with that argument: it does not work in practice. Taking one duty out of a position does not usually mean that the position is paid less. Even if boarding commercial fishing vessels was the only reason the position was worth 85 points for physical effort and environmental hazards instead of the bare minimum of 20 points (which is not the case and not what the employer is suggesting) the position would be paid the same anyway.

[59] Therefore, the employer's use of classification principles is unhelpful to me in interpreting the meaning of clause K-4.01 of the collective agreement.

2. The term "allowance" is not always used consistently with its definition

[60] The employer's better, textual, argument is about the definition of "allowance". An allowance is defined as something paid for "special or additional duties." The employer reasons that boarding fishing vessels for inspection is in the job description for fishery officers and, therefore, is neither a special nor an additional duty. This means that fishery officers cannot receive an allowance for boarding fishing vessels.

[61] However, PSAC drew my attention to the way the parties used the term "allowance" in the collective agreement. The word is used 207 times in the collective agreement. Sometimes it is used in a way that could fall within its definition, but most of the time it is not. Also, the collective agreement sets out benefits or entitlements that would meet the definition of "allowance", but it sometimes uses another term for them instead.

[62] PSAC's examples of uses of the term "allowance" that are clearly outside its definition included maternity and parental allowances and a salary top-up allowance in a workforce adjustment situation. In both cases, the allowance is paid while no duties are being performed and not for special or additional duties.

[63] On the maternity allowance specifically, at the conclusion of the hearing I drew the parties' attention to *Boyce v. Treasury Board (Public Services Commission)*, [1984] C.P.S.S.R.B. No. 3 (QL). In that case, the parties negotiated a maternity allowance that included a payment during the two-week waiting period for what was then unemployment insurance. The parties signed the agreement on February 11, 1982. The parties also agreed that all "allowances shall become effective September 1, 1981." The grievor was on maternity leave between November 23, 1981, and May 25, 1982. The employer refused to pay the allowance for the two-week waiting period that ran during the retroactive period stating that the maternity allowance was not retroactive. The Board denied the grievance because a maternity allowance did not meet the definition of "allowance" in the collective agreement (which was the same in that agreement as it is in this one). I asked the parties for submissions about that case, and both provided submissions in writing shortly after the hearing.

[64] I wanted the parties to have the opportunity to make submissions about *Boyce* because, at first glance, it appears to strongly support the employer's argument.

However, PSAC pointed out two things about *Boyce*. First, the collective agreement in this case is different because it uses the term "allowance" much more frequently and in a broader array of contexts than in 1982. This means that even had the parties intended the term "allowance" to hew to its definition more carefully in 1982, they do not intend so now. Second, the decision in *Boyce* was about a retroactive payment. There is a strong presumption against retroactivity and any clause imposing retroactivity must be interpreted narrowly (see paragraph 19 of *Boyce*). The Board in *Boyce* was applying that canon of interpretation.

[65] Therefore, I agree with PSAC that *Boyce* is not binding or helpful to me in this grievance for those two reasons.

[66] PSAC pointed out the transportation of dangerous goods allowance as an example of a benefit similar to the transfer at sea allowance because the transportation of dangerous goods allowance is paid for dangerous situations that are part of an employee's duties. While I was not given any job description to show whether transporting dangerous goods was listed as a duty of a position, the "Classification Evaluation Standard" for the TC group (provided by the employer) lists marine surveyors and senior surveyors as two benchmark positions, meaning that the Classification Evaluation Standard includes a list of their principal duties. Those benchmark positions list one of their duties as inspecting dangerous goods, indicating that an allowance can be paid for the performance of a duty despite it being one of the position's principal duties.

[67] Finally, clause 37.10 of the collective agreement begins with the phrase "[w]hen an employee who is in receipt of a special duty allowance or an extra duty allowance is granted leave with pay …" and goes on to state that their pay during the leave period will include that allowance when the special or extra duties had been "… assigned to the employee on a continuing basis …" during the preceding two months. This is a particularly stark example of the use of the word "allowance" in a way that is inconsistent with its definition in two ways. First, if an allowance is payable only for the performance of special or additional duties, there could be no such thing as a "special duty allowance" because all allowances are for special duties — the term would be tautological. Second, the employer is treating the phrase "special or additional" in the definition of "allowance" as if it meant unusual or infrequent. However, clause 37.10 contemplates the continuous performance of a duty generating

an allowance over at least a two-month period, so that the duty is neither unusual nor infrequent yet triggers an entitlement to an allowance.

[68] The employer acknowledged all this, particularly that the word "allowance" is not always used in the way it is defined. However, the employer argued that the word "allowance" must be read in context in each clause. When the word "allowance" is used in a way that is inconsistent with its definition, it should not follow its definition; by contrast, when it is used in circumstances that it could be consistent with its definition, it should be interpreted that way.

[69] The problem with the employer's argument is that it is circular. The employer says that I should use the definition of "allowance" as context to interpret the word "transfer". Yet, the employer also admits that the word "allowance" does not always follow its definition and that I need to look at the context in which it is used to decide whether it should follow its definition. So, according to the employer, I need to use the word "transfer" to decide whether "allowance" in clause K-4.01 means "allowance" as a defined term, and I also need to use the definition of "allowance" as context to decide how to interpret the word "transfer". I cannot use the rest of clause K-4.01 to interpret the term "allowance" at the same time as using the definition of "allowance" to interpret the rest of clause K-4.01.

3. Even if the term "allowance" in this clause was confined to its definition, boarding a commercial fishing vessel is a special duty

[70] PSAC also argued in the alternative that boarding is a special duty. The parties then argued about the meaning of the word "special". PSAC asked me to use the dictionary or plain meaning of "special", which means unusual and typically in some way superior. PSAC said that climbing aboard a commercial fishing vessel from a Zodiac is dangerous, which makes it unusual and therefore "special". The employer argued that "special" means a duty not in the job description. The employer also argued that if boarding a vessel is considered a special or an additional duty despite being in the job description, it infringes on management's right to draft and construct a job description.

[71] I agree with PSAC's proposed meaning of "special". I am not aware of any authority — linguistic or legal — for the proposition that "in a job description" is an antonym of "special". Boarding commercial fishing vessels from a Zodiac is unusual because it is uncommon in that very few employees are called on to do it, it is infrequent even for fishery officers (as shown in this case, in which the fishery officer

who testified boarded a commercial fishing vessel on only approximately 30 days in his busiest year, 2018), and it is dangerous.

[72] I also cannot see how I am infringing management's discretion to prepare a job description. On the contrary, the employer's argument is an effort to unilaterally determine the meaning of the collective agreement. Job descriptions are prepared by the employer. The employer has a wide latitude in preparing a job description, and it "… is not required to use any particular form of wording to describe the duties and responsibilities of an employee …" (see *Jennings v. Treasury Board (Department of Fisheries and Oceans)*, 2011 PSLRB 20 at para. 52). If the employer is right that I should use a job description to interpret the collective agreement, I would be using a tool created by the employer to interpret an agreement between the employer and bargaining agent. I will not permit the employer to bootstrap its position by using a document it drafted unilaterally as an interpretive aid to a collective agreement, absent evidence that the parties used this document when drafting their agreement.

4. Conclusion about the textual context of the word "allowance"

[73] In conclusion, I cannot draw any conclusions about the meaning of the word "transfer" because of its adjacency to the word "allowance" in the heading of the clause. "Allowance" is not always used in a way consistent with its definition. This could be one of those times — I have to interpret the word "transfer" to find that out first. Even if I did use the definition, I would conclude that boarding a commercial fishing vessel from a Zodiac is a special duty because it is uncommon, infrequent, and dangerous.

VIII. Conclusion about interpretation and the meaning of the word "transfer"

[74] Both parties argued that I should interpret clause K-4.01 by breaking it down into components and then deciding whether each component is met. The parties differed on what those components were. The complete list of the components suggested by either or both parties is as follows:

1) There must be a transfer.

2) The transfer must be made at sea.

3) The transfer must be made to a ship (except on the return journey).

4) The transfer must be made from a ship's boat (except on the return journey).

5) The vessel cannot be berthed or secured.

6) The transfer must be required by the employer.

7) The transfer must be a special or an additional duty (i.e., the allowance point by the employer dismissed earlier).

[75] I will deal with the interpretation of "transfer" last.

A. The conditions other than a "transfer" are met

[76] There is no dispute in this case about components 2, 3, 4, and 5 as they pertain to fishery officers. There is no dispute that if climbing from a Zodiac to a commercial fishing vessel is a transfer, then it has occurred at sea (element 2), there is no dispute that a commercial fishing vessel is a ship (element 3), there is no dispute that a Zodiac is a ship's boat (element 4), and there is no dispute that the commercial fishing vessel and Zodiac were not secured or berthed (element 5).

[77] I agree with the employer that the employee must be "required" to make the transfer to be eligible to receive the allowance. This is clear on the face of clause K-4.01.

[78] The employer argues that fishery officers are not required to board a commercial fishing vessel because they do not have to climb on any specific or particular vessel. They choose whether to inspect by staying in the Zodiac or climbing on a vessel, and they choose which vessels to inspect. The employer argues that this means that they are never required to board a vessel, and if boarding a vessel is a transfer, they are not eligible for the allowance.

[79] I disagree. The term "required" does not mean that the employer must issue a specific instruction to perform a task every time. To give one facile example, an employee is required to arrive at work on time, regardless of whether the employer tells them to the night before. The Board has also stated that an employee is required to do something "… because the employer included it in their job description" (see *Bouchard v. Treasury Board (Canada Border Services Agency)*, 2019 FPSLREB 5 at para. 40). Boardings are in the fishery officer job description, which means that they are required to conduct boardings. They may have some discretion (and the weather also contributes) about when, how many, and the specific ships they board — but boardings there must be.

[80] Therefore, fishery officers meet the sixth component of this clause.

[81] On the seventh component, I have already dismissed the employer's argument and concluded that it does not form one of the requirements to receive the transfer at sea allowance.

B. Plain meaning: boarding a commercial fishing vessel from a Zodiac is a transfer

[82] This case comes down to the meaning of the word "transfer". PSAC says that a transfer is any conveyance from a ship's boat to a ship (and then back onto the ship's boat). The employer says that a transfer is changing the means of transportation during a journey by bringing personal belongings and equipment and continuing to work on a new ship.

[83] I have concluded that boarding a fishing vessel from a Zodiac is a transfer from a ship's boat to a ship.

[84] As I stated earlier, normally adjudicators interpret the meaning of a word in a collective agreement in context; otherwise, we are just linguistic technicians. However, I am just about out of context to consider. There was no bargaining evidence, no past-practice evidence, and no clues to the meaning of "transfer" in the rest of the collective agreement. So, linguistic technician it is.

[85] The English verb "transfer" has two forms: a transitive and an intransitive. A transitive verb is one that requires a direct object following the verb and indicates the person or thing that receives the action of the verb. An intransitive verb is the opposite in that it does not require an object to act on, so the sentence would make sense even if the object were deleted — although it would still be ambiguous because we need to know where, when, or how. For example:

> Transitive: Please pour me a Diet Pepsi. (Pour is a transitive verb because this would make no sense if it read "Please pour me.")
>
> Intransitive: I drank the Diet Pepsi. (Drink is an intransitive verb because this would make sense if it read "I drank" but would be ambiguous because you would like to know what I drank.)

[86] Both parties took me to the *Merriam Webster* dictionary's definition of "transfer" for the transitive and intransitive forms of that verb, which are as follows:

Transfer (as a transitive verb)	**Transfer (as an intransitive verb)**
1 a. to convey from one person, place, or situation to another *b. to cause to pass from one to another*	*1. to move to a different place, region, or situation especially: to withdraw from one*

c. transform; change *2. to make over the possession or control of* *3. to print or otherwise copy from one surface to another by contact*	*educational institution to enroll at another* *2. to change from one vehicle or transportation line to another*

[87] The employer relied on the verb "transfer" in clause K-4.01 being an intransitive verb. I agree that the verb is intransitive because it does not require an object. A sentence that reads, "An employee is required to transfer", would still make grammatical sense, although it would still be ambiguous because we need to know "where" (i.e. at sea). This makes it intransitive and not transitive.

[88] This is also most consistent with the French version of the collective agreement. The French version uses the verb *"transborder*", which is a more vehicular (and often nautical) term that is defined in the *Larousse* dictionary as "*transfert de la cargaison d'un navire à un autre bâtiment*" or "*faire passer d'un véhicule, d'un bateau, d'un train dans un autre*". The French verb is also used in its intransitive form.

[89] However, using the intransitive form of the verb does not assist the employer. On the contrary, the intransitive form of the verb "transfer" means to change from one vehicle to another — in this case, from a ship's boat to a ship. This is even more evident in the French definition, which says specifically that "*transborder*" means to move from one boat to another. Moving from one boat to another fits the meaning of the English verb "transfer" and the French verb "*transborder*".

[90] The employer also argued that it used the word "boarding" in the job description of fishery officers and therefore a boarding cannot be a transfer. I have already explained why I cannot use a job description drafted by the employer as a tool to interpret a collective agreement because otherwise I would be permitting one party to a contract to unilaterally determine its meaning. The fact that the employer unilaterally decided to use the word "boarding" in the job description does not mean that the parties jointly decided that the word "transfer" must have a different meaning.

[91] However, I also disagree for a second reason — the meaning of the word "boarding". I agree with the employer that boarding a vessel can mean entering a ship for a hostile purpose or to examine her papers and cargo. A boarding action conjures an image of swinging from yardarms with a cutlass or other Nelsonian behaviour. This

means fishery officers are "boarding" fishing vessels from their Zodiac. However, the verb "to board" can also mean to embark a boat, whether from a dock or another boat. The sentence, "I am required to board the boat", could mean to embark a boat from either a dock or another boat. On the other hand, the sentence, "I am required to transfer to the boat", means to disembark one form of transportation (probably a boat) and embark the boat. The transfer at sea allowance is available only for transfers at sea. Not all boarding takes place at sea.

[92] To summarize, not all transfers are boardings, and not all boardings are transfers, but something can be both a boarding and a transfer. When a fishery officer is climbing from a Zodiac onto a fishing vessel, they are both boarding and transferring. The fact that they are boarding does not make this any less of a transfer for the purposes of clause K-4.01 of the collective agreement.

C. This meaning is consistent with the case law about transfers at sea

[93] I said earlier that there was very little context to help me interpret the word "transfer" in this case. However, there are the decisions in *Chisholm* and *Dockyard*. Both cases involved transfers for repair purposes, in *Chisholm* to repair navigational aids, and in *Dockyard* to repair a ship. In both cases, the transfers were short-term, and the employees claiming the allowance were not staying overnight. The issue in both cases was whether the ship was berthed (it was not in *Chisholm*, but it was in *Dockyard*), and the Board was not asked to interpret the term "transfer". However, in both cases the employer never argued that those short-term trips were not transfers. In *Chisholm*, the Board allowed the grievance so that employees were paid the transfer at sea allowance despite their transfers being so short.

[94] I acknowledge that *Chisholm* and *Dockyard* did not directly address the meaning of "transfer". Those decisions are accordingly weak context for me to use to interpret that term. If I had reached the opposite conclusion on the plain meaning of "transfer", I would not have swung back because of *Chisholm* and *Dockyard*. Nevertheless, it is comforting to know that my conclusion on the meaning of the word "transfer" is consistent with what the parties in those cases assumed it means.

D. This interpretation does not offend any principles of interpretation

[95] The employer relies on two principles of collective agreement interpretation that I will address in this decision: clear language is required to confer a benefit, and the presumption against absurdity.

[96] First, the employer relies on a body of case law stating that a benefit that has a monetary cost to the employer must be clearly granted under the collective agreement. I acknowledge that there are decisions stating that proposition, some of which were cited by the employer (including *Wamboldt v. Canada Revenue Agency*, 2013 PSLRB 55 at para. 27, *Allen v. National Research Council of Canada*, 2016 PSLREB 76 at para. 180, *Dockyard*, at para. 55, and *Association of Justice Counsel v. Treasury Board*, 2015 PSLREB 18 at para. 129). Equally, however, there are decisions standing for the proposition that neither party bears an onus to establish that their interpretation is "clear" or correct because an arbitrator or adjudicator's task is to determine the parties' mutual intent as disclosed by the language they used, aided by the surrounding context (see *British Columbia Maritime Employers' Association v. ILWU Canada* (2019), 140 C.L.A.S. 294 at para. 65, and *Catalyst Paper v. C.E.P., Local 1123* (2012), 111 C.L.A.S. 42 at para. 25). At least one arbitrator cited both propositions and then moved on to the interpretation without stating which proposition prevails (see *B.C. Hydro and Power Authority v. IBEW, Local 258* (2018), 300 L.A.C. (4th) 113 at paras. 63 and 64).

[97] I do not need to resolve this legal controversy, if there is one, because I have concluded that clause K-4.01 clearly provides for the benefit being sought.

[98] Second, the employer argued that if I concluded that the plain meaning of "transfer" would lead me to allow the grievance, I should reject that meaning because it would lead to an absurdity. The employer pointed out that fishery officers have the discretion to choose whether to board or transfer to any particular commercial fishing vessel. The employer said that it is impossible to monitor whether fishery officers actually boarded a commercial fishing vessel as claimed. The employer also stated that this discretion to pick which vessels to board also means that fishery officers in practice will be the ones deciding how many allowances they receive in a given day.

[99] I am not prepared to interpret the collective agreement based on a presumption that fishery officers will fraudulently claim the transfer at sea allowance. Also, the retired director of integrated business solutions admitted that DFO could backcheck claims using GPS data or by contacting the commercial fishing vessel allegedly boarded if it suspected fraud. I also note that most of the time, there is a coast guard coxswain piloting the Zodiac. The fishery officer would not only have to fraudulently claim a $10.00 allowance but also would have to somehow suborn the coxswain into being complicit in that fraud to avoid being caught. This strikes me as unlikely.

[100] As for the final point, the employer's argument amounts to a concern that fishery officers will now board more commercial fishing vessels than previously to earn a $10.00 allowance each time they do. I find that unlikely because there are much easier ways to earn $10.00. But, if it does happen, good. I heard no evidence suggesting that DFO wants fishery officers to board and inspect fewer commercial fishing vessels. If I am wrong, or if DFO changes its mind, it can always order its fishery officers to inspect fishing vessels differently.

[101] Therefore, these maxims of collective agreement interpretation do not undermine my conclusion that boarding a commercial fishing vessel from a Zodiac is a transfer.

IX. Remedy

[102] PSAC seeks two remedies in this grievance: a declaration that the employer has breached Appendix K-4 by not paying this allowance to eligible employees, and an order requiring the employer to pay the allowance back to June 14, 2017 (the date the collective agreement extending this allowance to fishery officers was signed).

[103] In terms of the declaration, I am concerned about the overbreadth of PSAC's proposed declaration. The only evidence I have is about fishery officers boarding fishing vessels (almost always commercial fishing vessels) from a Zodiac while conducting their inspections. I have no information about any other employees in this bargaining unit. I am not prepared to make a declaration beyond the scope of the case presented by the parties.

[104] Therefore, I will issue a declaration that fishery officers are entitled to the $10.00 transfer at sea allowance when boarding fishing vessels from a ship's boat and an additional $10.00 when returning from that fishing vessel to a ship's boat. I also want to repeat here what I said earlier in this decision that I have no evidence about fishery officers who board their coast guard ships for the first time by Zodiac instead of while it is docked. Because I have no evidence of that ever occurring, I will not issue a declaration about that situation as part of my formal order; however, this silence should not be interpreted as inconsistent with my earlier explanation.

[105] On the second remedy, the employer submitted that the Board does not have the jurisdiction to order retroactive compensation in a policy grievance. It does. The Federal Court was extremely clear about that in *Canada (Attorney General) v. Canadian Merchant Service Guild*, 2009 FC 344 at para. 17, as follows: "… I find that the

adjudicator had jurisdiction to award retroactive compensation [in a policy grievance]." The employer gave no other reason for not awarding compensation in this case aside from its jurisdictional objection, which I have rejected.

[106] However, PSAC filed its grievance on December 19, 2018. Clause 18.15 of the collective agreement states that a grievor must present a grievance no later than the 25th working day after the date on which they are notified or become aware of the circumstances giving rise to the grievance. This case is a classic example of a continuing grievance, i.e., one involving repetitive, successive breaches of a collective agreement. This means that the policy grievance is not late, despite the fact that the non-payment of the allowance to fishery officers goes back to June 2017. However, the time limit in the collective agreement still serves to limit the period in which compensation may be awarded; see *Canada (Attorney General) v. Duval*, 2019 FCA 290 at para. 31.

[107] This means that I will order that the employer pay the $10.00 transfer at sea allowance to fishery officers each time they boarded a fishing vessel from a ship's boat and an additional $10.00 when returning from that fishing vessel to a ship's boat, retroactive to November 14, 2018 (i.e., 25 working days before the grievance was filed).

[108] The parties informed me that there are some individual grievances filed by fishery officers about this issue that have been held in abeyance pending this decision. My order does not prevent any retroactive payment back further than November 14, 2018, for any individual grievor who filed a grievance before December 19, 2018.

[109] Finally, PSAC asked that I remain seized to deal with any problems that may arise from implementing this order. I agree that remaining seized is necessary because the parties may have trouble figuring out the transfers that took place going back to November 14, 2018. Normally, the Board remains seized for a period of 90 or sometimes 120 days to permit the parties to implement a decision. In light of the fact that the parties will have to figure out and implement a solution that goes back to November 14, 2018, I will remain seized for 180 days. However, I want to be clear that if either party comes back to me to ask for more time to implement this decision and to extend the period during which I will remain seized, I will not be sympathetic unless that party can show that it has made real progress toward implementing this decision and that the delay is outside its control.

[110] For all of the above reasons, the Board makes the following order:

(The Order appears on the next page)

X. Order

[111] I declare that fishery officers are entitled to the $10.00 transfer at sea allowance when boarding fishing vessels from a ship's boat and an additional $10.00 when returning from that fishing vessel to a ship's boat.

[112] I order that the employer pay the $10.00 transfer at sea allowance to fishery officers each time they boarded a fishing vessel from a ship's boat, and an additional $10.00 when returning from that fishing vessel to a ship's boat, retroactive to November 14, 2018.

[113] I will remain seized of this grievance for a period of 180 days from the date of this decision.

September 17, 2024.

Christopher Rootham,
a panel of the Federal Public Sector
Labour Relations and Employment Board