BEFORE THE ARBITRATOR

In the Matter of the Arbitration of a Dispute Between

LOCAL 1752-D, AFSCME, AFL-CIO

and

SCHOOL DISTRICT OF WAUSAUKEE

Case 38
No. 57496
MA-10651

Appearances:

Mr. David A. Campshure, Staff Representative, Wisconsin Council 40, AFSCME, AFL-CIO, appearing on behalf of the Union.

Godfrey & Kahn, S.C., by **Mr. William G. Bracken**, Coordinator of Collective Bargaining Services, appearing on behalf of the District.

ARBITRATION AWARD

The Union and the Employer named above are parties to a 1997-2000 collective bargaining agreement that provides for final and binding arbitration of certain disputes. The parties jointly requested the Wisconsin Employment Relations Commission to appoint the undersigned as an arbitrator in a dispute involving the wage rate for Diane Senn. The undersigned was so appointed and held a hearing on June 18, 1999, in Wausaukee, Wisconsin, at which time the parties were given an opportunity to present their evidence and arguments. The parties completed filing briefs by August 31, 1999.

ISSUE

The issue to be decided is:

> Did the District violate the collective bargaining agreement when it placed Diane Senn at the probation wage rate when she began her employment as a custodian in the District after voluntarily transferring from her bus driver position and by making her serve a 90 day probationary period? If so, what is the appropriate remedy?

BACKGROUND

The basic facts are not in dispute. The parties' collective bargaining agreement for 1997 through 2000 includes a wage schedule with a probationary wage rate of 70 percent of the top rate, a one-to-two-year step at 80 percent, a three-to-four-year step at 90 percent, and a five-plus-year step at 100 percent. The schedule also states:

> All current employees will be placed in the 5+ lane. New hires after July 1, 1995 will begin at the probationary wage rate.

The parties first bargained a salary schedule into the 1995-97 contract. Before that, there was one wage rate for each classification in the contract. As part of the negotiations that led to the salary schedule, the parties agreed to the language quoted above about placing all current employees in the five-plus lane. The Union interprets that language to grandfather all employees hired before July 1, 1995 into the top rate, regardless of whether they remained in their positions or transferred into different positions. The District does not interpret the language the same way, and that is the source of this grievance, as it affected one employee, Diane Senn, who transferred from a bus driver position to a custodian position. The District placed Senn, who was a long time employee, at the new hire probationary wage rate and considered her to be on probation for 90 days. The Union believes that Senn should have been paid at the top rate at all times and have been given a 30-day trial period but not a 90-day probationary period. The District believes that the language regarding current employees' placement applied to employees in their positions at that time, and that employees were not grandfathered into the top salary schedule forever.

The Union representative is David Campshure of Wisconsin Council 40, AFSCME, AFL-CIO. His testimony, bargaining notes and written proposals show some of the history of the bargaining between the parties. On April 10, 1995, the Union's initial proposals for a successor contract state that: "The board will be proposing a salary schedule that creates a separate wage schedule for employees hired after April 1, 1995." It was always the Union's understanding after that time that the wage schedule would apply only to new employees, and that all existing employees would be grandfathered at the top rate.

The District made a proposal that started with a probationary wage rate of 70 percent of the top rate and would have placed people at the top step after seven years during the second bargaining session on May 18, 1995. District Administrator Cleland Methner, who was involved in the negotiations, testified that the District felt that new hires should not receive the same wage rates as someone who had experience in a position for a number of years.

During a bargaining session on May 30, 1995, the District proposed language stating: "All current employees will be placed in the 7+ lane. New hires after July 1, 1995 will begin at the probationary wage rate." William Bracken of Godfrey & Kahn was the negotiator for the District, and he testified that it was never the District's intention to say that all employees who

were at the top rate would always stay there. Bracken said that the wage schedule for current employees referred to them in the current positions. Methner did not recall anyone talking about a two-tiered schedule or two different salary schedules in effect for different groups of employees. The term "grandfather" was not used in bargaining. Bracken testified that the language at the bottom of the wage schedule was transition language for the first time the parties went from a single wage to a schedule, that that it was not meant to stay there forever and did not even need to be put on the wage schedule.

The parties reached a tentative settlement for the 1995-97 collective bargaining in May of 1995. Bracken prepared a document showing the tentative agreements. The parties had agreed to a maximum wage rate after five years instead of seven. Bracken's May 31, 1995 document (Union Ex. #11) also states: "It is understood that existing employees will be placed at step five plus (5+) in their appropriate job classification." Bracken said the District was assuming that employees were staying in their "appropriate job classification." There was no discussion concerning what happens when employees transfer from one position to another. The salary schedule contained the note: "All current employees will be placed in the 5+ lane. New hires after July 1, 1995 will begin at the probationary wage rate."

Campshure testified that no one from the District ever told the Union that the language only applied to current employees so long as they remained in their job classification, and that if they moved, they would be considered new hires and go back to the probationary wage rate.

The President of the Union, Barb Kolosowski, was involved in negotiations for the 1995-97 contract. She testified that it was the Union's understanding when the language regarding current employees was put in place that all of them would receive the top pay, whatever their position. She thought that the schedule – other than the top rate – applied to employees hired after July 1, 1995. Methner testified he understood the language to mean that if the District hired people after July 1, 1995, or employees transferred within positions, they would begin at the probationary rate of whatever new classification they went into. The record does not show that there was any bargaining on the issue of employees who transferred into different classifications during the negotiations for the 1995-97 contract.

In January of 1996, a dispute arose over the same issue that this case presents. A bus driver named Theresa Aide posted into a teacher's aide position. Aide had more than five years of service in the District when she posted and got the aide's position. The parties disagreed about where Aide should be placed on the salary schedule when she started the aide position. The Union objected to having Aide's wage rate based on years of experience after she became an aide and told the District that her rate should be at the five plus step. The parties resolved the issue on a non-precedential basis, agreeing that they were both free to make any arguments they chose should the situation come up again. The parties also agreed to try to resolve the issue in the next round of negotiations.

On March 10, 1997, the District made a proposal for the successor agreement that would have deleted the language: "All current employee will be placed in the 5+ lane. New hires after July 1, 1995 will begin at the probationary wage rate." Bracken told the Union that the first sentence regarding current employees was dead language because it had no more practical purpose. The District also told the Union it believed it had the right to put new hires at any place on the schedule that it saw fit. On April 3, 1997, the Union proposed to shorten the time it took to get the top wage rate from five years to two years. The Union proposed that employees who were hired between January 1, 1995, and June 30, 1996, would be placed on the wage schedule based on their months of service, and that employees posting between classifications would remain at the same months of experience step. Campshure testified that the Union proposed that employees posting between classifications would remain at the same months of experience on the steps because the Union was trying to reduce the schedule and deal with people hired after July 1, 1995 when they posted for new positions. Bracken's memo to the District indicates that there were about six employees somewhere on the salary schedule who were not at the top. On April 25, 1997, the District proposed this sentence: "The District Administrator reserves the right to evaluate a new hire's experience and place that person at any point on the salary schedule." That language was not accepted. The parties reached a tentative agreement for the 1997-2000 contract in June of 1997 without changing the wage schedule or changing any language regarding the employees hired before and after July 1, 1995.

On November 20, 1998, the District posted a position for a full-time custodian. It also advertised the job in a newspaper, and the Union objected to the simultaneous recruitment and posting. The Union told the District that it was in violation of Article 7, Section B, that has a window of five days for an employee with proper qualifications to apply before the District may recruit on the outside.

Diane Senn had been a bus driver for the District since 1977. She posted for the custodian position and received it on December 30, 1998. She was interviewed by District Administrator Cleland Methner, two principals and the head custodian. Another employee with less seniority than Senn also applied for the position. Senn submitted a resume that included her experience in cleaning, housekeeping, fixing up rental property, etc. Senn found out that her rate of pay was the probationary rate of pay (70 percent of the top rate of pay) when she got her first paycheck as a custodian. After 90 days in the custodian position, Senn was paid on the one-to-two-year step at 80 percent of the top rate.

Methner testified that although Senn had been a bus driver for the District for 20 years, that position was not related to the custodial vacancy. He thought that she should be placed on the schedule as a new hire and be on probation for 90 days.

Article 7, Section B, states that:

> Any employee filling a job vacancy under the procedure outlined in Section 1 above, will be required to fulfill a thirty (30) day probationary period, during which such employee may be returned to his/her former job if the Employer

> determines that such employee is unable to satisfactorily perform the job. Within the first ten (10) working days the employee may return to his/her former job at the employee's request.

When asked about his interpretation of the above language, Methner testified that this is the mechanism for an employee or the employer to say this is not working or to go back to a prior position, but that it does not address pay rates. Methner saw a difference between a probationary period where a person was working out well or not working out well versus the contract language that deals with pay schedules and the probationary period for wage rates.

Senn filed a grievance on January 22, 1999 regarding the rate of pay and asked to be paid at the 100 percent of the wage schedule and to be made whole for any loss and wages and benefits.

THE PARTIES' POSITIONS

The Union

The Union argues that the District inappropriately treated the Grievant as a new hire. She was employed continuously by the District as a bus driver for over 21 years, and yet when she was awarded the custodian position through the posting process, the District treated her as a new hire from outside the bargaining unit. Methner acknowledged treating her in such a manner. The District also inappropriately applied the 90-day probationary period required of newly hired employees under Article 5, Section A, to the Grievant. The District blatantly ignored Article 7, Section B, which states that employees filling a job vacancy through the job posting procedure will be required to fulfill a 30-day probationary period. There is no doubt that the Grievant's posting from bus driver to custodian subjected her to the 30-day probationary period associated with transfers between jobs, not the 90-day probationary period required of new hires.

The language of both Article 5, Section A and Article 7, Section B, is clear and unambiguous. Methner's interpretation that people who are placed in a position after July 1, 1995, will be handled as a new hire is not supported by the actual contract language. The District refuses to acknowledge any difference between employees hired to fill a position from outside the bargaining unit and unit employees who obtain a position through the contractual posting procedure. The District is trying to rewrite the language negotiated by the parties. If it wishes to change the existing language, it must do so at the bargaining table.

The Union asserts that any ambiguity over placement in the wage schedule of employees hired before July 1, 1995, who transfer between classifications must be construed against the District. The District proposed a wage schedule during the negotiations for the 1995-97

bargaining agreement, and a sentence of that proposal included the language placing all current employees at the seven-plus lane and new hires after July 1, 1995, at the probationary wage rate. The parties agreed to implement a wage schedule and agreed to the language at issue:

> All current employees will be placed at the 5+ lane. New hires after July 1, 1995 will be at the probationary wage rate.

During bargaining for the successor agreement, the District proposed to eliminate the above statement, stating it was dead language. The Union proposed to shorten the time it takes to get to the top. Both sides withdrew their proposals, and the structure and language remained the same for the 1997-2000 contract.

The Union notes that it was the District that first proposed and drafted the language for the wage schedule that has been in effect since July 1, 1995. The District led the Union to believe it was proposing a two-tier wage schedule by its statement that it was proposing a salary schedule that created a separate wage schedule for employees hired after April 1, 1995. The Union's agreement to implement the four-step schedule was based on the grandfathering of current employees at the five-plus years' step. At the arbitration hearing, Methner stated that it was his understanding that new employees and employees transferring within the bargaining unit would start at the probationary rate and progress through the steps of the schedule. Methner admitted that there were no discussions at the bargaining table regarding placement of transfers in the wage schedule.

Given the wage schedules and notes contained on them, it is not clear what happens to employees hired prior to July 1, 1995, if they transfer from one job to another. That ambiguity must be construed against the District which proposed and drafted the language, the Union contends. The District first portrayed the new wage schedule as a separate schedule applying only to new employees hired after a certain date. It was understood by Kolosowski and the people at the bargaining table for the Union that employees hired prior to July 1, 1995, would be placed at the top step of the wage schedule, regardless of the position they held. It was with that understanding that the Union agreed to the concept of a wage schedule in which new employees earn 70 percent of the maximum and reach the top after five years. If the District wanted the wage schedule to apply to employees hired after July 1, 1995, and employees hired before that date who post into new positions, it had an obligation to make that known at the bargaining table. The District cannot be allowed to benefit from its failure to live up to that obligation.

The Union asks that the Grievant be made whole.

The District

The District asserts that wage rates are assigned to jobs rather than to particular individuals. In absence of contract language to the contrary, an employee who transfers to a particular job is entitled only to the wage rate for that particular job based on his or her experience in that job. There is no express or implied condition that an employee who transfers to another classification shall carry with him or her the same level of experience for the classification which he or she held before the transfer. The contract lists various wages in accordance with classifications and experience. An employee who transfers to a classification in which he or she has no previous experience is entitled only to the wage rate assigned to one without any previous experience. The District cites arbitration cases, which hold that employees who transfer to different positions receive the pay of those positions, not the pay they had received in their old positions. The District contends that both parties explicitly agreed that wage levels were dependent upon experience earned in a particular job classification when they adopted the multi-lane wage schedule.

The District argues that the parties' intent in bargaining the wage schedule was to place all current employees at the top of the schedule in their particular classification, but new hires and employees who transferred to different classifications would be paid at the probationary wage rate for that classification. Arbitrators should interpret collective bargaining agreements to reflect the intent of the parties, using sources such as the express language, statement made at negotiations, bargaining history and past practice. If the parties intended that transferring would not cause a decrease in pay, they could have said so in simple language in the bargaining agreement.

By paying the Grievant at the probationary wage rate, the District states that it was trying to maintain the integrity of the wage schedule. The bargaining agreement should not be construed narrowly and technically but broadly enough to accomplish its evident intent. The District proposed the multi-lane schedule because it believed that employees who are new to a particular classification have less experience in that classification and, therefore, should initially be paid the probationary wage rate. The District intended to establish a means whereby employees moving through the wage schedule earn more money as they gain more experience in a particular classification. As employees gain experience, they are more valuable to the District and therefore would be paid more. To give the Grievant the rate due to employees with five-plus years of employment in the custodian classification receive is to make an exception for her. Other employees might claim discrimination. It would destroy the foundation upon which the wage schedule is structured – experience.

The District asserts that the language in the contract regarding placing all current employees in the five-plus lane was merely transitional language. Current employees were placed at the top of the new wage schedule because they were already there. The other three lanes were built after the top rate was established, based on a percentage of the top step. As of July 1, 1995, all current employees were placed at the top of the wage schedule and the transitional language was no longer necessary. That's why the District proposed to delete it during the next round of bargaining.

Further, the District argues it has historically placed new hires and employees who transferred to different classifications at the probationary wage rate, at least initially. Fewer instances are required to establish a practice where the situation arises only infrequently.

The District contends that the Union's position would produce an absurd and nonsensical result. Many contracts explicitly state that a transfer by an employee from one classification to a different classification would not affect that employee's rate of pay, but this one does not specifically address what rate of pay an employee shall receive upon transferring into another classification. The Union's position would result in the acquisition of benefits not negotiated, while the District's position would lead to just and reasonable results. Thus, the District asserts, the Arbitrator must deny the grievance so as to avoid an interpretation resulting in harsh, absurd and nonsensical results.

Furthermore, the District believes that the Union is trying to get through arbitration that which it could not get through bargaining. In the bargaining for the successor to the 1995-1997 labor contract, the Union proposed that employees posting between classifications would remain at their same months of experience on the wage schedule. The inference to be drawn from that proposal is that the Union believed that employees who transferred to different classifications were to be paid at the probationary rate. The Union's proposal was rejected by the District in negotiations. Thus, the Union knew the District's practice, tried to change it, failed and now tries to accomplish the same thing through arbitration.

The District claims that under the management rights' clause, it can place employees where appropriate on the wage schedule. The master agreement does not provide that employees who transfer from one classification to another shall remain at the top of the wage schedule within their new classification, but is silent in this regard.

Finally, the District asserts that the Union has not sustained its burden of proof to show that the District violated the master agreement. If the contract language relied upon by a grievant is ambiguous and each party has submitted equally convincing external evidence, the grievant has not sustained the burden of proof. The language here is arguably ambiguous. The express language of the contract, statements made at negotiations, bargaining history, past practice and management rights all support the District's interpretation. The grievance should be denied.

Reply Briefs

The Union

The Union disputes the District's claim that it had a practice of paying employees who transferred at the probationary rate of their new classification. Since the salary scheduled was put in place, only one employee transferred between classifications – Theresa Aide. The parties resolved that dispute on a non-precedential basis, with the Union reserving the right to grieve

should it dispute the placement of the next person who transferred. The instant case is the first time since the resolution of Aide's dispute where an employee hired before July 1, 1995, has transferred to another position.

The Union also takes issue with the District's assertion that the Union's proposal to revise the salary schedule during the 1997-98 negotiations is proof that the Union believed employees transferring between classifications would be paid at the probationary rate. That assertion is clearly contrary to the Union's position as expressed when Aide transferred, and the District was well aware of the Union's position on this issue. The Union successfully rejected the District's proposal to delete Note #1 which put all current employees in the five-plus lane, with new hires after July 1, 1995, placed at the probationary wage rate. The Union's proposal to have employees posting between classification remain at the same months of experience was intended to address where employees hired after July 1, 1995, would be placed if they transferred. The Union continues to maintain that the parties negotiated a separate salary schedule for employees hired after July 1, 1995. That is consistent with the District's statement that it was proposing a separate wage schedule for employee hired after a specific date when the parties first negotiated the salary schedule.

The Union states that the cases cited by the District are not on point, that they involved layoff and bumping situations. Some of the cases support the Union's case, and note that the express language of the contract is to be used to reflect the intent of the parties. In this case, the express language is the statement that all current employees will be placed in the five-plus lane.

The Union asks why the District did not propose language to reflect that a transfer from one classification to another would mean that an employee be reduced to the probation rate of the new job and made to serve the 90-day probation period, if that was the District's intent. It should have at least made its intent known to the Union, and its failure to meet that obligation cannot be held against the Union.

Paying the Grievant at the five-plus step would not create an exception, as the District claims, because it is appropriate and called for under the labor contract. The Union calls the District's contention that other employees might have a claim of discrimination to be absurd, because under such reasoning, all employees not eligible for wages or benefits provided to senior or grandfathered employees would have a claim of discrimination. Moreover, the Union argues that adopting the District's position would lead to the absurd result of the District achieving through unilateral action and arbitration the same thing it could not achieve at the bargaining table. The Union points out that it is even more preposterous and entirely inconsistent with the bargaining agreement to treat employees who transfer as new employees with a 90-day probation period. Would the District also take the position that such employees can be discharged without recourse to the grievance procedure for 90 days?

The Union asserts that the District is trying to rewrite the second sentence of Note #1 in the wage schedule to read as follows: "New hires after July 1, 1995, and employees who post into a different classification, will begin at the probationary wage rate." As the District has correctly pointed out, the Arbitrator would have to read something into the bargaining agreement that is not there, and in so doing, would exceed her authority.

The District

The District replies that it agrees with the Union that the Grievant had a 30-day probationary period, not a 90-day period, when she transferred to the custodial position. And the District now agrees that the Grievant should have been paid at the probationary wage rate for a custodian for the 30-day period, not the 90-day period. After completing the 30-day probationary period, the Grievant should have been paid at the one-to-two-year wage rate for a custodian. She is entitled to the difference in pay between the one-to-two-year wage rate and the probationary wage rate for a custodian for 60 days.

Contrary to the Union's argument, the District states that there is no difference with regard to experience where a position is filled from outside the bargaining unit or from within the bargaining unit when a bargaining unit employees transfers into a position in which he or she has no prior experience with the District. Employees hired from the outside have no prior experience with the District, and bargaining unit employees who transfer to difference positions have no prior experience with the District in the position to which they transfer. The parties agreed that wage rates were dependent on experience earned in a particular job classification when they adopted the salary schedule. The Grievant lacked any previous experience as a custodian in the District, and was properly placed at the probationary wage rate pursuant to the wage schedule.

The District disputes the Union's contention that the language proposed by the District created a two-tier wage schedule. The testimony of the spokesperson for the District in bargaining indicates that it was never the intent of the District to assign wage rates to individuals as opposed to jobs. The word "separate" did not mean two different wage schedules, and no one mentioned the concepts of two tiers or grandfathering.

The District states that the Union has failed to acknowledge that it proposed that employees posting between classifications would remain at the same months of experience on the schedule during the bargaining for the 1997-97 master agreement. The District rejected that proposal, and the Union's proposal infers that it was aware of the District's practice of paying transfers at the probationary wage rate. Thus, the Union now tries to accomplish through arbitration that which it did not obtain through collective bargaining.

Contrary to the Union's contention, the wage schedule must not be construed against the District as the party who initially proposed it, the District states. Any ambiguity must be construed against the party who proposed it only as a last resort, according to the rule of

construction. Moreover, the wage schedule finally adopted differed substantially from the one initially proposed. The District argues that it had no intent to mislead the Union, and ambiguous language need not be interpreted against the party who proposed it where there is no showing that the other party was misled.

DISCUSSION

The Union's interpretation of the salary schedule is clearly preferred for several reasons. The District contends that the collective bargaining agreement is silent about the wage rates applicable in this case, but the agreement is not silent on the wage rates for employees hired before July 1, 1995. The contract clearly states:

> "All current employees will be placed in the 5+ lane. New hires after July 1, 1995 will begin at the probationary wage rate."

The language noted above refers to two categories of employees – current employees and new hires. It is clear that Senn is a current employee. She is not a new hire. She is a current employee of the District transferring into a different classification. By no stretch of the imagination nor of the language can she be considered a new hire. A new hire is someone who has not worked for the District before. Senn has been an employee in the District for more than 20 years. She was a current employee when the parties agree to put "all current employees" at the five-plus lane. She is entitled to the step at five- plus years, not contingent upon her remaining in her classification as a bus driver. The classification that she is in or transfers to is irrelevant until the parties bargain for language that pertains to such transfers and postings and movement among current employees.

The District would have the Arbitrator add some language to the contract, something to the effect that current employees will be placed in the five-plus lane so long as they stay in their current classifications. If the parties had intended such a meaning, it would have been easy enough to add it to the contract language. While the District now claims that its intent was only to pay current employees at the top rate so long as they stayed in those classifications, it never disclosed that to the Union. It was obligated to do so, if that was indeed its intent. There is nothing in the parties' bargaining history or practice that would merit such an important change in language via arbitration. This kind of language change needs to be bargained. The plain language of the wage schedule should prevail, in the absence of language that would show that the parties meant something else regarding "current employees."

It is just as likely that neither party contemplated the transfer situation until the Theresa Aide situation arose. Then, while the parties tried to fix it in their next contract, they were unable to, and the bargaining history for that contract tends to negate itself. Both parties made proposals that were rejected. It appears that they left the matter open, knowing that they disagreed on placement of employees who transferred.

While the District contends that both parties explicitly agreed that wage levels were dependent upon experience earned in a particular job classification when they adopted the multi-lane wage schedule, it is not at all clear that they made such an agreement. They agreed only to increase the wage rates by time in service. That may or may not equate with experience and expertise on a job. Experience in terms of years or time on the job means one thing to the Union and another to the Employer.

If the language regarding current employees to be placed at the top were merely transitional language and superfluous, it was not necessary in the first place. As the District notes, all the current employees were already at the top step or had more than five years with the District. What would have been the purpose of putting the sentence in at all, if it were not to indicate, as the Union urges, that those employees hired before that date were in effect grandfathered at the top step. If all employees had already been in their current classifications for five years and had attained the five-plus top step, there would have been no need for the language if the parties meant that they would start all over if they transferred to a new classification.

If the parties wanted to bargain for the wage rate when transferring between different classifications, they could have easily done so. Many salary schedules deal with placement when moving from one class to another. Some put people at their closest step that does not result in a loss of wages. Some put them at their current years of experience with the same employer. Some up them at the beginning to go through the steps all over again in a new classification. Some red circle them and allow them to get increases based on their present salary. This schedule does not address any scenario of current employees transferring. The parties can fix this at any time they agree to do so.

The best interpretation of the collective bargaining agreement is that employees hired before July 1, 1995, receive the top step in all cases. Senn should have been paid at the top rate for a custodian, not at the probationary rate.

The District has apparently seen the error of its ways regarding the probationary status of Senn. The District's reply brief acknowledged that Senn should have been given a 30-day trial period, not a 90-day probationary period. Since that matter is apparently cleared up, the Arbitrator will not address it, except to note that the Union's interpretation of Article 5 and Article 7 is the correct interpretation.

The District violated the collective bargaining agreement in two respects. First, it violated Article 7, Section B, by not giving Senn a 30-day trial period and considering her to be on probation for 90 days. Secondly, the District violated the wage schedule by paying her first at the 70 percent level and then at the 80 percent level after 90 days, when it should have paid her at all times at the 100 percent level or the five-plus year step for the custodian position from the day she started it to the present. Senn is entitled to a make whole remedy for those violations, and it will be so ordered.

AWARD

The grievance is granted.

The District is ordered to make Diane Senn whole for any lost wages or benefits as a result of her placement on the salary schedule by placing her on the top step or the 100 percent step of the salary schedule as of the date that she started in the custodian's position.

The Arbitrator will retain jurisdiction until December 3, 1999 solely for the purpose of resolving any disputes over the scope and the application of the remedy ordered.

Dated at Elkhorn, Wisconsin, this 6th day of October, 1999.

Karen J. Mawhinney /s/
Karen J. Mawhinney, Arbitrator

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