

BEFORE THE ARBITRATOR

In the Matter of the Arbitration
of a Dispute Between

ANTIGO SCHOOL DISTRICT

and

ANTIGO EDUCATIONAL SUPPORT PERSONNEL
ASSOCIATION

Case 47
No. 52797
MA-9105

Appearances:

Mr. Thomas J. Coffey, Executive Director, Central Wisconsin UniServ Council-North, 625 Orbiting Drive, P.O. Box 158, Mosinee, Wisconsin 54455-0158, on behalf of the Association.

Mr. Ronald J. Rutlin, Ruder, Ware & Michler, S.C., 500 Third Street, P.O. Box 8050, Wausau, Wisconsin 54402-8050, on behalf of the District.

ARBITRATION AWARD

According to the terms of the 1994-97 collective bargaining agreement between the Unified School District of Antigo Board of Education (hereafter District) and the Antigo Educational Support Personnel Association (hereafter Association), the parties requested that the WERC appoint a member of its staff to hear and resolve a dispute between them regarding whether the District's failure to select Peggy Schroepfer for the newly created Receptionist/Secretary job at the Senior High School violated the collective bargaining agreement. The Commission designated Sharon A. Gallagher to act as impartial arbitrator of this dispute. Hearing was held at Antigo, Wisconsin, on October 2, 1995. A stenographic transcript of the proceedings was made and received by October 20, 1995. The parties agreed to submit their written briefs by November 21, 1995, and they waived the right to file reply briefs. Upon receipt of their initial briefs, the record herein was closed.

Issues:

The parties stipulated that the following issues should be determined in this case:

Did the failure of the District to award the Receptionist/Secretary job at the Senior High School to Peggy Schroepfer violate Article XI, Section D of the collective bargaining agreement?

If so, what is the remedy?

Relevant Contract Language:

Article I - Recognition

A) The Board hereby recognizes the Union as the exclusive bargaining agent for all regular full-time and regular part-time nonprofessional employees of the District but specifically excluding teachers and other employees represented by the Antigo Education Association, the Supervisor of Building & Grounds, and all other supervisory, confidential, and managerial employees of the District for the purposes of bargaining collectively on all matters pertaining to wages, hours, and working conditions of employment.

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Article III - Definition of Employees

...

A) Twelve Month Full-Time: A twelve month full-time employee is defined as an employee who is normally scheduled to work at least thirty-five (35) hours per week on a twelve (12) month basis.

B) Twelve Month Part-Time: A twelve month part-time employee is defined as any employee who is normally scheduled to work twenty (20) hours or more per week, but less than thirty-five (35) hours per week on a twelve (12) month basis.

C) School Year Full-Time: A school year full-time employee is defined as an employee who is normally scheduled to work at least thirty-five (35) hours per week for less than twelve (12) months per year.

D) School Year Part-Time: A school year part-time employee is defined as an employee who is normally scheduled to work at least twenty (20) or more hours per week, but less than thirty-five (35) hours per week for less than twelve (12) months a year.

E) Regular Part-Time: A regular part-time employee is defined as an employee who is normally scheduled for at least nine (9) months per year and is normally scheduled to work less

than twenty (20) hours per week.

. . .

Article XI - Seniority and Job Posting

A) Seniority: Seniority shall begin at the time of the employee's last date of hire and shall not be diminished by temporary layoffs due to lack of work or lack of funds. Part-time employees shall receive prorated seniority. Date of hire for purposes of seniority shall be the day the employee first commenced actual work for the District in a bargaining unit position.

B) Layoff: In reducing the number of employees in the bargaining unit, the following procedures will be followed:

1. Custodial Classifications: The District will first determine the classification(s) and the location(s) where the reduction will take place. Then the employee(s) within the classification and at the location(s) affected with the least amount of bargaining unit seniority shall be laid off first provided the remaining employees are qualified to perform the available work. Employees laid off for two (2) weeks or more may bump the least senior custodial employee within their classification or a lower classification within the District if they are qualified to perform the work involved. There shall be three (3) classifications of custodians for purposes of layoff: (a) Custodian I, Custodian II, and Housecleaning Personnel; (b) Audio-Visual Technician; and (c) Maintenance.
2. Food Service Classifications: The District will first determine the classification(s) and the location(s) where the reduction will take place. Then the employee(s) within the classification and at the location(s) affected with the least amount of bargaining unit seniority will be laid off first provided the remaining employees are qualified to perform the available work. Employees laid off for

two (2) weeks or more may bump the least senior food service employee within their classification or a lower classification within the District if they are qualified to perform the work involved.

3. EEN Instructional Assistants, Instructional Assistants, Study Hall Supervisors, and Cafeteria Supervisory Classifications: The District will first determine the classification(s) and the location(s) where the reduction will take place. Then the employee(s) within the classification and at the location(s) affected with the least amount of bargaining unit seniority shall be laid off first provided the remaining employees are qualified to perform the available work. Employees laid off for two (2) or more weeks may bump the least senior employee within these classifications in the District if they are qualified to perform the work involved.

4. Middle/Senior High Secretaries, Elementary Secretaries, and Library Clerk Classifications: The District will first determine the classification(s) and the location(s) where the reduction will take place. Then the employee(s) within the classification and at the location(s) affected with the least amount of bargaining unit seniority shall be laid off first provided the remaining employees are qualified to perform the available work. Employees laid off for two (2) weeks or more may bump the least senior employee within these classifications at other locations if they are qualified to perform the work involved.

5. Twelve Month Secretarial Positions:

. . .

Employees laid off for two (2) weeks or more may bump the least senior employee within their classification or a lower twelve month secretarial/clerical classification within the District if they are qualified to perform the work involved. There are three (3) classifications for purposes of layoff under this Subsection as provided for in Appendix B.

The level of classifications is determined by the wage rates.

...

D) Posting Procedure: When the District decides to fill a vacancy or a new position in the School District, the position shall be posted in all buildings. The posting notice shall include a description of the minimum qualifications for the position which is available. The notice shall be posted for a minimum of five (5) consecutive days excluding Saturdays and Sundays. Any employee interested in applying for the vacancy or new position shall notify the designated supervisor, in writing, within the posting period. The District shall have the right to select the most qualified applicant (bargaining unit or non-bargaining unit) for the position. However, if qualifications are substantially equal, the bargaining unit applicant with the most seniority shall be awarded the position.

...

Background:

Business Manager Mary Jo Filbrandt, employed by the District in this capacity for eight and one-half years at the time of the instant hearing, stated that the District normally considers the following criteria in filling a position under the Support Staff contract:

- 1) Current duties of the applicants if employed by the District;
- 2) Whether the duties within the classification of the new job are similar to those the employee of the District is currently performing;
- 3) The applicant's prior experience;

4) Applicant's scores on interviews conducted.

Ms. Filbrandt also stated that in the past, when employees have applied for an opening outside their normal classifications, the District has traditionally weighed the qualifications of all applicants, inside and outside the District in reaching its hiring decision. Filbrandt stated that the District usually hires the person with the most points coming out of the interview. Filbrandt stated that in the past, if all applicants are from within the classification of the new position, the most senior person has normally been selected.

Filbrandt stated that the District has used the classifications listed in Article XI, Section B, not only for layoff purposes but also for hiring purposes. Filbrandt stated that recently, two Food Service workers applied for a Housekeeper job (outside their Article XI, B classification) and the District put the Food Service workers into a pool of applicants which included outside applicants for consideration. The two Food Service workers were deemed the most qualified and hired as Housekeepers. Also, Filbrandt stated that recently, an Instructional Aide had also applied along with outside applicants for a job in the Library Clerk classification.

Facts:

Grievant Peggy Schroepfer has been employed by the District since August 27, 1990. She has been employed for this entire period as an Instructional Aide, working with severe and profound exceptional educational need students (EEN). Schroepfer has received good evaluations from her direct supervisor, classroom EEN teacher Boil, during the period of her employment at the District. 1/ Schroepfer has never held a clerical position with the District. Schroepfer has a High School diploma and has raised six children in the District.

From 1978 to 1985, Schroepfer worked for a firm of certified public accounts, Braun and Preboske, as the Secretary/Receptionist for the firm. During this time, Schroepfer used an IBM typewriter with memory (not a personal computer) and performed all secretarial and receptionist functions, including answering the telephones for the four partners of the CPA firm.

From 1985 to the present, Schroepfer has acted as Town Clerk for the Town of Rolling. The Town of Rolling has approximately 1,500 residents. During this ten year period, Schroepfer has worked approximately 25 to 30 hours per week doing secretarial work for the Town, using the Town's computer.

In addition, for the past 20 years, Schroepfer has done the bookkeeping for her husband's

1/ Schroepfer has not been evaluated by administrative personnel during her tenure at the District; only her direct supervisor, teacher Boil, has evaluated her.

bodyshop business. Schroepfer has had computer training and experience on both IBM and MacIntosh computers. Schroepfer indicated that she also did volunteer work for the District while her six children were in school there, including performing sales and fund raising duties.

In 1990, Schroepfer began her position as EEN Instructional Assistant. The job description for that position read in relevant part as follows:

EEN (PH-OHI) Instructional Assistant (IA)

. . .

Qualifications - Required Experience and/or Training:

- (a) DPI Teacher Certification, or
- (b) (883) Special Education Program Aide Certification.

Desired Experience and/or Training:

Previous experience with handicapped children.

Special Requirements:

Previous experience in provision of health care.

Job Goal or Basic Function:

Provision of instructional and/or health-related services to EEN students, as required by enrollments in excess of DPI ranges, or by severity of needs within EEN programs.

Responsibilities:

1. Academic instruction, as planned by the certified EEN teacher to whom the Instructional Assistant reports.
2. Instruction in affective domains, as planned by the certified EEN teacher to whom the IA reports.
3. Instruction in psychomotor, self-help, daily living, or other areas, as planned by the certified EEN teacher or therapist responsible for such programming.
4. Clerical duties necessary to instruction for which the certified EEN teacher or therapist has made the IA responsible.

5. Attention to the health and safety of students and assistance to certified EEN teachers in activities relative to health and safety. Such activities may include, among others, supervision on field trips, supervision at recess or in the hallways, assistance boarding and while being transported on busses, communication with parents, and communication with other professionals with whom the child interacts. All such matters are under the supervision, and following the directions of, the certified EEN teacher to whom the instructional assistant reports.
6. Assistance with feeding and toileting physically handicapped students, as instructed by therapists and the certified teacher to whom the IA reports.
7. Participation in M-Teams and/or IEP conferences, when IA's input and knowledge of the child is essential to these processes, and when IA's knowledge of the process is essential for working with the child.
8. Others, as required by supervising teacher to assure provision of adequate services to EEN students.
9. EEN IAs, like all others who work with handicapped children, are subject to confidentiality restrictions of the Family Rights and Privacy Act. Breach of confidentiality is cause for dismissal.
10. Other duties (sic) as required or assigned by immediate supervisor.

The disputed position was created by the District because the District needed an employe to handle receptionist duties, including taking telephone messages and handling student and parental inquiries, at the newly built Senior High School. The position was intended to provide relief to the other secretaries in the Senior High School office as well. The job description for the position reads in relevant part as follows:

TITLE: Secretary - Senior High (10 months)

REPORTS TO: Senior High Principal

QUALIFICATIONS: REQUIRED EXPERIENCE AND/OR TRAINING

- High School diploma with postsecondary (sic) training in secretarial and computer areas
- Good typing and computer skills
- Good general office skills
- Good telephone and people skills
- Self-motivator
- Ability to work alone or with others; a "Team" player
- Ability to make clear and decisive decisions
- Ability to listen and take directions
- Ability to give directions and manage people
- Ability to perform multiple tasks at one time with ease and efficiency
- Ability to deal effectively with and work through a crisis situation; ability to quickly adapt to a continuously changing environment
- Ability to effectively handle confidential or sensitive material/information

BASIC JOB FUNCTION: Secretary/Receptionist

RESPONSIBILITIES:

- 1) Responsible for reception work:
 - answering the telephone, taking messages, and transferring calls
 - daily counter supervision, passports, previous excuses, etc.

- 2) Responsible for clearing the daily computer absentee report and maintaining an accurate student attendance record.
- 3) Responsible for processing and mailing daily attendance letters.
- 4) Responsible for updating and maintaining student health records in the computer and student cum files. Responsible for reporting.
- 5) Responsible for maintaining the "cap & gown" inventory, and for renting and fitting caps and gowns.
- 6) Oversee (sic) the preparation, timelines, proofing, and distribution of the monthly parent-community newsletter and other "community" correspondence.
- 7) Responsible for sorting and mailing student midterm reports to parents/guardians.
- 8) Responsible for assembling and reporting daily announcements.
- 9) Responsible for office supply inventory, including the ordering, maintaining, and dispersing of supplies and printed forms.
- 10) Assist (sic) with creating and maintaining student records in the computer.
- 11) Responsible for any other duty assigned by the building principal.

The job opening was properly posted on April 21, 1995. Five applicants from within the District applied for the job. No external applicants applied for the job. One applicant for the job, Elizabeth Decker, had been a Central Office Library Clerk for two and one-half years prior to applying, and immediately prior to being employed by the District, Decker had worked for three and one-half years as High School Secretary/Receptionist at Denmark School District. Grievant Peggy Schroeffer, then employed by the District as an Instructional Aide for five and one-half years in a classroom setting, also applied for the position. The three other applicants for the position were District EEN Aides who were then on layoff. The District decided to interview all five applicants for the position, after receiving their paperwork.

The District's interview team, consisting of High School Principal Ken Ogi ^{2/} and District Business Manager Mary Jo Filbrandt interviewed the applicants. The interviews consisted of the District team asking each candidate a set of ten pre-determined questions, the answers to which Filbrandt and Ogi then rated on a scale. Filbrandt stated that Elizabeth Decker scored slightly higher than the Grievant on this portion of the interview: 58 points for Decker as opposed to 52 points for the Grievant. Filbrandt stated at the instant hearing that these scores were not determinative of the outcome and only served as guidelines for the decision to hire Decker. The interviewers also gave each candidate a written problem situation to respond to within a 30-minute time limit using the District's IBM computer system. Decker and the Grievant scored approximately the same on this portion of the interview, according to Filbrandt.

^{2/} The District employs two Principals at its High School, Mr. Ogi and Mr. Erdahl.

Business Manager Filbrandt stated that the reasons why the District selected Decker were that Decker had been in an essentially clerical position at the District for approximately two and one-half years as the Central Office Library Clerk (COLC), and that the duties of the COLC were directly related to the new position. 3/ Filbrandt asserted that the interview team considered Decker to be in the same classification as the position for which she had applied. 4/ _____

3/ The District's job description for the Central Library Office Clerk reads in relevant part as follows:

. . .

QUALIFICATIONS:

1. Post high school training with emphasis on secretarial skills
2. Computer knowledge and experience
3. Typing and knowledge of office machines
4. Library media center experience preferred

JOB GOAL OR BASIC FUNCTION:

1. Maintain a centralized inventory of all media received by the ten elementary school library media centers.
2. Facilitate the distribution of materials from the Central Library Media Center Office collection.
3. Assist elementary library media center clerks.
4. Oversee the processing of all new materials.
5. Oversee central library media center helpers.

(Footnote continued on pages 12 and 13)

4/ Footnote 4 found on page 13.

3/ (Continued)

7.(sic) Demonstrate a basic knowledge of the operation and administration of the school system pertaining to rules, regulations and policies.

8. Promote and maintain positive public relations between library media center staff, teachers, and the library program.

RESPONSIBILITIES:

1. Enter computer data of all materials purchased for the elementary school library media centers; produce computer cards, labels, reports, bibliographies, accession book pages; do daily back-ups; and perform other computer related tasks.
2. Process, or oversee the processing of, all new materials.
3. Handle all requests, including book sets; keep circulation statistics; perform check-out and in procedures for central office media collection.
4. Monitor all supplies.
5. Help maintain Lily collection and work closely with the student library helpers on a once a month basis until a library clerk is hired.
6. Direct and assist the co-op student helper, Green Thumb workers, and volunteer helpers.
7. Facilitate activities necessary for various school projects in the central library media center office and/or individual schools, under the direction of a teaching librarian.
8. Mend books and prepare books for the bindery.

(Continued on page 13)

Filbrandt also stated that Decker had performed IBM computer inputting daily on her District job for the past two and one-half years and that Decker had demonstrated that she had greater inter-personal skills than the Grievant, as Decker had had significant contacts with staff during the time she was a COLC. 5/ Further, Filbrandt stated that Decker had had two and one-half years' experience in the Denmark High School as Secretary/Receptionist before she worked for the District. Finally, Filbrandt indicated that Decker went into great detail about her computer skills and training with the interview team.

Schroepfer admitted at the instant hearing that she might not have said enough about her computer skills and her computer training during the interview, but that these qualities and her experience were summarized appropriately on her resume'. Schroepfer also admitted that she believed she had had every opportunity to mention these items to the interview team during her interview.

Briefs:

Association:

3/ (Continued)

9. Type; xerox; sort, alphabetize, and file cards; prepare reports, etc.
10. Assist with year-end inventories in central office and in individual schools.
11. Substitute for elementary school library clerks if absent for less than one day.
12. Perform other duties as required or requested by immediate supervisor.

4/ Filbrandt later admitted that Decker was neither in the same wage classification, nor in the same classification, listed in Article XI (B), as the position for which she applied -- Receptionist/Secretary at the Senior High School.

5/ Filbrandt noted that Decker had been rated higher by both of the Senior High School Principals, (Principals Erdahl and Ogi), in "interpersonal skills".

The Association argued that Grievant Schroepfer possessed the required clerical, secretarial, and receptionist experience and training to fulfill all of the responsibilities of the Senior High School Secretary/Receptionist position. The Association observed that the successful applicant, Beth Decker, had not consistently had clerical/secretarial work experience after High School, whereas Schroepfer had had such consistent work experience. Thus, the Association urged that Decker's training and experience were not substantially superior to Schroepfer's, so that Schroepfer's seniority should have prevailed in this situation. In any event, the Association argued that the record showed that Decker and Schroepfer were at least equally qualified for the disputed opening such that Schroepfer should have been awarded the position.

The Association contended that only two District measures of Decker and Schroepfer's ability to fill the vacancy were objective -- the computer skills test involving the hypothetical problem and the scored interview questions. On these two objective measures, District Finance Officer Filbrandt admitted that Decker and Schroepfer were rated approximately equal. The Association noted that the District failed to support its assertion that successful applicant Decker had greater "people skills" than Schroepfer. The Association therefore urged that because the District had failed to prove that Decker was "substantially superior to Ms. Schroepfer", the grievance must be sustained.

The Association cited several cases to support its view that under language similar to that contained in the effective labor agreement, the less senior candidate must be found to be substantially superior to the more senior candidate before an employer may select the less senior candidate with impunity. In addition, two cases cited by the Association indicated, in the Association's view, that in close cases a preference should be given to the more senior applicant. The Association argued that the Management Rights clause of the contract does not eliminate the weight that seniority must be given and that the District failed to meet its burden of proof to show seniority should not have prevailed in this case. The Association argued that despite the District's unsuccessful attempt to argue to the contrary, Decker's Library Clerk position was not in the same classification as the High School Secretary/Receptionist position. Therefore, the Association asserted that "past practice" evidence proffered by the District regarding preferences given to employees seeking to gain transfers to openings in the same classifications, is irrelevant to this case. Furthermore, the Association contended that since the language of Article XI, Section D is clear and specific and because that language does not refer to such "preferences", same do not exist and were not intended to override seniority in cases such as the instant one. In this regard, the Association also noted that the restrictions the parties placed on the layoff and reduction sections of the contract were not added to Article XI, Section D, evidencing no intent to include them therein.

In sum, the Association urged that the grievance should be sustained, that Schroepfer be placed in the High School Secretary/Receptionist position, and that Schroepfer be given backpay with interest.

District:

The District argued that it had retained its inherent authority to determine employee or applicant qualifications in Article XXII, Management Rights. In addition, the lack of any contractual limitations on the District's authority to set and judge such qualifications was significant in the District's view. The District noted that under arbitral principals, unless a Union proves the employer's hiring decision was arbitrary, capricious, discriminatory, done in bad faith, or otherwise unreasonable, the employer's decision must stand. The District contended that the record in this case showed that the District had not been arbitrary or capricious in selecting Decker over Schroepfer for the High School Secretary/Receptionist position. The District asserted that it was the Association's burden to show that the District's evaluation of Decker and Schroepfer's qualifications and its ultimate decision to hire Decker were arbitrary, capricious, discriminatory, made in bad faith or the decision was such that a reasonable person would not concur in the District's judgment. In the District's view, only if the Association had proved that Schroepfer's qualifications were clearly superior to Decker's or that the District's decision was arbitrary, capricious or unreasonable, would the undersigned be justified in sustaining the grievance.

The District noted that its evaluation of Decker and Schroepfer was based on job-related interviewing and selection criteria. The District observed that Decker's District job experience was relevant to the High School Secretary/Receptionist opening and that her recent job experience (for two and one-half years) in another Wisconsin school district in a position almost identical to the Secretary/Receptionist opening, reasonably made Decker the best qualified applicant for the job. These factors (District-related work experience and past similar job experience) were undisputedly the two most important factors in selecting Decker over Schroepfer as the successful applicant for the job. Thus, the District urged, based upon the record evidence, Decker was substantially better qualified for the High School Secretary/Receptionist position than Schroepfer and that there was not a hint of evidence to show that the District had acted unreasonably or in an arbitrary, capricious, discriminatory or bad faith manner in this case. Therefore, the District argued that the grievance should be denied and dismissed in its entirety.

Discussion:

Article XI, Section D states that the District "shall have the right to select the most qualified applicant (bargaining unit or non-bargaining unit)" for each vacancy or new position (emphasis supplied). This means that in general, unless the labor agreement contains some express limitation on the District's right to set and judge qualifications, one of several candidates, whether from within or without the bargaining unit, can be deemed by the District to be the most qualified for an opening. There are no express or implied limitations in the effective agreement upon the District's management right to set and judge applicant's qualifications for vacancies or new positions. However, the final sentence of Section D does contain a limitation on the District's power of selection -- that if qualifications are "substantially equal", the most senior applicant should be given the position.

I find the language of Section D to be clear and unambiguous. I disagree with the Association's assertion that this language must be interpreted to mean that the District must prove that the applicant who is selected is "substantially superior" to the more senior applicant. Rather, I believe that this language, taken as a whole, clearly requires the Association to prove

that Decker and Schroepfer were substantially equal in qualifications for the opening, and that if the Association met this burden, then the District would have the burden to prove that nonetheless, the District, in fact, hired the "most qualified" applicant for the opening.

In determining the outcome of the above inquiry, I note initially that because the District has retained the right to set and judge qualifications and because it has judged Decker to be more qualified than Schroepfer, the crucial issue in this case becomes whether the District's decision to select Decker was arbitrary, capricious, discriminatory, done in bad faith or clearly wrong. In this regard, there was no evidence submitted to show that the District had a discriminatory motive or that it acted in bad faith in selecting Decker.

In regard to whether the District's decisions in setting the qualifications for the High School Secretary/Receptionist position were arbitrary and capricious or whether they were job-related and reasonable, the evidence showed that the District set up interviews between Business Manager Filbrandt and Principal Ogi with each applicant; that Filbrandt and Ogi asked each applicant a set of ten pre-determined questions and rated their responses thereon. I note that Beth Decker scored 58 points on these questions, six points higher than Schroepfer scored (52 points). Another measure of the qualifications of each applicant was a timed hypothetical problem given to each applicant, which they used their computer skills to solve. I note that Filbrandt stated at the instant hearing that Decker and Schroepfer scored approximately the same on this portion of the interview. Based upon these two measures, Decker rated slightly higher than Schroepfer.

The remaining two measures of the applicants' qualifications^{6/} used by the District were:

- 1) Current District job duties and whether these duties were similar to the duties required in the new position;
- 2) The applicants' prior work experience outside the District.

In regard to the first measure, above, the District attempted to prove that Decker was working in a

^{6/} The Association did not dispute the appropriateness of these two remaining measures used by the District.

job in the same classification as the disputed opening. The District offered evidence of a past practice to show that it has applied the classifications listed in Article XI, Section B Layoffs when deciding whether employees who apply for District openings are in the same classification as the District position they possessed at the time of their application. I find this evidence irrelevant to this case. As stated above, the language of Article XI, Section D is clear and unambiguous, making evidence of past practice irrelevant and inadmissible to vary the clear terms of the agreement contained in Article XI, Section D. 7/

7/ Also in this case, the contract demonstrates that while Ms. Decker's position as Central Office Library Clerk is listed in Article XI, Section B for layoff and recall purposes as being in the same group as secretarial positions, Article III and Appendix A of the contract make no such connection. Finally, I note that Ms. Filbrandt admitted that in her opinion the COLC position was not in the same classification as the disputed opening.

Thus, the ultimate issue in this case comes down to whether the District acted reasonably in selecting Ms. Decker for the position, or whether it acted arbitrarily and/or capriciously in this regard. Based upon the evidence admitted in this case, I find that the District could reasonably conclude that Decker was the most qualified person for the opening. In this regard, I note that the District reasonably concluded that Decker had performed substantial daily clerical 8/ and computer duties for the District since January, 1993 as Central Office Library Clerk, while Schroepfer had not had significant clerical and computer experience in her District EEN Aide position. The fact that Schroepfer had computer and clerical training and experience as Clerk of the Town of Rolling and Bookkeeper for her husband's business 9/ although impressive, does not require a different conclusion, as the District could nonetheless have reasonably concluded that Decker's in-house training and experience should weigh more heavily in her favor than Schroepfer's outside experience and training. Also, the District could reasonably weigh more heavily than Schroepfer's prior work experience, Decker's three and one-half years' experience as High School Secretary/Receptionist at Denmark School District, as that prior work experience involved a job almost identical to the opening involved herein, and that experience occurred immediately prior to Decker's hire by the District. Finally, I note that Decker did in fact score slightly higher than Schroepfer during the interviews.

In all of the circumstances of this case, 10/ I issue the following

AWARD

The District's failure to award the Receptionist/Secretary job at the Senior High School to Peggy Schroepfer did not violate Article XI, Section D of the collective bargaining agreement.

The grievance is therefore denied and dismissed in its entirety.

Dated at Oshkosh, Wisconsin this 5th day of January, 1996.

By Sharon A. Gallagher /s/
Sharon A. Gallagher, Arbitrator

8/ I find the District failed to prove that Decker had greater interpersonal skills than Schroepfer, although the evidence tended to show that as Library Clerk, Decker had more telephone contact with staff and others than Schroepfer had had as a classroom aide.

9/ Schroepfer's experience at the Braun and Preboske Accounting firm occurred from 10 to 17 years ago, and at a time when computer technology was at a more primitive level.

10/ It is not the Undersigned's duty to substitute her opinion for the judgment of the employer in these types of cases. Rather, the inquiry must be a narrow one, along the lines utilized herein.

