

BEFORE THE ARBITRATOR

In the Matter of the Arbitration
of a Dispute Between

LOCAL 990, AFSCME, AFL-CIO

and

KENOSHA COUNTY

Case 139

No. 50398

MA-8243

Appearances:

Lawton & Cates, Attorneys at Law, 214 West Mifflin Street, Madison, WI 53703, by Mr. Richard V. Graylow, and AFSCME Council 40, AFL-CIO, by Mr. John Maglio, Staff Representative, appearing on behalf of Local 990.

Davis & Kuelthau, S.C., Attorneys at Law, 111 East Kilbourn, Suite 1400, Milwaukee, WI 53202, by Mr. Mark Olson, and Kenosha County Personnel Department, by Mr. Brooke Koons, Personnel Director, appearing on behalf of Kenosha County.

ARBITRATION AWARD

The undersigned was jointly selected by Local 990, AFSCME, AFL-CIO (hereinafter referred to as the Union) and Kenosha County (hereinafter referred to as the County) to hear and decide a number of disputes concerning the use of non-bargaining unit personnel in the County's various operations. Portions of the disputes involved the meaning and application of prior arbitration Awards by Arbitrators Krinsky and Kerkman.

A pre-hearing conference was held on January 26, 1994 at which time the parties identified the factual and legal issues in dispute and agreed to an exchange of information.

On completion of that process, a mediation session was held on August 5, 1994, at which time the parties were able to resolve that portion of their dispute which concerned the use of temporary employees. The parties reduced the settlement to writing, and requested that the undersigned issue it as a Consent Award.

Now, having reviewed the terms of the proposed Consent Award and finding that the terms are fully consistent with the collective bargaining agreement between the parties, the undersigned makes the following Award

CONSENT AWARD

The following considerations shall govern the County's use of temporary employees, pursuant to the 1993-95 collective bargaining agreement between Kenosha County (County) and Local 990 (Union).

1. SPECIAL PROJECTS

A bona fide special project is a task or group of functions of defined duration which is not the normal on-going work of the bargaining unit.

Advance notice shall be given to the Union of the nature of the project, the number of employees involved and the expected duration of the project.

A bona fide special project may employ temporary employees for the duration of the project up to thirty-six months. If the project is unexpectedly delayed or extended, notice shall be given to the Union as soon as the County becomes aware of the delay or need for extension. The use of temporary employees for bona fide special projects shall not extend beyond forty-eight months total without the written agreement of the Union. "Months" means calendar months.

2. ABSENCE OF REGULAR EMPLOYEES

The County may utilize a temporary employee to fill-in for a regular employee who is on a legally/contractually authorized leave of absence. The temporary employee, or employees, may remain in the position in question for the duration of the leave of absence. If the County is notified by the absent regular employee that he/she will not be returning to work with the County, the position shall be dealt with as with any other vacancy of a regular employee.

3. HIRING FREEZE

During a hiring freeze, the County may employ temporary employees for up to 180 calendar days. At the conclusion of 180 calendar days, the County shall either fill the position in question, through contractual procedures, or leave the position vacant.

4. FILLING OF VACANCIES

When the County is making a bona fide attempt to fill a vacancy in accordance with the collective bargaining agreement, temporary employees may be used in said position for the duration of the County's efforts to fill the vacancy.

5. BUMPING

For the purpose of this agreement, temporary employees shall only have the right to bump other temporary employees, provided they meet the criteria in the collective bargaining agreement, and, further, the temporary employees they choose to bump has at least 45 days of further temporary employment remaining.

6. JURISDICTION

The parties agree that Daniel J. Nielsen shall retain jurisdiction over this issue, and any future disagreement as to the terms of this consent award, or the predecessor Krinsky/Kerkman awards, or any other settlement agreements, if any, shall be resolved by Mr. Nielsen.

Dated this 19th day of August, 1994 at Racine, Wisconsin:

By Daniel Nielsen /s/
Daniel Nielsen, Arbitrator