

BEFORE THE ARBITRATOR

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 In the Matter of the Arbitration :  
 of a Dispute Between :  
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 CRAWFORD COUNTY COURTHOUSE AND : Case 64  
 HUMAN SERVICES EMPLOYEES, LOCAL 3108, : No. 50476  
 WCCME, AFSCME, AFL-CIO : MA-8265  
 :  
 and :  
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 CRAWFORD COUNTY :  
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Appearances:

Mr. Daniel R. Pfeifer, Staff Representative, on behalf of the Union.  
 Brennan, Steil, Basting & MacDougall, S.C., by Mr. Dennis M. White, on

behalf

ARBITRATION AWARD

The above-entitled parties, herein "Union" and "County", are privy to a collective bargaining agreement providing for final and binding arbitration. Pursuant thereto, hearing was held in Prairie du Chien, Wisconsin, on April 6, 1994. The hearing was not transcribed and both parties filed briefs which were received by June 28, 1994.

Based on the entire record, I issue the following Award.

ISSUE

The parties have agreed to the following issue:

Is grievant Deanna L. Baker entitled to be reclassified from Range 10 to Range 7 effective January 1, 1994, and if, so, what is the appropriate remedy?

DISCUSSION

Grievant Baker is a Secretary II in the County's Land Conservation Department where she is in Range 10. There, she is supervised by Russell Hagen, the Coordinator/Manager for the Land Conservation Department. She and Hagen are the only employees in that department. Baker also is the secretary for the Soil Conservation Service, a federal entity which reimburses the County for her time.

In 1993, Baker and other County employees were asked to update their job descriptions. Prior thereto, there had been an outdated generic job description adopted in 1979 which covered all of the Secretary II's duties. Baker did so and produced a revised job description, which reflected her understanding of her present job duties. As a result of that revision, Baker on June 1, 1993, asked that her job be reclassified from a Clerk II to a Clerk III and that she be moved from Range 10 to Range 7 on the ground that there has been more than a 35 percent change in her job duties. 1/ Such a reclassification would result in a yearly wage increase of about \$1,703.

Baker testified here that she now spends about sixty percent of her time on new duties; that her office now handles the Wildlife Program; that computers were not working in the office in 1987 and that she since has learned to use them; and that no duties have been deleted since 1987.

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1/ There is no Range 9.

In support of her grievance, Baker prepared an estimate of how much time she now spends on each of her duties. The County never challenged those estimates in the underlying steps of the grievance procedure even though they total about 155 percent, thereby showing that they are way off the mark. 2/

Her testimony was corroborated by Hagen who testified that the "Programs we administer are becoming more complex"; that Baker's job requires "a lot more computer time and computer knowledge"; that there were no functioning computers when he took over his position; that Baker's "knowledge of the job has to increase because we spend less time in the offices"; and that her job has changed by at least 35 percent.

Hagen therefore submitted a letter to the County's Personnel Committee stating:

. . . .

I support the reclassification of the Clerk/Secretary in the Department from Secretary to Clerk III. The duties performed by the Clerk have changed in the past five years beyond filer, typer, and receptionist. This position now has to demonstrate working knowledge of the Farmland Preservation Program, Wildlife Damage Program, Farmers Fund, Soil and Water Resource Management Programs, and all federal U.S.D.A. Soil Conservation Service programs.

This position now informs the public, manages funds, and reports to the agencies in each program. Also included is the daily supervision of volunteers under the S.C.S. Earth Team Volunteer Program. I'd be glad to expand further on the duties and responsibilities of this position upon request.

. . . .

At the time he wrote this letter, Hagen was unaware that a person's job had to change by at least 35% before it could be reclassified. But he testified here that he still supported Baker's reclassification request because her new job duties take up at least 35% of her time.

Baker and Hagen's testimony was disputed by Glen Benker, the Chair of the County's Land Conservation Committee. He testified that Baker's new duties are less than 35% of her total job duties; that Hagen has improperly delegated certain duties to Baker; and that some of the duties testified to by Baker have been around since at least 1988. But, Benker added, "I can't say there's no more work" and that, "maybe the computer part has changed."

The County's Land Conservation Committee on June 1, 1993, agreed to recommend to the Personnel Committee that Baker be reclassified to Range 7. Subsequently, however, the County's Personnel Committee at its June 10, 1993, meeting denied that reclassification request, hence leading to the instant June 30, 1993, grievance.

In support of the grievance, the Union contends that Baker deserves to be reclassified to a Range 7 under the terms of a prior settlement agreement because more than 35 percent of her job has changed; because both Hagen and the County's own Land Conservation Committee have agreed that she should be so

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2/ That is why I at the hearing ruled that those estimates are worthless.

reclassified; and that Benker's testimony regarding the nature of Baker's duties should not be credited because, as Chair of the County's Land Conservation Committee, he originally recommended that she be reclassified to Range 7. The Union also asserts that Baker's reclassification request must be decided on its own merits without any consideration as to how that would impact on other employees because, "The number of employees in Pay Range 10 or Pay Range 7 is not relevant to this case." As a remedy, the Union requests that Baker be reclassified to Pay Range 7 and that she be made whole by granting her backpay from January 1, 1994, to the present.

The County, in turn, maintains that the Union has the burden of persuasion here; that Baker was "confused about what she measured. . ."; that she admittedly did "not measure the time spent in her job performing the new duties"; that many of Baker's supposed "new duties" are "still generically the same as his prior work"; and that the Union's real goal here "is to try to eliminate the Range 10 classification by reclassifying the people criterion and to gain by arbitration what it could not gain or did not raise in negotiations."

This issue centers on applying the terms of a 1988 settlement agreement between the parties which provided in pertinent part:

"the standard for evaluation for reclassification from an existing position to another existing position under the collective bargaining agreement shall be that reclassification shall be granted if the employee has been assigned new duties comprising 35% of his/her work week hours (which 35% is a composite change after considering the deletion of old duties and the addition of new duties."

Here, there is a disputed factual question of whether this 35% standard in work week hours has been met.

The one person in the best position to answer this question is Hagen, Baker's immediate supervisor, who works with her on a day-to-day basis. He testified that new duties now constitute more than 35 percent of her time, as she over the years has become involved with more program functions, dealing with the public, and filling in for Hagen during his absences from the office. The County therefore in effect is asking that his testimony not be credited because the record fails to show exactly how much time is spent on each of Baker's duties.

It is true that Baker's own estimates are worthless and that there is no other detailed written documentation supporting Hagen's testimony. But, the fact remains that Hagen is in the best position to judge whether Baker is now spending at least 35 percent of her time performing new duties such as dealing with the public; working on computers; 3/ assisting landowners; supervising volunteers; contacting schools and other agencies; maintaining bookkeeping accounts; and working on several programs administered by his office. 4/ In

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3/ The County cites Sperry Corporation, 80 LA 166 (Taylor, 1983); Minnesota Mining and Manufacturing Co., 80 LA 1078 (Miller, 1983), and Ecusta Corporation, 90 LA 364 (Kilroy, 1987) in support of its claim that computer usage which enables an employe to perform the same tasks in an easier fashion "is not the type of management change that creates a need for reclassification." Normally, that is true. But here, Hagen is in the best position to know whether the changes are significant and he testified that they are.

4/ The County also cites Raynor Manufacturing Co., 93 LA 774 (1989), where Arbitrator Milton T. Edelman ruled that a reclassification grievance had

the face of that testimony, I find that Baker indeed does now perform new duties which constitute at least 35 percent of her total duties and that, as a result, she should be upgraded to Range 7.

Lastly, the County argues that if the grievance is sustained, there should not be any retroactivity because "a reclassification can only be effective when it is agreed to by the parties or is ordered by an arbitrator since there is no provision providing for retroactivity in the reclassification procedure."

It is true that the contract is silent on this issue. But at the same time, the contract does not prohibit such retroactivity thereby indicating that the parties may never have addressed this issue. Moreover, this claim ignores the fact that Baker since January 1, 1994, has performed Range 7 duties. As a result, it is only fair that her reclassification should be retroactive to January 1, 1994, so that she can be awarded back pay from that time until now.

In light of the above, it is my

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to be dismissed because of a lack of evidence. Raynor is inapposite, however, because it appears that no supervisor there supported the grievant's reclassification request.

AWARD

1. That Grievant Deanna L. Baker is entitled to be reclassified to Range 7, effective January 1, 1994, and that she is to be awarded back pay for the difference between what she earned in Range 10 and what she should have earned in Range 7 between that time and now.

2. That to resolve any disputes over application of this Award, I shall retain my jurisdiction for at least 60 days.

Dated at Madison, Wisconsin this 25th day of August, 1994.

By Amedeo Greco /s/  
Amedeo Greco, Arbitrator