

BEFORE THE ARBITRATOR

 In the Matter of the Arbitration :
 of a Dispute Between : Case 39
 : No. 45015
 HOWARD-SUAMICO BOARD OF EDUCATION : MA-6482
 EMPLOYEES LOCAL 3055, AFSCME, AFL-CIO :
 : Case 40
 and : No. 45016
 : MA-6483
 :
 HOWARD-SUAMICO SCHOOL DISTRICT :
 :

Appearances:

Mr. James W. Miller, District Representative, Wisconsin Council 40, AFSCME, AFL-CIO, appearing on behalf of the Union.
 Godfrey & Kahn, S.C., Attorneys at Law, by Mr. Robert W. Burns, appearing on behalf of the Employer.

ARBITRATION AWARD

Pursuant to a request by Howard-Suamico Board of Education Employees Local 3055, AFSCME, AFL-CIO, herein the Union, and the subsequent concurrence by the Howard-Suamico School District, herein the District, the undersigned was appointed arbitrator by the Wisconsin Employment Relations Commission on January 24, 1991 pursuant to the procedure contained in the grievance-arbitration provisions of the parties' collective bargaining agreement, to hear and decide a dispute as specified below. A hearing was conducted by the undersigned on March 15, 1991 at Green Bay, Wisconsin. The hearing was transcribed. The parties completed their briefing schedule on July 30, 1991.

After considering the entire record, I issue the following decision and Award.

ISSUES:

The parties were unable to stipulate as to the issues.

Hennig Grievance - Bay Port High School Janitorial Position

The Arbitrator frames the issues as follows:

1. Did the Employer violate the collective bargaining agreement by not granting the grievant, Brad Hennig, the janitorial position on the 11:00 a.m. to 7:30 p.m. shift at Bay Port High School?
2. If so, what is the appropriate remedy?

Drzewiecki, Sheedy, Debauche, Blake & Eastman Grievances -
Forest Glen Elementary School Custodial Position

The Arbitrator frames the remaining issues as follows:

1. Were the grievances of Eastman, Blake and DeBauche submitted in a timely manner so as to be arbitrable under Article XXIII of the collective bargaining agreement?
2. If arbitrable, did the Employer violate the collective bargaining agreement when they failed to allow grievants Eastman, Blake and DeBauche to test for the custodial position at Forest Glen Elementary School?
3. Did the Employer violate the collective bargaining agreement when it filled the custodial position at Forest Glen Elementary School with someone from outside the bargaining unit?
4. If so, what is the appropriate remedy?

FACTUAL BACKGROUND:

Bay Port High School Janitorial Position

The Employer created a new position of janitor - 11:00 a.m. to 7:30 p.m. at Bay Port High School and moved Jeff Blake into that position. The Union grieved that this was a new position and should be posted. Arbitrator, Mary Jo Schiavoni, (Howard-Suamico School District, Case 32, No. 43103, MA-5896) ruled in favor of the Union and the Employer posted the job on or about May 16, 1990, as follows:

"To Whom it May Concern:

The School District of Howard-Suamico wishes to post the following position:

- 1 - FULL TIME JANITOR - HOURS 11:00 A.M. TO 7:30 P.M. BAY PORT HIGH SCHOOL (Effective August 23, 1990)

Perform routine janitorial duties and site work.

Janitorial scale \$9.60/\$10.60 per hour.

If interested, contact James Wenzel at 434-4000 no later than May 23, 1990."

Two employes signed for the posting, Blake who held the position during the aforesaid grievance and arbitration process and the grievant, Brad Hennig. Both Hennig and Blake are classified as janitors; the position was a lateral move and involved no change in title or classification. Hennig is the most senior applicant for the position.

The Employer selected Blake for the position. The Employer determined Blake was more qualified for the position because at the time he was doing the work in question on a daily basis, and the Employer was satisfied with his job performance. The Employer also based its decision to select Blake for the position on past work performance in the District, and the different jobs the

two applicants had held over the years in the District. In this regard the Employer considered past difficulties the District had with Hennig working alone in buildings where he had been assigned. The Employer also felt Blake was more qualified to perform the duties at the speed and accuracy required for the position, and had better mechanical skills.

The job description for the above-mentioned janitor position contains the following:

POSITION SUMMARY: Under the direction and supervision of the Supervisor of Buildings and Grounds provide general cleaning and limited maintenance of District facilities.

DESCRIPTION OF DUTIES: Clean, mop, scrub, seal, and finish various type floors in classrooms, gymnasiums, hallways, restrooms and administrative areas.

Rake, mow, and water lawns, trim shrubbery.

Replace light bulbs and perform similar limited maintenance tasks.

Perform other duties as assigned by the Supervisor of Buildings and Grounds.

This job description indicated the kinds of tasks and levels of work difficulty that will be given this title and shall not be construed as declaring what the specific duties and responsibilities of any particular position shall be. It is not intended to limit or in any way modify the right of any supervisor to assign, direct and control the work of employes under supervision. The use of a particular expression or illustration describing duties shall not be held to exclude other duties not mentioned that are of a similar kind or level of difficulty.

The job also requires the individual filling it to line and prepare athletic fields, drag some diamonds and do lawn care. The job was a split-shift type of position with approximately four hours outside work and four hours inside cleaning.

Forest Glen Elementary School Custodial Position

The Employer built a new school - Forest Glen Elementary School. When the school was near completion, the Employer posted a custodial opening internally. The Employer also advertised in newspapers. There were a number of internal and external applicants for the position.

The Employer administered a scored testing and interview process to establish the most qualified candidate. There was no pass or fail score on either the interview or the Bennett and TAP tests. The combination of both the

interview and the tests were averaged out to arrive at a final average score for each applicant. The applicants were then ranked.

At the conclusion of the interview and testing process, two individuals were tied with the highest score. One was an internal candidate and the other was external, and the District determined it would first offer the position to the internal candidate. That individual declined the position, and it was next offered to the external candidate who had tied with the internal candidate who declined the position. The external candidate also declined the position and it was then offered to the candidate who had scored the next highest on the testing and interview, Dennis Wiskow. Wiskow, also an external candidate, accepted the position.

Several grievances were then filed. Jim Drzewiecki grieved on the basis that a less senior employe was given the custodial position, which the District denied on the basis that the contract does not require vacancies to be filled by seniority, unless qualifications are equal. Grievant Mike Sheedy protested that the vacancy could not be filled by someone outside the bargaining unit if there were internal applicants who were qualified. The District denied the grievance on the basis that it was not restricted by the language of Article XVII to internal candidates only.

In addition, grievants DeBauche, Blake and Eastman contended that they were improperly excluded from the testing for the position. The Employer denied those grievances on the basis that said grievants did not meet the minimum qualifications stated for the position which required:

One (1) year vocational diploma in mechanical design or related field; or high school diploma or G.E.D. plus a minimum of one year's satisfactory work experience as a custodian.

The Employer also denied said grievances because the grievances were received "on August 21, 1990, which is more than ten working days after the alleged violation of the Master Agreement."

Prior to the selection process, none of the aforesaid three grievants provided the District with information upon which it could conclude that they were minimally qualified by either having a one-year vocational diploma or a high school diploma/G.E.D. plus one year's experience as a custodian. All three were employed as janitors in the District, not custodians. However, there is some overlapping of duties and responsibilities for the janitor and custodian job descriptions. The grievants performed some custodial duties as part of their regular job as a janitor. In addition, each of the grievants have relieved a custodian for periods of time for vacations, sick leave, etc.

Prior to working for the Employer, Don Eastman was employed by Brown County Youth Home as a custodian for a year. However, at no time material herein did Eastman inform the Employer that he felt he met the qualifications on the aforesaid job description.

Grievants DeBauche, Blake and Eastman filed a grievance with the Union on August 10, 1990, regarding the Employer's refusal to allow them to test for the custodial position. On the grievance form they indicated that the date of the alleged infraction was August 3-6, 1990. Wayne Falk, a driver for the Employer delivered the grievances to the Employer's office and put them in Jim Wenzel's desk on or about August 20th. (Wenzel was the grievants' immediate supervisor). The grievances were stamped by the Employer's Business Office on August 21, 1990.

PERTINENT CONTRACTUAL PROVISIONS:

ARTICLE II

MANAGEMENT RIGHTS

The Board possesses the sole right to operate the school system and all management rights repose in it. These rights include, but are not limited to, the following:

- A. To direct all operations of the school system;
- B. To establish reasonable work rules and schedules of work;
- C. To create, combine, modify and eliminate positions within the school system;
- D. To hire, promote, transfer, schedule and assign employees in positions within the school system;
- E. To suspend, demote, discharge and take other disciplinary action against employees with reasonable cause;
- F. To relieve employees from their duties;
- G. To maintain efficiency of school system operation;
- H. To take whatever action is necessary to comply with State or Federal law;
- I. To introduce new or improved methods or facilities;
- J. To change existing methods or facilities;
- K. To determine the kinds and amounts of services to be performed as pertain to school system operations; and the number and kind of classifications to perform such services;
- L. To contract out for goods and services not within the scope of employee job descriptions;
- M. To determine the methods, means and personnel by which school system operations are to be conducted;
- N. To take whatever action is necessary to carry out the functions of the school system in situations of emergency.

The exercise of management rights in the above shall be done in accordance with the specific terms of this Agreement and shall not be interpreted so as to deny the employee's right of appeal.

ARTICLE XVII

JOB POSTINGS

When new jobs are created or vacancies occur, such jobs shall be posted immediately and a job outline shall be included. The posting shall contain the following information: school, hours of work and rate of pay. Such postings shall remain posted for five (5) workdays

before operation begins. Postings shall be mailed to the employee during the employee's vacation period.

The Employee seeking posted position shall submit the "Application Form for Posted Notice of Job Vacancy" form in duplicate with one (1) signed copy submitted to the District Office through the U.S. mail and one (1) signed copy to the Union Secretary. All bids received shall be opened at the end of the posting period.

Temporary employees shall not be eligible to bid for a posting. Probationary employees shall be eligible to bid for a posting. Probationary employees who are successful bidders shall serve ninety (90) days probation from the date of the new assignment.

Seniority shall govern which employee gets the position if other qualifications are equal.

The successful applicant on all job postings shall be notified within forty-eight (48) hours when to report. Employees selected shall be allowed seven (7) calendar days to become familiar with the job, and there shall be no waiver of this period by the Employer or the employee.

ARTICLE XXIII

GRIEVANCE PROCEDURE

Definition of Grievance: A grievance shall mean a dispute concerning the interpretation or application of this contract. A grievant may be an individual, a group of employees or a representative of the Union.

All grievances which may arise shall be processed in the following manner:

Step 1: The aggrieved employee shall present the grievance orally to h/er immediate supervisor within ten (1) (sic) workdays of the time in which the employee knows of or should have known of the suspected improper application. The aggrieved employee, with the representation of h/er steward if s/he so elects, shall attempt to resolve the grievance with the immediate supervisor, who may call higher level supervisors into the discussion. If it is not resolved at this level within ten (10) workdays of its initial presentation, the grievance may be processed further by the employee as outlined in Step 2.

. . .

Step 4: Within ten (10) workdays of the Board of Education's answer at Step 3, the grievance may be submitted by the employee to the Wisconsin Employment Relations Commission for arbitration by one of its members. The Arbitrator, after hearing both sides of the controversy, shall hand down h/er decision in writing and such decision shall be final and binding on

both parties to this Agreement. The Arbitrator shall have no power to add to or subtract from or modify any term(s) of this Agreement. (The cost, if any, of the Arbitrator shall be divided equally between the Employer and the Union.)

. . .

Time Limits: Grievances not appealed within the designated time limits in any step of the grievance procedure will be considered as having been resolved on the basis of the last preceding answer of the Employer. Grievances not responded to by the Employer within the designated time limits in any step of the grievance procedure shall be considered denied by the Employer, and the appeals taken from such a denial to further steps of the procedure must be within the time limits set for appeal after an answer to the grievance. The parties may mutually agree in writing to extend the time limits in any step of the grievance procedure.

THE PARTIES' POSITIONS:

Hennig Grievance - Bay Port High School Janitorial Position

The Union basically argues that the Employer awarded Blake the janitorial position because of the experience gained by Blake during the period of the job posting dispute. The Union feels this was improper. The Union maintains that the grievant was prejudiced by the action of the Employer in not posting the job in the first place and not allowing a level field in competition for the job.

The Union concludes the grievant should be awarded the job based on the fact he has 12 years experience and Blake has three.

The Employer, on the other hand, argues that it was free to select the most qualified individual for the position and was not required, as the Union contends, to award the position based on seniority. The Employer maintains that under the clear language of Article 17 it is only required to resort to seniority if the applicants are equally qualified. In other words, "seniority is only a tie-breaker if qualifications are equal." The Employer contends in this instance the qualifications of the two applicants were not equal.

The Employer feels it acted properly by determining that Blake was more qualified for the position because of past work experience, Hennig's past difficulties working alone, and Blake's satisfactory performance of the duties of the disputed position for a period of time prior to his instant selection.

Drzewiecki, Sheedy, DeBauche, Blake & Eastman Grievances -
Forest Glen Elementary School Custodial Position

The Union first argues that the Eastman, Blake and DeBauche grievances were timely filed because Wayne Falk delivered them to the office of Jim Wenzel, Supervisor of Buildings and Grounds, in a timely fashion with the ten (10) day period required by the agreement and because Wenzel was aware of the grievances within the time requirements noted above.

The Union next argues that the aforesaid three grievants should have been allowed to test for the custodial position because they had prior experience performing custodial duties. (They performed custodial tasks as janitors and

while filling in for custodians).

With respect to Drzewiecki and Sheedy, the Union argues that it was improper for the Employer to allow non-bargaining unit (external) people to be included in the posting and awarding of the disputed custodial position. The Union maintains that Article XVII refers only to bargaining unit employees, and was not meant to cover individuals outside the bargaining unit. "If it meant to refer to individuals outside the Bargaining Unit, it surely would say so." The Union adds that bargaining history supports its position that there was no agreement between the parties to allow outside individuals to compete for jobs.

The Union also adds that Article XVII specifically covers employees, new jobs, and the role of seniority, and by its terms rules out considering non-employees for positions. The Union concludes that the Employer violated the agreement by allowing individuals from outside the bargaining unit to compete for the position and by not awarding the custodial position to Drzewiecki.

For a remedy, the Union requests that the Employer be ordered to cease and desist from including non-bargaining unit individuals in the job posting provision and that the position of Custodian at Forest Glen School be awarded to Drzewiecki.

The Employer initially argues that the aforesaid three (3) grievances of DeBauche, Blake and Eastman were not submitted in a timely manner and thus are not arbitrable. In support thereof, the Employer relies on the evidence it presented at hearing as to the lack of compliance by the Union with the initial (10) day period for filing a grievance and the language of Article XXIII which provides:

Grievances not appealed within the designated time limits in any step of the grievance procedure will be considered as having been resolved on the basis of the last preceding answer of the Employer.

The Employer also argues that the Union's attempt to cure itself of the timeliness problem by having a person drop off the grievances in the District office on the last permissible day fails because said individual admitted he really didn't know what date he delivered the grievances.

The Employer next argues that it properly excluded from testing the grievants who did not meet minimum requirements. In this regard, the Employer maintains that it had a right to establish qualifications; that the qualifications it established for the position were reasonable; and said grievants did not meet the minimum qualifications it established for the custodial position.

Finally, the Employer maintains that except as restricted by statute or contract it retains the unqualified right to hire or not to hire; that nowhere in Article XVII does it provide that internal applicants must be given preference over external applicants; that bargaining history supports the Employer's position that it retained the right to select the most qualified individual, internally or externally, for a given job; and that the Employer properly followed a process which it established to enable it to select the most qualified individual for the job. The Employer adds "the rights reserved to management are acknowledged by the parties to be limited only by the express terms of the Agreement (Article II), and the Arbitrator is not empowered to modify the Agreement (Article XXIII). What the Union seeks here is a modification of the contract so as to expand the terminology of Article XVII"

For a remedy, the Employer requests that the grievances be denied, and the matter dismissed.

DISCUSSION:

Hennig Grievance - Bay Port High School Janitor Position

The Union basically argues that the Employer improperly relied upon Blake's experience in the janitor job during the period of the job posting dispute to find him more qualified than the grievant and award him said position. Assuming arguendo that the Union is correct in stating that the Employer cannot consider Blake's experience in the disputed position when making a determination as to the relative qualifications of the two job applicants, the Union's case still must fail. Article XVII provides for job postings that "Seniority shall govern which employe gets the position if other qualifications are equal." In the instant case, the Employer found Blake more qualified than the grievant for the janitor position based on not only his experience in the job itself, but also on Blake's superior mechanical skills and his past work performance for the District. In addition, the Employer determined that Blake could work better independently; that Blake could work more quickly and with greater accuracy. These criteria, in the opinion of the Arbitrator, form a reasonable basis for the Employer's decision finding Blake more qualified than the grievant. Since the two applicants' qualifications were not equal, the Employer was justified in disregarding seniority, and choosing the best qualified applicant - Blake - for the disputed position. Based on all of the above, the Arbitrator finds that the answer to the issue as framed by the undersigned is NO, the Employer did not violate the collective bargaining agreement by not granting the grievant, Brad Hennig, the position of janitor on the 11:00 a.m. to 7:30 p.m. shift at Bay's Port High School.

Drzewiecki, Sheedy, DeBauche, Blake & Eastman Grievances -
Forest Glen Elementary School Custodial Position

Timeliness

The Employer initially raises a procedural objection to the Eastman, Blake and DeBauche grievances arguing that said grievances were not submitted in a timely fashion. The thrust of the Employer's complaint seems to be that the date on the Union grievance forms is August 10, 1990, and said grievances were not date-stamped as received in the Employer's Business Services office until August 21, 1990 - outside the ten work day period for filing grievances found in Step 1 of the grievance procedure. However, the record indicates a District employe personally delivered the three grievances within the ten work day period required by the collective bargaining agreement. 1/ In addition, Jim Wenzel, the grievants' immediate supervisor, testified that the grievants told him that they were going to file a grievance over the matter prior to August 21st. 2/ Based on the above, the Arbitrator finds, contrary to the Employer's assertions, that the grievants complied with the requirements of Step 1 of the grievance procedure, and that said grievances are arbitrable under Article XXIII of the agreement.

Testing

The Union argues that the Employer improperly excluded the aforesaid three grievants from testing for the custodial position. The record, however, does not support a finding regarding same. In this respect the Arbitrator notes, contrary to the Union's assertion, the Employer provided two ways to

1/ Tr. 105-108, 110.

2/ Tr. 116.

match the educational/experience requirement and the three grievants failed to accomplish either. 3/ In addition, the record indicates the one grievant who had one year's experience as a custodian (Eastman) failed to tell the Employer he met the qualifications on the job description. Finally, the Union argues that the grievants had enough custodial experience to qualify to take the test without actually being classified as custodians. Assuming arguendo, the Union is correct in stating that an applicant could have one year's satisfactory experience as a custodian without actually serving in that classification (as claimed by the Employer) in order to meet the minimum qualifications of the position, the Union's case still must fail. In this regard, the Arbitrator notes the Union failed to prove any of the grievants had one year's experience doing custodial work. Based on all of the foregoing, the Arbitrator finds that the answer to the second issue is NO, the Employer did not violate the collective bargaining agreement when they failed to allow grievants Eastman, Blake and DeBauche to test for the custodial position at Forest Glen Elementary School.

External Candidates

A question remains whether the Employer violated the collective bargaining agreement in the filling of the custodial position at Forest Glen Elementary School. The resolution of this issue turns primarily upon the Employer's authority to consider external applicants in the instant case.

The Employer argues that the language of Article XVII does not restrict it to only considering employes in the bargaining unit when a vacancy occurs. The Union takes the opposite position.

Arbitrators normally try to give effect to all clauses and words when construing disputed contract language. In other words, "an interpretation which tends to nullify or render meaningless any part of the Contract should be avoided because of the general presumption that the parties do not carefully write into a solemnly negotiated agreement words intended to have no effect." 4/

Applying the above standard to the facts of the instant dispute, the Arbitrator notes that Article XVII specifically prohibits temporary employes from bidding for a posting. It makes no sense, in the opinion of the Arbitrator, to prohibit temporary employes of the District from competing for a vacant position while at the same time permitting non-employes to bid for a posting. In other words, to agree with the Employer's argument that it may consider external applicants herein renders the phrase "Temporary employees shall not be eligible to bid for a posting" superfluous or meaningless. Such a result, as noted above, is to be avoided. Read in its entirety, therefore, Article XVII applies only to bargaining unit employes and the Employer cannot consider external applicants when filling the instant vacancy at Forest Glen Elementary School.

3/ Qualifications for the position included "One year vocational diploma in mechanical design or related field. Or, high school diploma or G.E.D. plus a minimum of one year's satisfactory work experience as a custodian. (emphasis added) The Union's argument that the Employer did not allow individuals to take the test because they did not have one year experience as a custodian must fail because any janitor (like the grievants) could clearly become qualified by securing the vocational diploma even if they did not have the opportunity to work as a custodian.

4/ John Deere Tractor Co., 5 LA 632, 632 (Updegraff, 1946).

The Employer, however, argues that bargaining history supports its position. In this regard, the Employer points out that District Administrator Frederick Steig and Board member Timothy Tousey both testified as to the Board's high priority on retaining the right to select the most qualified individual for a position -- internally or externally -- for a given job. The Employer claims that in return, the District agreed to more restrictive subcontracting language and to allow the Union's language which utilizes seniority as a tie-breaker if qualifications are equal. (emphasis supplied) However, the job posting provision does not specifically refer to individuals outside the bargaining unit being able to bid for a posting along with bargaining unit employees. To the contrary, read as a whole, Article XVII applies only to bargaining unit employees. In addition, the Union representative and a member of the Union bargaining committee testified there was no such agreement. Nor is there any written evidence of the trade-off noted above as alleged by the Employer. Therefore, based on the foregoing, the Arbitrator rejects this argument of the Employer.

Contrary to the Employer's assertion, Article II does not specifically state that the rights reserved to management are "limited only by the express terms of the Agreement." Nor does the record support a finding the parties acknowledge same. 5/ In addition, since Article XVII read as a whole supports a finding that the Employer cannot consider external candidates herein, the Arbitrator concludes he has not violated Article XXIII, which states "The Arbitrator shall have no power to add to or subtract from or modify any term(s) of this Agreement," as alleged by the Employer.

In its reply brief, the Employer argues that the Union can not stretch the applicable language of the Agreement beyond its actual reach to restrict "the District to considering only present employees for vacancies." In support thereof, the Employer cites Elkouri & Elkouri, "How Arbitration Works," Third Edition, pp. 466-67:

Specific restrictions on hiring contained in the seniority provisions of the collective bargaining agreement may be to the effect . . . that the employer must consider present employees for vacancies before hiring new workers. (emphasis provided.)

The Employer adds that "without such a specific restriction existing in Article XVII, the Union's attempt to so restrict the District is without basis in the contract."

However, Elkouri & Elkouri, Id., also states, with respect to the hiring of employes, that "Except as restricted by statute or the collective agreement, management retains the qualified right to hire or not to hire." (emphasis added) As noted above, Article XVII, read in its entirety (and while giving effect to all its clauses and words), precludes the Employer from considering external candidates for the disputed custodial position at Forest Glen Elementary School. Therefore, the Arbitrator likewise rejects this argument of the Employer.

Based on all of the above, the Arbitrator finds that the answer to the third issue as framed by the undersigned is YES, the Employer violated the collective bargaining agreement in the filling of the custodial position at Forest Glen Elementary School with an applicant from outside the unit.

Remedy

A question remains as to the appropriate remedy. The Union requests that the Employer be ordered to cease and desist from including non-bargaining unit individuals in the job posting provision and that the position of Custodian at Forest Glen School be awarded to Drzewiecki. Based on the conclusions reached above, the Arbitrator believes granting the Union's request to order the Employer to cease and desist from including non-bargaining unit individuals from inclusion in the job posting provision as it did herein is appropriate. However, the record does not contain enough persuasive evidence (either with respect to the seniority of the bargaining unit applicants or their relative qualifications) to support a finding that Drzewiecki should be awarded (or not awarded) the disputed custodial job. Therefore, the Arbitrator shall order the Employer to fill the aforesaid position from the list 6/ with a bargaining unit applicant according to the provisions of Article XVII; in particular, following the requirement "Seniority shall govern which employe gets the position if other qualifications are equal." The Arbitrator shall retain jurisdiction over the Award for sixty (60) days to see that Article XVII is followed in the filling of said position. The Employer is ordered to make the successful applicant whole for all wages and benefits lost as a result of the Employer's action.

In light of the foregoing and the record as a whole, it is my

AWARD

Brad Hennig's grievance is denied, and his grievance is dismissed. Don Eastman, Jeff Blake and Steven DeBauches' grievances are denied, and their grievances are dismissed. Mike Sheedy's and Jim Drzewiecki's grievances are hereby sustained, in part, and the Employer is ordered to fill the disputed custodial position at Forest Glen School with a bargaining unit applicant according to the provisions of Article XVII as noted in the Remedy portion of this award. The Arbitrator will retain jurisdiction for sixty (60) days to see that said position is filled properly according to the language of Article XVII. The Employer is also ordered to cease and desist from including non-bargaining unit individuals in the job posting provision, Article XVII.

Dated at Madison, Wisconsin this 4th day of September, 1991.

By _____
Dennis P. McGilligan, Arbitrator

6/ Employer Exhibit 2.