

Putting an end to discrimination at Canada Post

Equality and pay equity now!

For decades, Rural and Suburban Mail Carriers (RSMCs) have performed work that is much the same as urban postal workers, but they have not received the same compensation or treatment.

CUPW has been forced to go to arbitration as part of a 19-month joint process to achieve pay equity for Rural and Suburban Mail Couriers (RSMCs) who work at Canada Post. About two-thirds of RSMCs are women. They do much the same work as letter carriers, who are mostly men, but receive about 25% less pay and inferior treatment. RSMCs do work that requires the same or an equivalent level of skill, effort and responsibility as letter carriers. They have the same working conditions and in some cases, they even work side-by-side. The only significant difference between RSMCs and letter carriers is gender and location. Letter carriers work in urban and suburban settings and are predominantly male. RSMCs want and deserve pay equity, as well as the same rights and benefits as letter carriers.

The Issue

Pay equity was a key demand in the 2015-2016 round of bargaining for RSMCs. Canada Post has historically discriminated against RSMCs based on their gender as RSMCs have been a predominantly female group for years. Currently, about two-thirds of RSMCs are women,¹ while 69% of letter carriers are men².

CUPW did not represent RSMCs until 2004, only urban postal workers. The union used urban negotiations in 2003 to bring RSMCs in as employees with rights under an eight-year contract. This collective agreement provided for re-openers every two years, allowing Canada Post and CUPW to negotiate improvements based on a fixed amount of money known as the financial cap. As a result, the union negotiated improved wages, rights and benefits for RSMCs over that time frame. With the financial cap removed, the 2012 and 2015-2016 rounds of negotiations saw larger gains, but there is not yet equality between RSMCs and urban postal workers.

In the 2015-2016 round of bargaining, CUPW negotiated a separate memorandum of understanding with Canada Post to prioritize pay equity and settle it outside of our normal negotiations process.

The Pay Equity Process between CUPW and CPC had to follow the pay equity laws as defined under the Canadian Human Rights Act and the Equal Wages Guidelines. The parties were required to appoint three Pay Equity Committee representatives each to the Committee and each appoint an independent Pay Equity Consultant. An experienced arbitrator was appointed by the government to resolve differences during the process, as well as to render a final decision if there was no agreement reached by the parties.

After months of research we have arrived at a moment where CUPW is in dispute with Canada Post as to whether there is a pay gap or not for RSMCs. Canada Post says no, but come pay day, RSMCs see the difference. They also receive fewer benefits than urban workers.

Instead of going to arbitration, Canada Post could end this right now. It could bridge the rural-urban divide that exists in our country, as well as the significant gender divide at Canada Post.

The Memorandum of Understanding is available at: <http://www.cupw.ca/RSMCPayEquityMOU>

This is the biggest active pay equity case in Canada.

Conflicting Reports

CUPW's consultant concluded that the work of an RSMC is of equal value to that of the predominantly male comparators in the urban postal operations unit at Canada Post. The consultant also found that RSMCs (Zone 1) receive direct wages which range from 24% less than letter carriers to 27% less than mail service couriers (MSC) who drive heavy vehicles. The consultant also analyzed the differences that exist due to the additional benefits received by the male comparators in the urban unit.

Canada Post was allowed to produce two reports. In both reports, their consultant maintains that there is no wage gap between RSMCs and Letter Carriers. In fact, according to the consultant, RSMCs are earning more than their urban counterparts. The reports are fundamentally flawed as they fail to consider all aspects of the work of female employees as required by the Canadian Human Rights Act and the Equal Wage Guidelines. Significant problems include:

- They do not recognize the greater distance travelled by RSMCs;
- They do not recognize the impact of sequencing reducing sortation time for letter carriers;
- They include vehicle expense as income without recognizing the costs;
- They totally ignore the compensation comparison between RSMCs and the other male comparators (MSCs, MSCs-Heavy Vehicle, Letter Carrier Assistants, Mail Despatchers);
- They do not include several important benefits such as pre-retirement leave, birth and adoption leave, marriage leave.

Canada Post's pay equity consultant does acknowledge that there is a benefits gap for RSMCs.

What is pay equity?

Pay equity is a fundamental human right. It is also the law.

Section 11 of the Canadian Human Rights Act (CHRA) states:

“It is a discriminatory practice for an employer to establish or maintain differences in wages between male and female employees employed in the same establishment who are performing work of equal value.”

Pay equity requires that some federally regulated employers pay male and female employees the same wage when they are performing work of equal or comparable value. It is the right to equal pay for work of equal value.

The CHRA says that an employer cannot reduce wages to achieve pay equity.

Are Canada Post and its workers covered by the pay equity law?

Yes. Canada Post and its workers are covered by the CHRA and its pay equity provision.³ In 2011, the Supreme Court of Canada ruled in favour of clerical and administrative workers at Canada Post in a pay equity case filed by the Public Service Alliance of Canada (PSAC). CUPW also learned that the Canadian Postmasters and Assistance Association (CPAA) filed a claim against Canada Post for pay equity in 1993 that has yet to be resolved.

How is pay equity or equal pay for work of equal value determined?

The value of work is calculated using job evaluations which consider four factors: skill, effort, responsibility and working conditions. Most job evaluations use a point system that assigns a numerical value to each factor. The points for the four factors are then totalled to establish the value of a job. Jobs are compared based on their total value. This allows jobs that are predominantly done by men to be compared to jobs that are predominantly done by women in order to determine whether work of equal value is being compensated equally.

This method was used in the comparative review of RSMC bargaining unit work and six predominately male classifications of Urban Postal Operations workers at Canada Post.

Under the law, only people working within the same establishment may be compared. An establishment includes “all employees of the employer subject to a common personnel and wage policy, whether or not such policy is administered centrally.”⁴

Who is responsible for ensuring pay equity?

According to the federal government’s Pay Equity Information Guide, “Even in unionized environments, section 11 of the CHRA makes federally-regulated private sector employers and commercial Crown Corporations solely responsible for ensuring that no gender-based wage discrimination exists in their establishments.”

The Canadian Human Rights Commission (CHRC) also encourages employers to work with employees and their unions to close the wage gap, pointing out that such an approach can ensure compliance with legislation without causing unnecessary confrontation, disruption and costs. The CHRC recognizes that the pay equity complaint process is often expensive and can take a very long time.

It took 28 years for the PSAC pay equity complaint to be resolved. Canada Post poured a great deal of money into fighting against the complaint launched by PSAC on behalf of clerical and administrative workers at Canada Post. In the end, PSAC won its pay equity case, although it had to take its fight all the way to the Supreme Court of Canada. It would have been significantly less expensive if Canada Post had just settled the matter in 1983. CPAA is still waiting after nearly 25 years.

The federal government plans to introduce proactive pay equity legislation before the end of 2018. The recommendations of the 2016 Special Committee on Pay Equity encourage a proactive model that would task Crown corporations and federal sector employers with establishing inclusive Pay Equity Committees for workplaces of 100 or more employees. Unionized workers and workers employed but not covered by unions must be represented and at least half of the committee

members should be women. Under the recommendation, the committee would be “responsible for the modelling, implementation, execution, monitoring and maintenance of pay equity plans.”⁵ Further, the report recommends that a separate federal Pay Equity Commission and Pay Equity Tribunal be created to deal specifically with pay equity concerns. Although the government responded in a positive manner to the report, legislative details are not yet available.⁶

The History of Pay Equity at Canada Post

In 2009, David Olsen, Assistant General Counsel for Legal Affairs at Canada Post, stated “I will repeat, just so there’s no misunderstanding, that our organization unequivocally supports the principle of equal pay for work of equal value.”

In practice, Canada Post has not supported pay equity nor does it like the pay equity provisions in the CHRA. According to Olsen, “Section 11 of the *Canadian Human Rights Act* is poorly drafted” and it “has routinely and strategically been leveraged by trade unions as a means by which to effectively reopen collective agreements that they themselves have entered into with employers, in order to then seek additional payment on behalf of female-dominated groups in their union, a second kick at the can, if you like, that flies in the face of the fundamental sanctity of collective bargaining.”⁷

This Canada Post spokesperson ignores the fact that the corporation has a legal obligation to ensure that men and women are paid equally for work of equal value. He also seems to forget that Canada Post has not pushed for pay equity at the bargaining table, and that it has often relied on back-to-work legislation to impose its agenda. Arguably, this flies in the face of the fundamental sanctity of collective bargaining.

Endnotes

1. Canada Post Corporation, RSMC Demographics, December 31, 2015
2. Canada Post Corporation, December 31, 2015.
3. Most federal public sector workers are no longer covered by the pay equity provisions of the CHRA, but Canada Post workers are. The legislation which removed coverage under the CHRA, the *Public Sector Equitable Compensation Act*, applies to federal employees and federal agencies falling under Schedule I, IV and V of the *Financial Administration Act*. Canada Post is a federal agency but it falls under Schedule III, Part 2.
4. Department of Justice, Equal Wages Guidelines, 1986.
5. *It’s Time To Act*, Report of the Special Committee on Pay Equity, June 2016, <http://www.ourcommons.ca/DocumentViewer/en/42-1/ESPE/report-1/page-18>
6. Government Response to the First Report of the Standing Committee on Pay Equity, <http://www.ourcommons.ca/DocumentViewer/en/42-1/ESPE/report-1/response-8512-421-69>
7. Canada. Standing Committee on the Status of Women, Evidence, 40th Parliament, 2nd session, May 28, 2009 (<http://www.parl.gc.ca/HousePublications/Publication.aspx?DocId=3933600&Language=E&Mode=1&Parl=40&Ses=2>, Date accessed: March 14, 2012,)