

BEFORE THE ARBITRATOR

In the Matter of the Arbitration of a Dispute Between

LOCAL 1752, AFSCME, AFL-CIO

and

MARINETTE COUNTY

Case 184

No. 61474

MA-11948

Appearances:

Mr. Dennis O'Brien, Staff Representative, Wisconsin Council 40, AFSCME, AFL-CIO, appearing on behalf of the Union.

Ms. Gale Mattison, Corporation Counsel, Marinette County, appearing on behalf of the County.

ARBITRATION AWARD

The Union and Employer named above are parties to a 2001-2002 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 to hear the grievance of Emily Irish. A hearing was held on November 7, 2002, in Marinette, Wisconsin, at which time the parties were given the opportunity to present their evidence and arguments. The parties completed filing briefs by January 2, 2003.

ISSUE

The parties ask:

Did the County have just cause to discipline Emily Irish on May 2, 2002? If so, did it do so according to Article 24 titled "Disciplinary Action" in the parties contract? If not, what is the remedy?

BACKGROUND

The Grievant is Emily Irish, a correctional officer with the County for five years. She has had no prior discipline and was described by Sheriff Mike Kessler as a good employee. She was given a two-day suspension on May 2, 2002, for events that occurred in the evening of April 18 and early morning of April 19, 2002.

The Grievant was working her regular shift when Corporal Michael Haupt saw her making copies of something for a long period of time. Haupt is a bargaining unit member but is a lead worker or supervisor when on duty with the Grievant or others. Haupt's statement is the following:

On 04-18-02 I was working a 12-hour shift with Officer Irish. Sometime around midnight I saw her making copies for a long period of time. I thought she was just making copies of needed forms for jail use. A short time later I noted she had a folder and as going through these copies that she made which were the daily shift logs of the jail. Unknown of the day/month/or year of these. I told her if she had made these copies to take out of the jail that I advised her not to. Officer Irish then told me if she was going to need a lawyer that she would need them. I then said that if I seen that she was going to remove them from the jail that I would inform Sgt. Majewski and Chief Waugus. When she asked why I informed her that those daily logs should not be seen by anyone outside the jail, and if she needed them for a legal matter that she should go about getting the copies in a proper way.

I then went down to the squad room and placed a call to Sgt. Majewski and Per the Sgt I then called Chief Waugus. These calls took place around 0145 hours. It was my belief that C/O Irish intended to remove these documents from the jail. There would be no other reason to make copies of them being that the originals were here.

After speaking to Chief Waugus he informed me to get the copies that were made and have us both write reports on this incident. Also if there were further problems to inform Sheriff Kessler.

I went back up to the jail control room and asked C/O Irish where the copies of the jail logs were that she made, after the third time I asked her, she asked why I wanted to know. I told her that I would need to get them from her. She told me that it was none of my business where they were, or what she planned on doing with them. I then placed a call to Sheriff Kessler at his residence at 0215 hours to inform him of this incident and that I believed that C/O Irish was being Insubordinate by not telling me where those copies were. I also informed him that it was my belief that she made these copies to remove them from the jail and the law enforcement building.

At 0231 Sgt. Majewski arrived and he asked C/O Irish where these copies were in which she told the Sgt. that they were in a filing cabinet in the Huber office.

Shortly after C/O Gregersen came up to cover the floor and I went on an Emergency detention transport to Brown County Mental Institution.

On April 30, 2002, Haupt wrote up the following to supplement the report above:

On 04-18-02 at about 0145 hrs I spoke to Chief Waugus about C/O Irish making copies of the jail log for what I believe was going to be for personnel use. He instructed me to obtain those copies from her. I went back up to the jail floor and seen that these copies were no longer sitting in front of her. I asked her three times where they were and then she did answer, she asked why I wanted to know. I informed her that I was told by Chief Waugus to get them. She told me that it was none of my business where they were or what she planned on doing with them. I then called Sheriff Kessler at home around 0215. At 0231 Sgt Majewski arrived and C/O Irish told the Sgt. that they were in a filing cabinet in the Huber office.

The Assistant Jail Administrator, Robert Majewski, also filed a report which states:

On 4-19-2002, at approximately 01:50, I received a call from Corporal Michael Haupt. He stated that he was calling from the squad room. He told me that he observed Correctional Officer Emily Irish making copies of jail logs. He asked her what she was doing. I don't recall the exact words that he stated, but he said something to effect that it was for her lawyer. He said he told her that they should not leave the jail. He asked me what he should do. I advised him to call Chief Deputy Waugus and/or Sheriff Kessler as that I was unsure what to do. At approximately 02:10 I called Chief Deputy Waugus at his home. He told me that he talked to Corporal Haupt, told him that he should get the copies from Officer Irish and that both should write a report on what had happened. If she refused to give the copies to him that he should call Sheriff Kessler. I asked Chief Deputy Waugus if I should go to the jail. He told me that he thought that was a good idea. At 02:31 I arrived at the jail. Corporal Haupt informed me that he just got off the phone with Sheriff Kessler and that Officer Irish would not give him the copies that she had made. I told Officer Irish that she needed to give all the copies to me. She stated that this was a bunch of bullshit and that they were in the filing cabinet. I told her that I needed them. She said come with me. We went into the Huber/my office. She went to the tan filing cabinet, second (2nd) drawer and took out a file folder. She handed it to me and we returned to the jail office. After a little while Officer Irish answered the phone, talked a bit and then said it was for me. Sheriff Kessler was on the phone; we talked about the situation and he reiterated that statements must be written. At that time Corrections Officer David Gregersen came into the jail for an EM-1/ED transport. Corporal Haupt then left the jail floor to go on this EM-1/ED.

I got off the phone with Sheriff Kessler and told Officer Irish that a report must be written on what had happened. Officer Irish asked me to come with her to my office. Once in my office she asked why reports had to be written. I said because the Chief Deputy and the Sheriff both said they had to be. She went on to say, something to the effect, that Chief Deputy Waugus and I had told Corporal Haupt that he should keep an eye on what she did. I told her that I did not recall saying anything like that to Corporal Haupt. She then asked me why I had to come in. I said that I was just responding to the phone call I received and what Chief Deputy Waugus said to me. She said Corporal Haupt was accusing her of taking the logs out of the jail and that she didn't. I asked her what she was doing with them. She stated that she was reading them over. I asked her why she had to make the copies if she was just reading them over. She said that she was going to highlight some stuff and she couldn't do it on the logs. I said again that a report must be written. She asked when it had to be done by. I said right away seeing it's Friday. She said that she leaves at 06:00. At this time it was approximately 03:00. I stated that she had the rest of the night to get it done. As she left my office she said again I am out of here at 06:00. The file folder (see attached) contained copies of jail daily logs for the month of July 2002. Some did not have dates (reverse side of front sheet), some stapled, two yellow sheets of lined paper (dividers) and nothing highlighted. End of report.

The Chief Deputy, Michael Waugus, filed a report on April 29, 2002, which states:

At approximately 0200 hrs, April 19, 2002, I received a phone call to my home from Corporal Mike Haupt. He stated that he believed Emily Irish was making unauthorized copies of documents and intended to take them from the jail. I instructed Corporal Haupt to meet with Officer Irish and request the documents be returned to him and that both officers should write a report concerning the incident. The reports were to be completed before they left at 0600 hours on April 19, 2002. I stated to Corporal Haupt that should he have any problems getting the copies from Officer Irish that he should contact Sheriff Kessler about the situation.

After I hung up the phone, I received a phone call from Sgt. Majewski who restated what Corporal Haupt had just told me. I stated to Sgt. Majewski that he should go to the jail and meet with Corporal Haupt and Irish to obtain a clarification as to what was occurring, and to secure the reports from both officers. I told him that I instructed Corporal Haupt to contact Sheriff Kessler if he had any further problems.

On my arrival to the jail at 1000 hours on April 19, 2002, I found the reports from Corporal Haupt, Officer Irish, and Sgt. Majewski, along with the copies of the documents, the July 2000 jail logs. At 1740 hours, I met with Corporal

Haupt who expressed his concerns about working with Officer Irish. I told him that I expected him to continue to work in a professional manner with Officer Irish. I met with Officer Irish at approximately 1750 hours and told her the same thing, to act as a professional in her dealings with Corporal Haupt. She stated to me that she was only making the copies to review them for errors or safety concerns. I told her that it was my understanding that Sheriff Kessler would be reviewing the reports, that I had a vacation day on April 20, a half day on April 21, and was off on April 22 and 23. I told Officer Irish that she should not remove any documents from the jail without approval. She stated that she understood.

The Grievant's written report, also dated April 19, 2002, states the following:

On April 18th during my 12 hour shift 6P-6A I was reading over copies of past daily log sheets. Corp. Mike Haupt stated "do not take them from the jail. Bob Majewski (Sgt) and Mike Wagus told me to keep an eye on you and to report everything that goes on." Later in the evening Mike Haupt asked where the log sheets were. I said don't worry I didn't take them they're still here. I didn't realize how serious of an issue he was making of this until I heard him call Sheriff Kessler at approx 0230 AM and was accusing me of taking the copies from the jail. He stated I was insubordinate and couldn't work with me the rest of the night, one of us has to leave. Mike Haupt also called Bob. Bob arrived at approx 0231 hours. When Bob came in he asked me where the log sheets were and I showed him they were in the filing cabinet along with all the other log sheets. Bob stated to me that Mike Haupt called him earlier in the evening about the copies and Bob called Waugus. Bob sat in the office and went over the log. Sheriff Kessler called at approx 0245 and asked me what was going on and I said I have no idea. He then asked to speak to Bob. Mike went on a transport at approx 0250. Dave Gregerson was called in to do. Dave stayed to work the floor. Bob stated that Sheriff Kessler and Wagus requested a report of the incident. Once again the false accusations are being made against me to slander my reputation. I believe I am being set up scrutinized and harassed unjustly by fellow co-workers and management. The stress that Marinette County is putting me through is taking a toll on my health.

The Grievant was given a two-day suspension by the Sheriff for violation of jail policy, for failing to carry out a valid order of a supervisor, for violating the County code of ethics, and for dishonesty. While it appeared to supervisors and the Sheriff that the Grievant was going to leave the jail with documents containing privileged information, she did not take the documents out of the jail. There is no dispute that the Grievant copied the documents of jail logs from July of 2000.

Sheriff Mike Kessler testified at hearing that he was called by Haupt regarding the problem with the Grievant, that she was making several copies. She was making so many copies that he wanted to know what she was doing. Haupt told the Sheriff that the Grievant was not cooperating with him. The Sheriff called back later and spoke to the Grievant. He did not recall that she gave him any reason for making copies. Haupt told the Sheriff that he was still having a problem with the Grievant. Sheriff Kessler had told Haupt to turn over the copies, and when Haupt asked her for the copies, she did not give them to him. When the Sheriff investigated the incident, the Grievant did not give him a rational explanation for making the copies of old jail logs. Sheriff Kessler considered the matter a serious offense. The jail logs contain some confidential information that may not be released to the public. If the public requests copies of the jail logs, certain confidential information on the logs may be redacted before being disbursed to the public. The Sheriff was also concerned that the Grievant did not cooperate with Haupt. She was not authorized to make the copies of jail logs. According to the Sheriff, she was insubordinate when she refused to give Haupt the copies. The Grievant told the Sheriff she made copies for informational purposes and for a way to improve her job. The Sheriff was convinced that the Grievant made copies for her own personal use.

Haupt had observed that the Grievant was making a lot of copies, and he noticed that they were copies of jail logs. It was unusual for someone to be making copies for the length of time that the Grievant was making copies. Haupt found no reason to make the copies since the originals were in the jail. When Haupt questioned the Grievant, she told him it was none of his business. He thought she was making them for personal reasons and was going to take them from the jail, since she told him that she was going to need a lawyer. He also figured that she was going to take the copies from the jail because there would be no reason to make so many copies when the originals were there. Haupt asked the Grievant several times to give him the copies and she did not. Haupt specifically told her that he had been told to get the copies. Haupt told her that he had called the Sheriff and Sergeant Majewski. She still did not give Haupt the copies. She did not tell him what she had done with the copies.

The Grievant never admitted that the copies she made were for her own personal use. The Grievant testified that Haupt asked her what she was looking at when she was reviewing the jail logs she copied. According to the Grievant, she told him that she was just going over them. She said that Haupt then went downstairs and she replaced the files while he was downstairs. She testified that she did not believe that Haupt was giving her a direct order to give him the copies. When she saw Majewski coming into the jail and heard Haupt on the phone to the Sheriff, she realized that the matter was serious. When Majewski came in, the Grievant showed him where the files were in the filing cabinet where the originals were kept.

The Grievant testified that she made the copies to see if there were any security issues that they could remedy. She stated that she was looking for a correlation between security issues and amount of staff or visitation. With the new jail, employees were to give ideas about doing things differently, how many people they might need on staff. The Grievant was not

directed to make the copies. She stated she never told Haupt or Majewski that she needed the copies for her own personal legal problems. She said that she made copies so that she could highlight things on the copies, since she couldn't mark on the actual logs.

The Grievant testified that there was no reason that she picked the logs for the month of July of 2000. She admitted that that her husband was the jail administrator during that time. He voluntarily left the County in August of 2000 and he was the Grievant's supervisor at the time he left. He was being investigated before he resigned.

The disciplinary notice cited a violation of jail policy 103.27, Section A. There appears to be a misunderstanding of which Section A – one refers to fraternization between employees and inmates, and the other refers to employees altering, falsifying or misrepresenting facts on any form, card or written report. The County believes the disciplinary action refers to the latter.

Amber Lynwood has worked as a correctional officer and is the Local Union's Vice-President and Steward. She has worked for the County for 16 years. Lynwood has testified that she has made copies of jail logs in the past for the Sheriff or to highlight a mistake and correct a document. She has never made the amount of copies that the Grievant made during the incident at issue. She has made copies either on requests or direction. Lynwood testified that most of the confidential information would be on booking reports or inmate files rather than on jail logs. She was not aware of anyone who ever was disciplined for making copies.

Mary Scoon is the Union President and has worked for the County for 15 years. She believes that the County has followed a progressive disciplinary pattern and given a written reprimand before suspending an employee. She has seen employees make copies for their own personal use but was not aware of anyone being disciplined for making copies at the Job Center where she works. Scoon had never seen anyone making the same volume of copies for personal use that the Grievant made.

THE PARTIES' POSITIONS

The County

The County argues that the credibility of Irish and Haupt are at issue here and that Haupt is a more credible witness. His testimony is corroborated by his written report and the testimony and reports of other witnesses, including the Sheriff. No motive was shown by any witness to demonstrate that his testimony was anything but credible. Irish is not credible. The fact that she copied jail documents from the time period for which her now husband was under investigation gives credence to Haupt's testimony that she indicated the copying was for personal reasons and that she intended to remove those documents from the jail. Her explanation that either she did not hear Haupt direct her to give the copied documents to him or that he did not so direct her is neither reasonable nor believable under the circumstances.

The County submits that the second issue regarding the proper discipline is a matter of contract interpretation. The County maintains the phrase “. . . may be discharged . . .” contemplates discipline of any reasonable and appropriate nature including discharge. The Union argues that under the language of the applicable section, the only discipline available to the County is discharge, and if the County does not discharge under 24.02, it must discipline pursuant to 24.03. The parties agree that Irish has no previous disciplinary action and could not be suspended under Section 24.03.

The County asserts that to interpret “. . . may be discharged . . .” to require discharge or nothing would lead to ludicrous results. In the event an employee commits violations of a nature serious enough to potentially result in discharge and then require the employer to discharge or impose no discipline certainly would not serve the interests of either the employer or the employee. The word “may” is permissive and allows the County to impose appropriate discipline including discharge. If the parties had intended the only discipline available under Section 24.02 to be discharge, the parties would have used the language “. . . shall be discharged. . .” Therefore, the County contends that the Grievant was properly disciplined under the terms of the existing agreement.

The Union

The Union asserts that Irish did not deserve to be suspended for her conduct, and while it acknowledges that there should have been better communication between officers Haupt and Irish, the documents and testimony fall far short of meeting the discipline imposed. The Union believes that the County violated the contractual due process of Article 24, and the incident has been overblown by referencing claims of insubordination, ethical violations, dishonesty and charges of violating County ordinances.

The Union contends that the County misapplies the disciplinary process described in Article 24. A reasonable interpretation of this article would state that the parties agree to a just cause standard, that some offenses are so egregious that they may call for immediate discharge and other offenses will be addressed using a progressive discipline measure. The language in Section 24.03 begins: “For all other offenses . . .” without referring to any offenses, because the other offenses are clearing those listed in Section 24.02. Section 24.03 also states that no employee shall be subject to discharge under this paragraph unless he or she had previously been suspended for cause. There is an implied reference to employees who may be discharged for just cause under other paragraphs or sections of Article 24, as in the offenses listed in 24.02. The County has a wide choice of action – the ability to deal with serious problems immediately and the opportunity to correct improper behavior through warnings offered by progressive discipline. The Union contends that the County ignored the clear and unambiguous language of Article 24 by suspending the Grievant without giving her a written warning. The language of 24.03 states that an employee shall not be subject to a suspension without having been given a written reprimand.

The Union submits that the language of 24.02 does not imply that the County may discharge or take any other action it deems appropriate, and such an interpretation would render meaningless the language of 24.03. The County could have discharged Irish for what it claims she did, but when it chose not to discharge her, it was required to proceed under 24.03.

The Grievant is charged with a long list of violations, such as violation of jail policy 103.27 Sec. A, which is a policy about fraternization between jail inmates and employees. There was no evidence that an inmate was involved in the incident at issue here. The Grievant was also charged with failure to carry out a valid order of a supervisor, but Haupt testified that he did not issue orders to Irish. There is a question of whether Irish understood that Haupt was issuing a valid order. When Majewski arrived, Irish immediately showed him where she placed the copies.

The Grievant is also charged with dishonesty, and the County has imputed bad intentions to her conduct. It does not believe that she was conducting a personal examination of jail duty logs for work related purposes. The Union submits that the claim of dishonesty was not proven. There is also no evidence that Irish transgressed any ethical duty she bore.

Therefore, the Union contends that the County did not establish that Irish was in violation of any policy of her department or that it had just cause to punish her in the manner it chose.

In Reply, the County

The County claims that the Union misstates the jail policy violation noted regarding policy 103.27 Sec. A. The policy states that employees will not knowingly alter, falsify, or misrepresent the true facts verbally or on any form, card or written report. This violation goes directly to the offense of dishonesty. Sheriff Kessler testified that was the policy violated and Irish testified that she was aware of the policy.

While the Union questions whether Irish was given notice that her actions violated a department rule, Irish testified that she had knowledge of the numerous rules and policies she violated and that she was aware of the chain of command in the jail. The Union also argues that there is a question as to whether Irish ever understood that Haupt was issuing a valid order. Based upon the evidence, the County asserts that it is clear that even if Haupt did not initially give a direct order by way of saying, "This is an order," he did convey orders given from superior officers. Irish's version of events is not credible.

In Reply, the Union

The Union observes that copying jail logs is not intrinsically wrong and there is no rule prohibiting copying jail logs. Three levels of management or supervision demonstrated that they weren't quite sure of the jail policy. Irish made no attempt to conceal her actions because

she was not violating any work rule. The logs are not confidential documents. The Sheriff has not treated logs with a concern for their confidential nature that approaches the level in the instant matter. Irish did not copy records that contain confidential information. The County concedes that no harm was done – Irish did not take the jail logs from the jail. Haupt overreacted, and the County has not proven that there was a clear, unambiguous rule prohibiting the copying of jail logs. The Union notes that there seems to be old scores to settle, as the County attempted to bring Irish’s husband into this dispute.

Regarding the contract interpretation, the Union contends that if someone’s actions merit discharge under the list offered in 24.02, then the County can make its case and discharge. If it cannot make its case or chooses not to discharge, the remaining option is not to impose no discipline – the County as a further set of choices short of discharge under 24.03. The County cannot assume that the intent of the language in 24.02 was to let it choose any level of punishment it desired while the parties went on to create the language in 24.03.

DISCUSSION

First of all, the Grievant’s testimony is not credible. Her statement that she was looking at the jail logs from July of 2000 for job improvement concerns, safety or security issues, etc., does not make any sense. Why would she just happen to grab the logs of July of 2000, a month before her husband resigned as jail administrator and a time when he was under investigation? Why not the logs of July 2001? Or any other time? The fact that she copied a large amount of logs does not make sense if she was doing something work related – those logs would be on the job site at all times for her review. Her claim that she needed copies in order to highlight items does not ring true.

The Union claims that there is no rule against copying jail logs, and others have done so in the past. However, other employees have only copied specific logs in small amounts – not a large amount like the Grievant copied. Moreover, the Grievant’s use of the copies was more likely for personal use than work related. She made some statement about perhaps needing a lawyer. Haupt would not have made up such a statement. Clearly, something was going wrong that evening, and the Grievant’s refusal to give Haupt the copies was an indication that she knew she was in trouble. If the copying were related to her work, the Employer should have known or understood what the Grievant was doing. However, no one could understand why the Grievant would be copying large amounts of jail logs from a couple of years ago.

The policy numbered 103.27 has three parts labeled “A” under I, II, and III. The Union cites the wrong part and it knows it. The policy regarding fraternization is not the part at issue. Rather, the County is concerned about misrepresenting facts. While the Union wonders whether Haupt gave a valid order or was a supervisor, the Grievant knew that he was a lead worker and her supervisor on that shift. Her refusal to give him the copies as he requested is what escalated this dispute in the first place. The Union states that no harm was done because the copies never left the jail, but that was because Haupt interrupted her and stopped her from doing so.

In sum, the Arbitrator finds that the County had just cause to discipline the Grievant. The disciplinary action of a two-day suspension may be given under Article 24 of the collective bargaining agreement. Article 24 – Disciplinary Action – states:

24.01 Disciplinary Action. No Employee shall be reprimanded, suspended or discharged except for just cause.

24.02 Dismissal. An Employee may be discharged for the following offenses without warning or notice:

- A) Failure to carry out the valid orders of a supervisor;
- B) Use of abusive language toward another person while on Courthouse premises;
- C) Intoxication while on duty;
- D) Unauthorized possession or use of narcotics;
- E) Dishonesty;
- F) While on duty, deliberate misconduct which results in damage to any person or property;
- G) Failure to notify supervisor of absence from work on three (3) separate occasions during any one (1) year period.

Any Employee who is discharged, except probationary, shall be given a written notice of the reasons for the action, and a copy of the notice shall be made a part of the Employee's personal history record, and a copy shall be sent to the Union secretary. Any Employee who has been discharged may appeal by giving written notice to h/er supervisor within fourteen (14) days after dismissal. Such appeal shall go directly to arbitration.

24.03 Disciplinary Progression. For all other offenses, the progression of disciplinary action will be:

- A) Oral warning
- B) Written reprimand;
- C) Suspension, not to exceed five (5) working days.
- D) Dismissal.

An Employee shall not be subject to disciplinary suspension unless s/he had been given a written reprimand on a prior occasion, and no Employee shall be subject to discharge under this paragraph from employment unless s/he had

previously been suspended for cause. The Employee shall have the right to have any matter under this paragraph arbitrated as set for the in 23.02. Any disciplinary action taken by the County against an individual Employee shall be reduced to writing, stating therein the reason for the disciplinary action. The individual Employee and the Union shall be given copies of the said writing and a copy shall be placed in the Employee's personnel file. All disciplinary action taken under this paragraph shall be removed from the individual Employee's record after passage of two (2) years.

The Arbitrator agrees with the County's interpretation of Article 24. The use of the word "may" in 24.02 is permissive – the County *may* discharge employees for those offenses listed without using a progressive disciplinary measure, but it does not have to discharge them. It may do something else. Section 24.03 does not apply in this case, because it says: "For all *other* offenses . . ." This is not some "other" offense, such as tardiness or the dozens of things that could come under Section 24.03. This case falls squarely under Section 24.02 for the failure to carry out the valid orders of a supervisor and dishonesty. The Union's interpretation of Section 24.03 would not make sense, because it would have any offense in which the County did not discharge someone subject to Section 24.03, when the language refers to offenses other than those listed in Section 24.02. If the Union were correct, the County would have to discharge everyone for offenses listed in 24.02 or it could not then bring them under the progression listed in 24.03. It would be an all or nothing situation. Certainly the parties contemplated something less than discharge when they used the word "may" in 24.02.

A two-day suspension is perhaps not the disciplinary measure the Arbitrator would have preferred for this incident, but the Arbitrator will not second guess every disciplinary decision where discipline is warranted unless that disciplinary measure is clearly excessive, unreasonable, or management has abused its discretion. The suspension will stand as it is reasonable and not clearly excessive.

AWARD

The grievance is denied and dismissed.

Dated at Elkhorn, Wisconsin, this 21st day of January, 2003.

Karen J. Mawhinney /s/

Karen J. Mawhinney, Arbitrator