

Pay Equity and Part-Time Work

An Analysis of Pay Equity Negotiations in Ontario Supermarkets

by Jan Kainer

Cet article présente les résultats d'une recherche sur l'équité en emploi chez les travailleurs à temps partiel dans trois supermarchés en Ontario et assure que ces travailleurs, dont la

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Since Ontario's Pay Equity Act was passed January 1, 1988, there have been very few analyses which examine the final results of the pay equity process in specific sectors or industries. Despite the fact that Ontario's Act is the only pro-active legislation in the world that requires private sector employers to comply with pay equity procedures, there is almost no information available on pay equity results in this sector, especially the private services sector where women workers predominate. This article reviews the outcome of pay equity bargaining in the supermarket sector—a sector whose workforce is dominated by part-time women workers. The specific aim is to examine the outcome of negotiations in food retail from the perspective of the contingent worker. I argue that the key players in negotiations, in this case supermarket employers and retail unions, made a strategic choice not to extend pay equity adjustments to the part-time classification. I also suggest that the strategic choice made by unions in response to management, reflected a "fordist mentality"¹ in which the male full-time worker provided the standard for pay equity decisions. As this article will demonstrate, pay equity bargaining did not challenge the gendered assumptions concerning the value of women's part-time work. Consequently, the supermarket sector remains sex-divided with a predominant male full-time "core" workforce, and a disproportionate number of women working in the expanding "peripheral" or part-time category.

This article summarizes the results of pay equity in regard to the part-time classification in three large supermarket chains in Ontario: Loblaws, Miracle Food Mart, and A&P/Dominion. At the time of pay equity negotiations these three supermarket chains employed approxi-

mately 20,000 workers who were represented by the United Food and Commercial Workers (Local 1000A, Loblaws and Locals 175/633 Miracle Food Mart) and the Retail, Wholesale Department Store Union (Local 414 A&P/Dominion). Both of these unions are characterized by business unionism, an approach to labour relations that is narrowly centred on increasing wages and improving work conditions.² In general, there are more similarities than differences among the three locals. Each local represents hundreds of workers in a supermarket chain under a master agreement. There are also clear divisions between full-time and part-time workers which is reflected in bargaining unit structure. However, all three units operate with separate seniority systems for the part-time classification. As will be shown, the seniority system was an important factor in equal pay negotiations.

The retail food workforce

There are two important observations about the supermarket workforce that must be noted. First, the majority of supermarket workers are employed part-time. For instance in 1991, the union local representing 6,651 supermarket workers at A&P/Dominion Stores reported that 70 per cent of their total membership worked part-time. Part-time includes workers who are scheduled 24 hours or less per week. At the time of pay equity negotiations the Retail, Wholesale Department Store Union representing supermarket workers at Local 414 reported that of 8,500 members, only 1,500 worked full-time (RWDSU, Business Agent, Toronto, December 11, 1991). Second, of the part-time workforce, the majority are women. Referring to the same data as above, figures indicate that 62 per cent of the part-time workforce were women, while only 35 per cent of women work full-time in the bargaining unit.

Women are concentrated in the part-time classification because they perform service jobs, such as cashiering or meat wrapping, which involve direct contact with the customer. Historically, retail food management preferred to hire women to perform service roles because they assumed women's gender socialization prepared them to interact with shoppers and second, that they were "naturally" endowed to perform work (such as meat wrapping) which is associated with homemaking skills. Retail management also recruited women because they were available to work part-time (Glazer).

Retail management recruited men to do physical labour such as stocking shelves and cutting meat (Walsh). These positions are perceived to be higher status because they are linked to production work and profit-creation in the

store. While stock clerks are hired on a part-time basis, many of the other jobs done by men are full-time. For instance, managerial positions are full-time, and are almost completely dominated by men (Kainer 1998).

What about pay?

The pay structure of part-time and full-time workers in the supermarket is based on a system of separate wage grids. All part-time employees, regardless of job title, receive wage rates in accordance with a part-time wage grid which pays automatic increases according to length of

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service (e.g. a wage increase every six months) with a company. Because part-time employees are "lumped together," there are no gender wage differentials within the classification. This is unlike the full-time classification which pays workers different rates of pay depending upon the specific job category. Part-time employees, all of whom receive the same rate of pay at equal levels of seniority, earn lower wages and fewer benefits compared to full-time workers.

The pay equity process

To achieve pay equity under Ontario's Pay Equity Act, the parties are required to follow a series of steps to implement a pay equity plan. While there are a number of very complex rules in the legislation that determine exactly how the procedures are carried out, in essence, the pay equity exercise can be summarized in a few steps.

Where there is a bargaining agent involved, as in this case, the union and employer are required to negotiate the pay equity implementation which includes defining specific terms. They first must negotiate who constitutes the establishment and employer, as this will determine which employees are to be covered by the plan.³ Next, job classes must be identified as either female (60 per cent) predominant or male (70 per cent) predominant. The job rates, or wage level, for the job classes must also be determined. The female and male job classes are then compared using a gender-neutral job comparison system that values the job classes based on the components of skill, effort, responsibility, and work conditions. Pay equity adjustments are assigned to female job classes which are determined to be of equivalent value, or comparable worth, to male job classes. The employer is required to spend one per cent of payroll on payouts.

Although the actual steps in negotiating pay equity are relatively simple, the exercise becomes complicated when technical-legal definitions are manipulated and applied in the negotiations. In fact, most of the terms are subject to qualification under provisions set down in the Act. There are numerous places where the parties negotiate the specific meaning and application of legal requirements, meaning that there is considerable latitude in how the law is applied. As discussed below, specific provisions in the Act were used to narrow the application of pay equity adjustments in retail food.

The central consequence was that the part-time classification, which represents a female majority of the supermarket workforce, was excluded from pay equity adjustments. How could this happen? Part of the reason can be explained in reference to the legislation and how it was interpreted by the parties.

With the exception of defining establishment and employer, almost every step in the pay equity implementation was wide open to interpretation. At all three chains the retail unions and management agreed that the employer was the supermarket chain. This meant that all 6,000 employees working for Loblaw's, for instance, and represented by the union local were to be included under one pay equity plan.

Defining job class was not as straight-forward because the legislation allows parties to determine the gender predominance of a job class in terms other than percentage cut-offs. At the time pay equity was negotiated, the part-time category in some instances did not meet the 60 per cent threshold for a female predominant job class. Under the Act, the gender predominance of a job class can be assigned in reference to historical incumbency or who has traditionally performed the work. As previously mentioned, the history of retail work clearly locates a majority of women in the part-time category. Although the argument of historical incumbency is almost irrefutable, it was rejected by the unions. The reasons why labour representatives chose not to recognize the part-time classification as female-predominant was revealed in my interviews with union representatives, who stated that the employers had suggested separating the full-time and part-time classifications for pay equity comparison. That is, the parties decided to compare female full-time job classes to male full-time. Because the part-time classification is devoid of gender wage differentials, that is everyone gets paid the same, there was no basis for comparison and no pay equity wage adjustments were assigned to the part-time category.

Both the structure of the bargaining units, especially the division between full- and part-time employees, and the exclusions in the Act complicated the process of achieving wage adjustments for workers in female predominant job classes. The purpose of establishing a job rate is to determine the "male comparables" or male job rate available. Ontario's Pay Equity Act defines the term "job rate" as the "highest rate of compensation for a job class." The law further qualifies this term, however, by stating that the

employer can make arguments as to why the highest rate of compensation should not be considered the job rate. Arguments to exclude the highest job rate can be made on the basis of skills shortage, a merit compensation plan, or a temporary employee training program, and some others specified in the Act. Of particular importance for this case is a provision under Section 8 of the legislation which allows differences in compensation between female and male job classes if they are the result of a "formal seniority system that does not discriminate on the basis of gender."

Full and part-time employees operate under separate seniority systems. During negotiations Section 8 was in-

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terpreted to mean that part-time employees could be excluded from pay equity adjustments because of seniority and because part-timers are paid according to a single wage progression grid.

A further difficulty arising from the legislation concerns the method of comparing job classes. Under Section 6 of the Act, an employer is mandated to adjust the wage of the female job class up to the rate of the male job class of comparable value, but with the lowest job rate. For example, cashiers could not be compared to assistant manager even if they scored equivalent points in the job evaluation, when other male comparators of the same value with a lower job rate are available for comparison. But the Act, in stating that of several male comparables, the comparator must be the lowest job rate, also establishes the highest level of compensation within the job class. The meaning of Section 6 is often abbreviated by the phrase, "the highest of the low." That is, a female job class that scores equivalent points to several male job classes receives a pay equity adjustment based on the highest level of compensation, but the lowest job rate, within the group of possible male comparators.

A straightforward job-to-job comparison was seen to be complicated by the presence of a part-time job rate in the bargaining unit. The unions agreed with the employers to exclude the part-time classification in the pay equity comparison because the part-time rate, they believed, would have had the effect of eliminating wage equity for full-time female job classes. In other words, the parties interpreted the Act to mean that, a comparison based on the highest level of compensation as per Section 6, is reduced to a male comparable based on the lowest level of compensation when Section 8 is applied. In effect, sections 6 ("highest of the low") and 8 (permissible difference based on seniority) of the Act were seen to converge, to shift the

level of wage equity downward from "highest of the low" to "lowest of the low." The female job class meat wrapper nights does not receive an adjustment because the wage rate of this job class is higher than the lowest paid (part-time) comparable job class. The parties assumed it was necessary to eliminate the part-time rate in the comparison, in order to render a wage adjustment for the full-time female job class.

In actual fact, there is no logical or legal reason for putting together Section 6 and Section 8 of the Act. Section 6 specifies the process for finding a job rate if there is more than one available for comparison. Section 8 defines the permissible exemptions or the permitted difference in compensation that is allowed due to seniority, merit pay, and so on. The effect of interpreting the Act in reference to Sections 6 and 8, however, obliterated wage adjustments for the vast majority (i.e., part-time) grocery retail workforce. With the exclusion of the part-time category, female full-time job classes were compared to full-time male job classes. Out of a bargaining unit at Loblaw's of some 6,000 only 500 full-time workers or about 8 per cent of the bargaining unit received a wage adjustment.

Implications of pay equity for part-time workers

The "exclusion" of part-time employees from the pay equity comparison was an extremely effective method to reduce the level of payouts and to contain the benefits of pay equity reform (Steinberg). Even though part-time employees comprise at least 70 per cent of the total workforce in the retail food sector, the retail unions in this case did not exploit the potential presented by pay equity to raise wages for this group.

There is no question that the complexity of Ontario's Pay Equity Act played a role in how equal pay was negotiated. Still, it needs to be pointed out that the application of technical requirements in the equal pay exercise invited opportunities for advancing a progressive approach to equal pay. Specifically, the definition of job class regarding part-time employees was negotiable in reference to historical incumbency. In all three grocery chains the employer, in practice, treats part-time employees as one job class. Had part-timers been declared a female job class, comparison could have been made to a full-time male job class of comparable value. There is nothing in the legislation that prohibits comparison between full-time and part-time work.

An option that was available for achieving wage increases for part-timers was to combine full- and part-time categories. If part-time and full-time job categories had been combined, it would then have been possible to follow through on a full evaluation of all categories, and demonstrate equivalency. Unfortunately, pay equity committees did not fully explore the option of evaluating part-time and full-time job classes to demonstrate that they are of equal value. While at least two union officials I spoke with



United Food and Commercial Workers' Union member.

Photo: David Smiley

indicated the job worth points for full- and part-time job categories would likely be equivalent in value, the unions did not pursue the strategy of demonstrating equivalency as a basis for combining full- and part-time job categories (Senior Union Official, UFCW, Toronto, September 28, 1990; Senior Union Official, RWDSU, February 19, 1992, Sudbury). Given that full- and part-time employees are doing the same work, the job evaluation should produce equal points for the two groups. In essence, such an approach remedies an equal pay for equal work inequity. Applying pay equity in this way would have produced significant wage increases for the contingent labour force. The posted pay equity plans show that full-time female predominant job categories received wage adjustments—these wage adjustments should have been extended to the part-time classification. What resulted instead, is that the pay equity plans negotiated reinforced the part-time workforce as a separate group. Pay equity maintained the division within the internal labour force between a large lower-paid, flexible part-time category, and a dwindling full-time, but higher-paid permanent workforce.

Thus, although the open-ended nature of the Act provided opportunities to press for a particular interpretation of wage equity, it is clear the unions and retail employers negotiated pay equity within a framework that accepted the part-time workforce as a distinct and secondary group. In my interviews with union officials, I often had to probe to find out their views as to why the part-time category did not receive wage adjustments, even though part-timers represent the majority of the retail food workforce. A typical response from union representatives

concerning part-time workers was that “part-time got compared to part-time and since they already had equity there were no adjustments” (Senior Union Official, UFCW, Toronto, July 9, 1990). Union officials expressed enthusiasm about the wage adjustments for full-time employees, but were often reluctant to explore the issue of part-time and pay equity. The responses of union officials reflect broader societal views about part-time work.

Pay equity and the “model” worker

The part-time worker is not viewed as a member of the core labour force since they do not meet the criteria of the “model worker” who is male and permanently attached to the workplace. As Jane Jensen points out, the conception of the “model worker,” “as a man earning enough to support his dependent family by working full-time, and with job security,” was integrally corrected to the “fordist” economy which has been “shattered” by decades of economic instability and global restructuring. The pattern of work in the post-fordist economy is marked by an expansion of the contingent (e.g. part-time) worker. Because part-time workers are a feminized group, the restructuring process is not gender neutral (Cohen; Duffy and Pupo; Jensen).

In spite of the overwhelming number of part-time workers, pay equity negotiations were conducted with the interests of the full-time worker in mind. Part-time workers, who are primarily women, were viewed as temporary and less committed to the workplace. Pay equity negotiations did not challenge the gendered image of the part-

time worker who is negatively viewed as having a weak commitment to the workplace, and seen to have less importance and value to the economy (see, for example, Warne *et al.*).

The retail unions were not forward thinking in their approach to pay equity. As I have shown, there were opportunities to push for a combined wage structure for part-time and full-time employees. The unions, in not pursuing this as a goal, were not adjusting to the changing post-fordist economy in which the contingent worker is quickly becoming the norm. Instead of seizing the pay equity opportunity to promote the interests of the peripheral workforce, they chose instead to protect the wages of the minority full-time workforce. However, it is the part-time classification which is growing as employers search for flexible workforce strategies in an era of restructuring. Increasingly, retail management is relying extensively on flexible labour. The use of part-timers is the most widespread managerial strategy being applied in the industry. Indeed, women part-time workers in the supermarket constitute a disadvantaged group because they are concentrated in gender-segregated low-wage service jobs, and because they are used as a flexible labour supply by supermarket management (see Kainer 1997).

Significantly, since pay equity negotiations were concluded in 1990, the part-time classification in these three chains has been expanding. For instance, Retail Wholesale estimates that 85 per cent of the food retail workforce works part-time (Retail Wholesale Canada). In every major retail chain in Ontario, new lower-tier part-time wage grids have been created. Ironically, the retail unions in choosing to support the interests of the full-time member, are now in a position of protecting and actively representing a component of the workforce that is steadily shrinking. However, they have not laid the foundations for strongly representing the needs of the female predominant part-time worker category.

In the midst of economic transformation, pay equity offered a critical moment for the unions to forge an important defensive strategy to restructuring. Because of the expansion of the contingent labour force it was in the interests of the retail unions to manage the pay evaluation process so as to bring equity in compensation to the entire food retail workforce. Given the central place part-time workers occupy in the changing economy, they deserved special consideration in the struggle for gender and fair pay.

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¹Fordist mentality refers to a set of assumptions about work that existed in the post-Second World War period. It applied mainly to male workers who were expected to

engage in secure, full-time work in mass production industries to support their families (see McDowell).

²Business unionism is a conservative labour relations philosophy that focuses on "bread and butter" issues while paying less attention to larger social justice issues.

³There is no definition of employer in the legislation. Establishment is defined as encompassing all of the employees in a geographic division. For a discussion of legal terms in Ontario's Pay Equity Act see McDermott.

References

- Cohen, Marjorie Griffin. "The Implications of Economic Restructuring for Women: The Canadian Situation." *The Strategic Silence*. Ed. I. Bakker. London: Zed Books, 1994.
- Duffy, Ann, and Norene Pupo. *Part-Time Paradox: Connecting Gender, Work and Family*. Toronto: McClelland and Stewart, 1992.
- Glazer, Nona. *Women's Paid and Unpaid Labor: The Work Transfer in Health Care and Retailing*. Philadelphia: Temple University Press, 1993.
- Jensen, Jane. "Part-Time Employment and Women: A Range of Strategies." *Gender and Change in Canada*. Ed. I. Bakker. Toronto: University of Toronto Press, 1996.
- Kainer, J. "Gender, Corporate Restructuring, and Concession Bargaining in Ontario's Food Retail Sector." *Relations Industrielles/Industrial Relations* 53.1 (1998): 183-206.
- Kainer, J. "Flexibility and Low Pay: Restructuring in Ontario's Food Retail Sector." Working Paper No. 14, Centre for Research on Work and Society, York University, June 1997.
- Local 1000A UFCW. *Connections* 2.3 (1989): 1.
- McDermott, Patricia. "Pay Equity in Ontario: A Critical Legal Analysis." *Osgoode Hall Journal* 28.2 (1990): 381-407.
- McDowell, Linda. "Gender Divisions in a Post-Fordist Era: New Contradictions or the Same Old Story?" *Defining Women: Social Institutions and Gender Divisions*. Eds. Linda McDowell and Rosemary Pringle. Cambridge: Polity Press, 1992.
- Retail Wholesale Canada, Canadian Service Sector Division of the United Steelworkers. National Policy Conference Resolution, 1995.
- Steinberg, Ronnie. "Job Evaluation and Managerial Control: The Politics of Technique and the Technique of Politics." *Just Wages: A Feminist Assessment*. Eds. P. McDermott and J. Fudge. Toronto: University of Toronto Press, 1991.
- Walsh, John. *Supermarkets Transformed: Understanding Organizational and Technological Innovation*. New Jersey: Rutgers University Press, 1993.
- Warne, Barbara, Katherine Lundy, and Larry Lundy. *Working Part-Time: Risks and Opportunities*. New York: Praeger, 1992.