

Rec'd.  
A.U.C.E. PROVINCIAL  
207 WEST HASTINGS  
VANCOUVER, B.C.

OCT 2 - 1978

TEACHING SUPPORT STAFF UNION

---(AUCE Local 6) room 7127 CC. S.F.U. Burnaby, B.C.

Labour Relations Board of British Columbia  
1620 W. 8th Avenue  
Vancouver, B.C.

Sept. 23, 1978

Attention: Mr. Rod Germaine  
Vice Chairman, Labour Relations Board

Re: Teaching Support Staff Union (AUCE, Local 6) - and - Simon Fraser University,  
Complaint under Section 28, Ref. # 34/78

This letter concerns the complaint before the Board filed under section 51 of the Labour Code, which resulted from the University administration's decision to discontinue paying teaching assistants for taking the TA Training program. Previous correspondence from the TSSU on this matter is dated July 5 and August 22, 1978, ref. # 34/78.

The union is now informed of a further development with respect to the TAT program. As documented in the attached departmental memo (dated Sept. 7), the administration has decided to suspend operation of the TA Training program altogether this semester, alleging "staffing problems." In spite of the fact that a decision by the Board on this matter is still pending, this unilateral action by the University is now in practice. The union would like to make the following observations about the effect of this action.

The memo indicates that the TA Training program will not be available this semester yet also commits no information about when, if and in what form it might be re-activated in the future. Both at the hearing on the application for certification and in subsequent correspondence to the Board about this particular complaint, University representatives have gone to elaborate lengths to express concern that continued improvement in the quality of teaching at SFU makes such a TA Training program necessary. As such, the Union finds it quite curious that the program is not used in the Fall semester when the greatest number of new graduate TAs receive their first teaching assignment. Given the size of the faculty of Education at SFU (36+ full and part time faculty members) and, in particular, the importance and growth of its profession development program (PDP), which specializes in teacher training, the Union finds and explanation of "staffing problems" amusing. We also remind the Board, as noted in our earlier correspondence on this matter, that the Board of Governors approved only enough money in the 1978 TAT budget to pay administrative personnel salaries. Conveniently, this action to suspend the program violates existing internal University policy governing appointment criteria for teaching assistant appointments (AC 28). As evidence at the hearing, it demonstrated that newly-appointed GTAs with no previous teaching experience are required to take the TAT program.

Rather than remedy the earlier transgression which gave rise to our initial complaint, this action further violates the employer's obligations under section 51 of the Code, precisely because the University now refuses to make the TA Training program available



on any basis. Although the University reminded the Board of an alleged record of responsible behaviour on such matters in its response to our complaint, the administration again failed to inform either the Board or the Union of this latest change in the terms and conditions of GTAs at SFU. In fact, the employer concluded its tardy notification letter as follows:

"However, anticipating that a change in the programme will be implemented in the Fall, the University requests the Board's written permission on the basis that the proposal is entirely consistent with the University's existing policy and is consistent with the original objective and purpose of the programme."

The employer is clearly no longer meeting even the conditions it set out itself for the Board. In sum, the University is being allowed by a fait accompli to avoid paying potential TA Trainees the stipend many otherwise would have received in the course of TAing this semester at SFU. As such, the University's actions on this matter continue to contravene section 51.

It would seem that considerations made by the Ontario Labour Relations Board in R.W.D.S.U., AFL-CIO-CLC, and R.W.D.S.U., Local 461 v. Humpty Dumpty Foods Limited, (1978 CLLR #16, 136) are analogous in part to this situation. The Board considered the question of employer "motivation" while determining whether a purported "irrevocable" decision by the employer to change terms and conditions of employment constituted an unlawful lock-out. It found,

"Notwithstanding whatever legitimate motives may have co-existed for the company's decision to alter its system of distribution for the London area, the Board is satisfied that the timing and content of its announcement on April 28 was designed to compel or induce its employees to agree to changes in provisions respecting terms and conditions of employment; and indeed the actions of the company achieved the desired result." (pp 17,020 - 21)

Although it is not the Union's intention to argue the situation here constitutes an unlawful lock-out per se, it now seems highly appropriate to question the "motivation" leading to the original changes in the TAT program once the significantly reduced 1978 budget was approved by the Board of Governors. The TSSU finds this recent action by the administration to be a clear example of continued flagrant abuse of the terms of labor relations set out in the Code as applying during a certification process. Below we outline several additional violations.

Please refer to Exhibits A through D, dated August 9, 1978, and Exhibit E, dated August 14, 1978. These memo/motions by Dr. D. Birch to the Board of Governors at SFU outline proposed changes in sessional teaching appointment categories and rates of remuneration. They were approved by the BOG August 14, 1978. The union wishes to draw the Board's attention to the following points.

"A": Sessional Lecturer I - This creates an entirely new employee category performing identical work to that of the majority of members of the bargaining unit.



- "B": Sessional Appointments/Stipend Schedule (Please refer specifically to 'Proposed' and 'Current' Schedules). Note, for category SI-1: @ three contact hours currently receives \$1800, whereas on proposed scale will receive only \$1575. Although the Administration may be commended for provision to "red circle" renumeration rates to SI-IIs per the new saale until such time as scale increases to the same level at which they are currently paid (\$2400 for 3 contact hours), there is a conspicuous omission of any similar provision for SI-Is. This group therefore faces a significant decrease in pay from that at time of application.
- "C": Language Instructors Statement that formal policy be established for language instructors (formerly Language Assistants), that will tie their salary scale and employment policy to that already used for Laboraratory Instructors
- "D": 1978-1979 Annual Salary Increases Motion to formally acknowledge interdependent relationship of sessional appointment stipend scale to the faculty salary scale; as well as parity (in %) between faculty and administrative/professional staff total salary scales and career progress increases in salary.
- "E" Annual Salary Recommendations This memo dated August 14 provides the Board of Governors with more detailed information on import of above personnel proposals.

The Union wishes to draw the Board's attention to statements contained in "E", as they reveal the employers knowledge of and intentions about obligations under Section 51 at the time these changes were proposed to the BOG for approval.

"In my covering memorandum for that policy I note that "if the Board of Governors approves this policy we will apply to the Labour Relations Board of B.C. for permission to change the terms and condtions of employment of Language Instructors since this group is one of those for which the teaching support staff union (AUCE, Local 6) is currently applying for certification." It is with the concurrence of our labour lawyer that we propose to implement this policy even though an application for certification is pending. This intention is directly linked to our concern that continuing employees have the benefits of continuing employment and that similar groups of employees be treated equitably.....We will also apply to the Labour Relations Board for permission to change the terms and conditions of appointment in the case of stipend increase for Sessional Instructors I and Teaching Assistants. We gave consideration to freezing all terms of appointment for these groups pending the outcome of the application for certification. The difficulty with doing so arises from the fact that we wish to establish a policy governing the terms of appointment of Language Instructors (as noted above) and we also wish to regularize stipend schedules for sessional appointments. It is not, therefore, possible to maintain consistently the position that we will not change terms and



TSSU ( AUCE, Local 6 ) , ref. 34/78  
Sept. 23, 1978  
.....page 4 (con't.)

conditions of appointment while an application for certification is pending."

To our knowledge, no such permission has been requested by the employer, nor has notification of such changes been provided to the Labour Relations Board. Nevertheless, the University administration proceeded by means of routine administrative process to implement some of these changes.

We refer the Board specifically to Exhibit F, dated August 29, 1978. This letter to SI-IIIs informs them of Fall appointments to be renumeralated at new scale rates (\$5700, rather than \$5400). It also mentions a further increase (annual increase) once "the Faculty salary scale increases since the two scales are tied together." In short, the employer offered employment on the basis of implemented pay changes, without prior notification to the Union or the Board, and in spite of its own recognized obligation by law to do so. Please note this letter is dated after the decision by the LRB on the appropriate bargaining unit had been delivered. Also note it was authored by Dr. Brown, who personally attended some of those proceedings this summer.

We now refer you to Exhibits G,H,I, & J. Exhibit J constitutes a straight forward statement of fact by the employer's representative announcing a summary of the LRB ruling on this application, dated August 31, 1978. It was distributed throughout the campus and posted in virtually every department.

Exhibit G is a letter dated Sept. 13 to SI-IIIs, reversing the increased remuneration rates. The employer admits the revised schedules were authorized by the Board of Governors "in mid August," during the certification freeze period on terms and conditions of employment, and therefore is forced to reverse its earlier (illegal) action granting the increase. Aside from what appears to be an apparent breach of contract with the individuals involved, the union finds the employer's apology, and conduct, highly suspect, as both Dr. Brown and Dr. Birch (authored Exhibits A-E/G-I) were party to the LRB hearing while reviewing how employee groups were subject to the application. In addition, the less-than-positive effects on any employee group which receives a letter from their employer informing them both of inclusion in application of the TSSU resulting from the Board's recent ruling on the bargaining unit, and of a subsequent financial loss, is self-evident. On its own merits, this might appear to be an unfortunate series of circumstance.

However, it is the Union's position that Exhibits H and I tend to establish a pattern in the employer's actions during the certification period which continue to move beyond the boundary of communicating information and into area of exerting influence by means of its capacity as an employer. These letters are also to inform employees of appointment, inclusion in the TSSU application process, and concomitant financial loss during freeze period. For SI-Is ("I"), the inference in this document is even more misleading than for other groups. Reference is made to "intended,"(but abated) increases, when in fact many SI-Is would be subject to an immediate decrease in pay, as shown above. Whereas Exhibit J provides an example by this employer of the ability to communicate fact to affected employee groups, it is our position that these other more recent letters are conspicuous



TSSU (AUCE, Local 6), ref. 34/78  
Sept. 23, 1978  
.....page 5 (con't.)

examples of the employer exploiting its capacity to exert influence. They are misleading and redundant. The recipients formed a "captive audience" by virtue of their positions as employees.

A previous consideration in law to the problem of devising some means for distinguishing between actions resulting in influence by persuasion, as distinct from reasonable communications of information, was rendered in the case of Parkland Development Corp. Complaint had been filed against the union in that case, yet the following comment by Mr. Peck in his decision would seem to apply equally as well in this instance.

"...we simply say that in labor relations, as anywhere else, it is not only legitimate but also quite sensible to infer that the true objective of an actor is the effect which he is regularly, predictably and knowingly producing."

In summary, it is of paramount concern to the Union that the cumulative effect of these maneuvers by the employer is to seriously damage the employment environment of teaching support staff at SFU. We have documented a growing number of changes during the freeze period at this stage of the certification process. There is virtually no evidence of an attempt to comply with these conditions by the employer beyond the sphere of the University administrative bodies. The Board has not been informed or authorized changes. The union has not been notified or consulted. Although few of these examples constitute conditions of unfair labor practices identical to those used in I. U. E. R.W.-AFL-CIO-CLC v. Lorain Products (Canada) etc. 1978 CLLR #16,118; Amalgamated Clothing and Textile Workers Union Toronto Joint Board and Dylex Limited and Group of Employees-1977 CLRBR 171; or Tambllyn Drug Mart and Retail Clerks Union, Local 1518 1975 2 CLRBR 336, it is our position that their cumulative effect can not be ignored. These actions by the employer are beginning to jeopardize conditions on campus that can provide for a representation vote respecting the true wishes of these employees. In particular, further changes causing a deterioration of current terms and conditions of employment for some bargaining unit members also become prohibitive to both parties later being able to successfully negotiate terms in a first collective agreement.

Pursuant to sections 8 and 28 of the Labour Code, the Union therefore asks the Board to order the University administration to cease and desist in the commission of further changes in the terms and conditions of employment for all bargaining unit members. We also ask the employer to restore conditions to the level they existed at the time the application for certification was filed. Specifically, 1) immediately order the TA Training program to be re-instated to its full level of operation, prior to changes causing our first complaint; 2) refrain from establishing or publicizing any further changes in terms and conditions of employment including rates of pay, except those increases granted as routine annual across-the-board increases to all faculty and staff; 3) provide prior notification to both the Board and the Union on all future "intended" changes before applying them, as documented above.

Sincerely,

*Suzanne P. Marria*

Suzanne P. Marria

Secretary, Teaching Support Staff Union, (AUCE, Local 6)

Enc: Memo; 7/9/78

Exhibits

A - I



Rec'd MEMORANDUM  
A.U.C.E. PROVINCIAL  
207 WEST HASTINGS  
VANCOUVER, B.C.

OCT 2 - 1978

To Board of Governors

Daniel R. Birch

Acting President

Subject Sessional Lecturer 1  
Addition to AC 32

Date 1978-08-09

MEMORANDUM

To Board of Governors

From Daniel R. Birch  
Acting President

Subject Stipend Schedules for  
Sessional Appointments

Date 1978-08-09

MEMORANDUM

To Board of Governors

From Daniel R. Birch  
Acting President

Subject Language Instructors

Date 78/08/09

MEMORANDUM

To Board of Governors

From Daniel R. Birch  
Acting President

Subject Salary Increases for 1978-79

Date 1978-08-09

SIMON FRASER UNIVERSITY

MEMORANDUM

To Board of Governors

From Daniel R. Birch  
Acting President

Subject Salary Recommendations

Date 1978-08-14

I wish to provide some additional information  
regarding salary and related personnel policy matters before  
the Board today.



Rec'd  
A.U.C.E. PROVINCIAL  
207 WEST HASTINGS  
VANCOUVER, B.C.

OCT 2 - 1978

57FL

SIMON FRASER UNIVERSITY, BURNABY 2, BRITISH COLUMBIA, CANADA; (ARLA CODE 604) 291-4680  
VICE-PRESIDENT, ACADEMIC

1978-09-13


Since your appointment as a Sessional Instructor II for the fall semester 1978 you will be aware that there has been some confusion over the stipends to be paid. The original letter offering you an appointment stated a total stipend of \$5400 but this was amended to \$5700 by a supplementary letter of 29 August 1978. Subsequently we have had to return the rates to those originally quoted (1977/78 rates). I sincerely regret the confusion and I want to explain how it has arisen.

In mid August our Board of Governors authorized a revision of the stipend schedule to make it more equitable. At the same time the Board authorized an increase in Sessional Instructor stipends to take place when the faculty salary scale increase had been determined. In a letter dated August 29th we notified our Sessional Instructors of the intended changes. You were one of the Sessional Instructors notified since the intended schedule change impacted on your stipend. Immediately thereafter we were informed by the Labour Relations Board of B. C. of its ruling that Sessional Instructors II were to be included in the bargaining unit for which the Teaching Support Staff Union (AUCE #6) had applied for certification. It remains for the Labour Relations Board to determine whether or not the union had 45% of that bargaining unit as members at the date of application. If not, the application will be rejected. However, if the union had the required 45% as members a representation vote will be held in November of this year.

Under section 51 of the Labour Code of B. C. we are forbidden to change terms or conditions of appointment without the permission of the Labour Relations Board while an application for certification is pending. It is our intention not to take any action at this time. Therefore, the 1977/78 rates will remain in effect and the total stipend you will be paid is \$5400.

Once again I apologize for the confusion and inconvenience created by these events.

Yours sincerely,

  
Daniel R. Birch  
Acting Vice-President, Academic

DRB/mgl



*Rec'd*  
A.U.C.E. PROVINCIAL  
207 WEST HASTINGS  
VANCOUVER, B.C.

OCT 2 - 1978



SIMON FRASER UNIVERSITY, 80-118, BURNABY, BRITISH COLUMBIA, CANADA V5A 1S6 (AREA CODE 604) 291-4680  
VICE PRESIDENT, ACADEMIC

78/09/13

Dear Teaching Assistant:

You have received appointment as a Teaching Assistant for the fall semester 1978 and you are no doubt aware that you are the subject of an application for certification by the Teaching Support Staff Union (AUCE Local #6). The Labour Relations Board of B.C. has ruled that the appropriate bargaining unit consists of Teaching Assistants, including undergraduate Teaching Assistants, graduate Teaching Assistants I and II; Sessional Instructors I and II, including Sessional Instructors in Continuing Studies; Language Assistants; and Markers and Tutors. It remains for the LRB to determine whether or not the union had 45% of that bargaining unit as members at the date of application. If not, the application will be rejected. However, if the union had the required 45% as members, a representation vote will be held in November of this year.

The SFU Board of Governors has authorized changes in the stipend schedule to increase remuneration for GTA's holding fractional appointments. However (under section 51 of the Labour Code), we are forbidden to change terms or conditions of appointment without the permission of the Labour Relations Board while an application for certification is pending. It is our intention not to implement changes in the stipend schedule or rates at this time.

I regret the delay but I would be pleased to respond if you have any questions about this matter.

Yours sincerely,

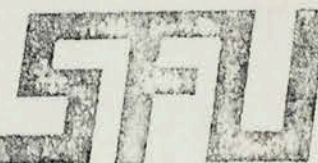
A handwritten signature in dark ink, appearing to read 'Daniel R. Birch', is written over a horizontal line.

Daniel R. Birch  
Acting Vice-President, Academic

DRB/csg







SIMON FRASER UNIVERSITY, BURNABY, BRITISH COLUMBIA, CANADA V5A 1S6 (AREA CODE 604) 291-4000  
VICE PRESIDENT, ACADEMIC

*Rec'd*

A.U.C.E. PROVINCIAL  
207 WEST HASTINGS  
VANCOUVER, B.C.

OCT 2 - 1978

1978/09/13

Dear Sessional Instructor I:

You have received appointment as a Sessional Instructor I for the fall semester 1978 and you are no doubt aware that you are the subject of an application for certification by the Teaching Support Staff Union (AUCE Local #6). The Labour Relations Board of B.C. has ruled that the appropriate bargaining unit consists of Teaching Assistants, including undergraduate Teaching Assistants, graduate Teaching Assistants I and II; Sessional Instructors I and II, including Sessional Instructors in Continuing Studies; Language Assistants; and Markers and Tutors. It remains for the Labour Relations Board to determine whether or not the union had 45% of that bargaining unit as members at the date of application. If not, the application will be rejected. However, if the union had the required 45% as members, a representation vote will be held in November of this year.

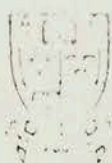
The SFU Board of Governors has authorized changes in the stipend schedule to make it more equitable and to provide for an increase in rates once the faculty salary settlement is concluded. However (under section 51 of the Labour Code), we are forbidden to change terms or conditions of appointment without the permission of the Labour Relations Board while an application for certification is pending. It is our intention not to implement changes in the stipend schedule or rates at this time.

I regret the delay but I would be pleased to respond if you have any questions about this matter.

Yours sincerely,

Daniel R. Birch  
Acting Vice-President, Academic

DRB/csg





*Rec'd.*  
A.U.C.E. PROVINCIAL  
207 WEST HASTINGS  
VANCOUVER, B.C.

AUCE

OCT 2 - 1978

*POST*  
**SFU**

SIMON FRASER UNIVERSITY, BURNABY, B.C., CANADA V5A 1S6  
PERSONNEL SERVICES; 291-3237

August 31, 1978

SUBJECT: L.R.B. Decision Re Teaching Support Staff Union

The Labour Relations Board of B.C. has issued its decision on the hearing into the request for certification by the Teaching Support Staff Union, AUCE Local 6.

Attached to this letter is a copy of the L.R.B. decision. Below are summarized the major points contained in the L.R.B. decision.

1. The appropriate unit for representation by AUCE Local 6 is the group of non-faculty teaching support staff as follows: Teaching Assistants, including undergraduate Teaching Assistants, graduate Teaching Assistants I and II; Sessional Instructors I and II, including Sessional Instructors in continuing studies; Language Assistants; and, Markers.
2. The unit has not been certified. The certification vote (if the Union can show that they have at least 45% membership in the appropriate unit) would take place this November.
3. The unit excludes -
  - Sessional Lecturers
  - Lab Instructors I and II
  - Associates in the Faculty of Education

Note: The L.R.B. has ruled that should the Lab Instructors seek formal trade union representation sometime in the future, they can only do so by joining AUCE Local 6 by a majority vote.

It would be appreciated if this letter and the L.R.B. decision were openly displayed and circulated to all Faculty, students and staff members alike.

Yours truly,

*Tom King*  
Tom King  
Assistant Director  
Personnel/Employee Relations

