STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

MONTELLO EDUCATION ASSOCIATION, Complainant,

vs.

MONTELLO SCHOOL DISTRICT, Respondent.

Case 22
No. 58645
MP-3619

Decision No. 29947-B

Appearances:

Attorney Teresa M. Elguézabal and **Attorney Rebecca L. Ferber**, Legal Counsels, Wisconsin Education Association Council, P.O. Box 8003, Madison, Wisconsin 53708-8003, on behalf of the Association.

Friedman Law Firm, by **Attorney David R. Friedman**, 30 West Mifflin Street, Suite 1001, Madison, Wisconsin 53701, on behalf of the District.

AMENDED FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

Amedeo Greco, Hearing Examiner: I issued my decision in this matter on February 7, 2001, wherein I found that the Montello School District ("District"), had violated Section 111.70(3)(a)4 of the Municipal Employment Relations Act. As a remedy, the District was ordered to award Donald L. Lloyd the junior high school boy's basketball coaching position and to pay him "what he would have earned up to the present had he been awarded the position in the 1999-2000 school year" (Id, at p. 11), which was calculated to be $2,450 a year (Id., at p. 18). Said $2,450 figure was used because that was the figure used on p. 7 of the Reply Brief filed by the Montello Education Association ("Association").

Attorney David R. Friedman on behalf of the District by letter dated February 15, 2001, informed me that the District wanted me to clarify my decision because:

. . .

> In reviewing your decision issued on February 7, 2001, you have two different remedies listed regarding back pay. On page ten of your decision, your third order is that the District is to "award the junior high school boy's basketball coaching position to Donald L. Lloyd and make him whole by paying him for what he would have earned up to the present had he been awarded that position in the 1999-2000 school year."
>
> On the bottom of page 17 and the top of page 18, you indicated that Lloyd is to be "paid the $2,450 a year that the coaching position pays. . ."
>
> As set forth on page five paragraph six, the maximum coaching salary per year for the junior high basketball coach is $1,250. There is nothing in the record indicating in which pay level Don Lloyd should be placed. Even if you placed him in the maximum pay category, it would not be $2,450 per year.

. . .

By letter and fax dated February 21, 2001, Attorney Teresa M. Elguézabal on behalf of the Association stated that the $2,450 figure was indeed incorrect and that:

. . .

> Accordingly, we believe that Paragraph 3 of the Order, at page 10, is correct as is. And the last paragraph of the Decision at the bottom of page 17 and top of page 18 should be corrected to read as follows:
>
> > In light of the above, I conclude that the District's failure to timely respond to Lloyd's grievance violated the *status quo*, and that it must now pay the very remedy it agreed to pay in Article VII, Section D, Step b, i.e., that he be awarded that position and that he be paid the annual salary ~~$2,450 a year~~ that that coaching position pays, pursuant to the applicable salary schedule and Mr. Lloyd's pay level based on his experience, as that remedy also constituted part of the *status quo*. The District therefore is hereby ordered to grant that remedy and to take the other remedial action set forth above.

> The Association understands that, according to the applicable salary schedules for the Junior High School Boys' Basketball Coach and based on Mr. Lloyd's years of experience, such pay is $1,288 for the 1999-2000 school year and $1,326 for the 2000-2001 year but these figures need not be part of the Decision and Order unless the District agrees.
>
> . . .

In a joint telephone call on February 22, 2001, with Attorneys Friedman and Elguézabal, Attorney Friedman agreed that the figures noted in Ms. Elguézabal's letter were correct.

Accordingly, and pursuant to Sec. 111.07(5), Stats., and ERC 12.08 which provide that hearing examiners retain their jurisdiction for twenty days after the date of their decisions, the District's request for clarification is granted. Hence, the last paragraph on pp. 17-18 of the decision is hereby deleted in its entirety and replaced with the following:

> In light of the above, I conclude that the District's failure to timely respond to Lloyd's grievance violated the *status quo*, and that it must now pay the very remedy it agreed to pay in Article VII, Section D, Step b, i.e., that he be awarded that position and that he be paid the annual salary of $1,288 for the 1999-2000 school year and $1,326 for the 2000-2001 school year that that coaching position pays, pursuant to the applicable salary schedule and Mr. Lloyd's pay level based on his experience, as that remedy also constituted part of the *status quo*. The District therefore is hereby ordered to grant that remedy and to take the other remedial action set forth above.

Dated at Madison, Wisconsin this 26th day of February, 2001.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

Amedeo Greco /s/
Amedeo Greco, Examiner

AAG/gjc
29947-B.doc