

BEFORE THE ARBITRATOR

In the Matter of the Arbitration of a Dispute Between

LOCAL 2656, AFSCME, AFL-CIO

and

PRICE COUNTY

Case 85
No. 63137
MA-12503

Appearances:

Steve Hartmann, Staff Representative, Wisconsin Council 40, AFSCME, AFL-CIO, appearing on behalf of the Union.

Lori Blair-Hill, Human Resources Coordinator, Price County, appearing on behalf of the County.

ARBITRATION AWARD

The Union and Employer named above are parties to a 2002-2004 collective bargaining agreement that provides for final and binding arbitration of certain disputes. The parties jointly requested that the Wisconsin Employment Relations Commission appoint the undersigned as the Arbitrator in the grievance filed by Lisa Walcisak. A hearing was held on March 3, 2004, in Phillips, Wisconsin, at this time the parties were given the opportunity to present their evidence and arguments. The parties completed filing briefs on April 23, 2004.

ISSUE

The parties ask:

Did the Employer violate the terms and conditions of the collective bargaining agreement when it did not award the Deputy County Clerk/Accounting Assistant position to the senior poster? If so, what is the appropriate remedy?

CONTRACT LANGUAGE

ARTICLE 9 – PROMOTIONS AND JOB POSTINGS

A. Considerations: In making promotions within the Union positions in the Bargaining Unit, the policy of seniority shall prevail provided, however, that (a) the ability to perform the work and (b) the physical abilities of the employees are relatively equal and the employees can qualify for the position as set forth in Section “C.”

B. Job Posting: All job vacancies or new positions shall be posted on the bulletin board at least ten (10) working days prior to filling the vacancy or new position. The posting shall contain the following information: the normal schedule of days and hours to be worked if the position is less than full-time, the rate of pay, a brief description of the anticipated duties, and reasonable qualifications for the position. The qualifications shall be consistent with anticipated duties of the position. Each interested employee may sign his name below the vacancy or new position he desires to fill. Employees will be considered in the following order:

1. First employees within the department in which the vacancy or new position occurs. For those employees displaced due to layoff, they shall retain the right to departmental consideration if the vacant position is in the department in which the employee was working immediately prior to layoff as if they had not been laid off.
2. Then by seniority throughout the bargaining unit.
3. In the event there are no qualified applicants as a result of Steps 1 and 2 above, the Employer may then advertise publicly to fill the position.

Employees who are serving their initial one-year probationary period are not entitled to sign job postings during the first six months of that one-year probationary period. The only exception would be by mutual written consent of the County and the Union.

C. Trial Period: Employees who receive a posted job shall be considered on probation for a period of sixty (60) calendar days. During the initial (30) days, the employee’s wage will be five percent below the current rate for the new position for that trial period or the employees present rate, whichever is greater. Should the employee not qualify, or should the employee so desire, he shall be reassigned to his former position without loss of seniority. Such reassignment may occur at any point in the sixty (60) day probationary period.

BACKGROUND

This is a posting grievance for the position of Deputy County Clerk/Accounting Assistant. The parties agree that the Grievant, Lisa Walcisak, has the most seniority of any of those posting for the job. They disagree on what qualifications are needed for the job.

The posting stated the description as:

This position is responsible for keeping the financial accounts, financial, tax, and payroll records for a complex accounting system. The position is also responsible for the control and editing of documents prior to the data entry process using prescribed procedures with some supervision by the Deputy County Clerk/Accountant. Work is reviewed through the balancing of the accounting system and other internal accounting proofs and through external audits.

The minimum requirements were the following:

- 1) High School Diploma, GED, or equivalent
- 2) An Associate Degree in Accounting or related field
- 3) Minimum of three (3) years office experience with at least two (2) years with accounting principles or a combination of education and experience to be considered equivalent
- 4) Training and experience working with computer software programs involving work processing, spreadsheet applications, database management and basic Accounting principles
- 5) Proficient in the use of a 10-key calculator with a minimum score of 8,000 keystrokes/hr
- 6) Must be available to work evenings on election night

The posting further stated that all applicants were to submit proof of minimum requirements to the Human Resources office prior to the posting deadline.

The job description was updated in 2003. The County used the previous job descriptions of the County Clerk and the County Clerk/Accountant positions. The position description for the title of Deputy County Clerk/Accounting Assistant is the following:

I. Summary of Position

Responsible for keeping the financial accounts, financial records, tax records, payroll records for a complex accounting system. Responsible for the control and editing of the documents prior to the data entry process in the accounting

area and the data entry process itself. In the area of general ledger, responsible for following prescribed procedures with some supervision by the Deputy County Clerk/Accountant. Work is reviewed through the balancing of the accounting system and other internal accounting proofs and through external audits.

II. Essential Duties and Responsibilities

- ◆ Clerically maintains data entry materials for General Ledger systems, inventory control system, tax deed program and some other types of records unique to the accounting system.
- ◆ Utilizes the double entry modified accrual accounting system as designated by the state. Responsible balancing of accounts, including trial balances and resolving of any errors. Responsible for balancing cash drawer.
- ◆ Posts tax receipts as necessary. Reviews tax reports from Treasurer and reconciles those reports to amounts in the General Ledger system.
- ◆ Responsible for preparing, reviewing and processing purchase requests for payment. Processes all general account checks issued by the County. Codes for data entry, records and reviews all County receipts.
- ◆ Records, reviews, processes vouchers for check preparation.
- ◆ Reviews codes for six departments, preparing vouchers and reports for Executive/Finance committee.
- ◆ Performs the actual data entry work and reviews the completed work prior to distribution to the departments. Provides reports to departments both weekly after check runs and monthly.
- ◆ Responsible for processing payroll withholding checks, and reviews payroll postings for entry into the General Ledger system.
- ◆ Responsible for maintaining accurate property and building inventory listings as reported by departments and reconciling list to department capital outlay accounts for auditors.
- ◆ Responsible for maintaining department records such as Senate Bill updates, voucher record files, general files, minutes files, and marriage license docket.
- ◆ Responsible for typing minutes of County Board meetings, placing official copy in County Clerk ledger and preparing a computer disk for publication.
- ◆ Issues fishing and hunting licenses, vehicle license plates, and marriage licenses.
- ◆ Answer questions and provide the public with information on demand. Answers inquiries at the counter and by phone and responds to written requests.
- ◆ Answer phones and process incoming/outgoing mail, when necessary.
- ◆ Acts as back up to Deputy County Clerk/Accountant including back up of

the computer operator functions.

- ◆ Acts as back up to the County Clerk when both County Clerk and Deputy County Clerk/Accountant are out of the office.
- ◆ Performs other duties as assigned.

III. Knowledge, Skills, and Abilities

- ◆ Knowledge of generally accepted accounting procedures with considerable knowledge of basic bookkeeping terminology, practices and procedures.
- ◆ Knowledge of clerical methods used in keeping fiscal accounts and records.
- ◆ Skill in working with figures accurately and with great detail. Ability to perform complex mathematical calculations rapidly and accurately. Aptitude for numerical manipulation and thinking in terms of numbers and numerical relationships.
- ◆ Ability to take trial balances and to find errors by backtracking logically through an accounting procedure.
- ◆ Ability to analyze computer and manual records for simplification and compliance with auditing and internal regulation and/or as departmental needs arise.
- ◆ Knowledge of computer methods and techniques both in the area of personal computers and mainframe systems.
- ◆ Ability to operate adding machines, business calculators and related account clerical equipment. Skill in the operation of various office machines.
- ◆ Skill in communicating effectively with the public, co-workers and officials.
- ◆ Ability to establish and maintain effective working relationships with fellow employees and the general public.

Minimum Requirements

- ◆ Graduation from high school or GED.
- ◆ Associate's Degree in Accounting or related field.
- ◆ Minimum of three years office experience with at least two years experience working with accounting principles or:
- ◆ Any combination of education and experience to be equivalent to above listed requirements.
- ◆ Training and experience in computer software programs involving word processing, spreadsheet applications, database management and basic Accounting Principles.
- ◆ Must be proficient at 10-key, with a minimum score of 8,000 keystrokes/hr or better.
- ◆ Must be available to work evenings on election night.

One of the more complex duties listed in the job description has not been done by the last two people to fill the position. The second bullet under "Essential Duties" – using the double entry modified accrual accounting system – has been done by the Deputy Clerk/Accountant, rather than the Accountant Assistant. Jeanne Fairchild held the position in dispute for about ten years. Fairchild said that the Deputy County Clerk/Accountant, Jean Kilty always did that double entry duty. Another former Accounting Assistant in the County Clerk's office, Jean Klimowski, did not perform the double entry duty while she held the position for about one and a half years before Fairchild took the job. She also noted that Kilty performed the double entry duty. According to the County Clerk, Clarence Cvengros, Klimowski did not have an accounting background and was not qualified for the position. Cvengros said Kilty was doing all of the work, doing two jobs.

Kilty was previously the Accounting Assistant in the County Clerk's office before becoming the Deputy County Clerk/Accountant. She and the Human Resources Coordinator, Lori Blair-Hill, took all the old job descriptions and updated the job description. The assistant acts as a back up to her position and needs to know both her job as well as what the County Clerk does. When Kilty was the Accounting Assistant in 1991 and 1992, she performed the double entry duty. She has continued doing all the double entry bookkeeping since then, which takes about 10 percent of her time. The current Accounting Assistant is doing some double entry work and is being trained by Kilty on it.

The Grievant has worked for the County for 10 years in different positions. She started as a clerical assistant and worked with representative payee accounts. In that position, she spent about 30 percent of her time performing protective payee duties and had no problems maintaining those accounts. Then she went into the Health Department as a public aide and worked with peoples' calendars. Next, she went to the Zoning office as a clerical assistant and did all the bookkeeping and regular office duties. She collected fees, made deposits, maintained financial database, tracked revenues and expenditures, prepared vouchers and made financial reports about 25 to 30 percent of the time. The County estimates that those tasks took about 5 to 10 percent of the time of that position, based on Linda Hertig's estimate of how much time she spends now in that position. The Grievant next became the Assistant Zoning Administrator and did not prepare deposits or take money in but she did budget matters, tracking line items, invoices, and other bookkeeping duties. The Grievant used a Quicken program there which required mostly data entry, although she had to track the correct accounts to make sure that the money went into the right account and bills were paid out of the right account. Then the Grievant took her current position, a public health aide in the Health Department, a different job than her previous position in that department.

The Grievant has a two-year degree as a paralegal. She took three accounting courses as part of the program to get that degree. When she gave the County her resume for the posting, she did not specifically list the accounting courses that were part of that degree. The Grievant talked with Fairchild who indicated that most of the work was data entry, that she did very little accounting work. The Grievant testified that she had knowledge of accounting

On August 22, 2003, Lori Blair-Hill gave the Grievant a letter informing her that she did not have the necessary minimum qualifications for the position. Blair-Hill told her in a meeting about that same time that she thought that the Grievant lacked accounting principles. The Grievant said that was incorrect because of her position in Zoning. Blair-Hill said that in looking at her resume, she did not see that the Grievant had accounting principles. The Grievant did not tell Blair-Hill about her prior accounting courses in her associate degree. The Grievant sent the transcript to Blair-Hill in September of 2003.

THE PARTIES' POSITIONS

The Union

The Union asserts that the Grievant has the ability to perform the work in dispute and deserved a chance to qualify for the position during a 60-day trial period as required by Article 9. This is an entry level accounting position in the County. The position was just moved up to pay grade 5 in the previous round of bargaining, equal to the Highway Bookkeeper. The Deputy Treasurer is a grade 6, the Accounting Assistants (Human Services) are grade 7, the Highway Accountant grade 8 and the Deputy County Clerk/Accountant is off scale. The key duties of this position are verification of the accuracy of the coding of expenses and income for the County, the accurate data entry of such information and the ability to reconcile balancing errors/problems. The Grievant has clearly shown the ability to perform all of those tasks in her previous positions with the County and her educational background.

The Union notes that at the hearing, particular importance was placed on the duty of using double entry modified accrual accounting system. While that duty was contained in all previous job descriptions for the position at issue, Fairchild and Klimowski had never performed the task. Instead, the task had always been done by the Accountant Kilty.

For the sake of argument, the Union continues, if the County wants the Accounting Assistant to do some of that work, the duties associated with the double entry accounting have evolved with the advent of modern computing and spreadsheets. There are ten initial numbers identifying the type of account to post the number. The first number is common to all accounting, and subsequent numbers are unique to the County. Anyone coming into the position would have to learn the codes because they are unique to the County's system. After seven months in the position, the successful bidder was not doing all of the work as described in the job description. This is because this can only be learned by having the ability and then having the opportunity to learn the codes on the job. As for the double entry aspect of this, the computer places the entry in the secondary spread sheet automatically as a function of the codes. It comes down to accuracy with the use of the codes and the correct entry of them into the system which can only be learned on the job. The Union believes it has shown that the senior bidder has demonstrated the ability to attempt to qualify during the trial period.

Moreover, the County's qualifications listed in the job posting do not meet the contractual requirement that the County include reasonable qualifications and that the qualifications are consistent with the anticipated duties of the position. When one compares the qualifications for the grade 5 position with the off scale Deputy County Clerk/Account position, they are identical. This cannot represent qualifications consistent with the anticipated duties of the position. The requirements are higher than the grade 8 Highway Accountant. The requirements should be more in line with those of the other grade 5 accounting position, the Highway Bookkeeper. The duties and responsibilities are not more complex than those of the Highway Bookkeeper. When one examines the requirements for an associate degree in accounting and compares them to the duties in this position, one cannot claim that the qualifications in the posting are either reasonable or directly related to the duties of the position. The Union asserts that the County has not shown why a two-year degree requirement was directly related to the duties of the position other than it had been on the job description for 20 years. During that time, the language was changed to reflect the need for qualifications to be directly related to the duties of the position.

The Union submits that the core consideration for awarding the trial period in which to qualify is the ability to perform the work in Section A, not the position qualifications listed in Section B. If the parties had wanted to bargain that the term "ability" in Section A was the same thing as "qualifications" in Section B, they could have written language to reflect that.

The Union asks that the Grievant be awarded a trial period and receive back pay for all of the time she should have been in the position.

The County

The County contends that it properly denied the Grievant the position. The County has maintained job descriptions for this position since 1982, which were updated in 1989, 1994 and 2003. While some of the duties and types of systems have changed over the years, the core duties of the position and the skills, knowledge, experience and education have remained relatively unchanged. The position is a responsible, moderately complex, specialized clerical job requiring the employee to maintain the financial accounts, financial records, tax records, and payroll records for a complex accounting system. One must control and edit documents before the data entry process, and follow prescribed procedures using general accounting principle standards. It requires a certain knowledge base in order to proof the work and create the documents. The standards for the job have remained relatively stable from the first to the most recently updated job description. The successful candidate must have an associate's degree in accounting or related field and at least two years hands on experience. Equivalent related experience may be substituted for the education. The candidate must also have experience in word processing, spreadsheet application, data base management, and general computer software programs, and be proficient in 10-key operation. These requirements have been set by review and study of the department personnel, corporate counsel and Human

The County notes that the Grievant turned in a single page resume to the Human Resources Department detailing her work and education history. Legal Assistant, Receptionist and Clerical Assistant were the positions that accounted for most of her work history on the resume. Her last position was as Assistant Zoning Administrator. Her relevant work experience was receiving fees, preparing weekly deposits, maintaining account balances, reconciling checking accounts, and a working knowledge of Quicken. Those duties do not need even moderate knowledge of general accounting principles. The Grievant's resume indicated that she had an associate degree in paralegal/legal assistant, but no classes were indicated. It was only after she was denied the position and filed a grievance that she presented Human Resources with transcripts of her classes which included three accounting courses. Because the Grievant had not been doing any kind of significant work in the accounting field since taking those courses 18 or 19 years ago, the new information was still not enough to award her the job.

The County looks at the previous incumbents in the position. Fairchild had many years of experience in bookkeeping and acting as a town clerk. She was attending vocational school working on her associate's degree in accounting. Before Fairchild, Klimowski held the job. She had many years of experience with general clerical and receptionist duties and the County Clerk indicated that she was not very successful in the position. Prior to Klimowski, Kilty held the position and came to it with her associate's degree in accounting and some accounting experience.

The County contends that it is important to note that the posting notice was given to the Union president with the minimum requirements listed. The posting notice clearly stated that it was the candidate's responsibility to make sure Human Resources had all the necessary relevant information regarding the poster's qualifications. The Grievant failed to turn in her qualifications in a timely manner, and even when given the opportunity in a face to face meeting. The job description was a collaborative effort between departments and has remained relatively unchanged since 1982. Of the three previous incumbents, the two who met the necessary minimum qualifications were successful in the position while the one who did not meet those qualifications was not very successful.

DISCUSSION

The Union focuses on the term "ability" as used in Article 9, Section A, and argues that the Grievant had the ability to perform the work and thus deserved a chance to qualify for the position during the 60-day trial period. However, the parties did not write this section to separate the terms "ability" and "qualify" as both terms appear in Section A: ". . . however, that (a) the ability to perform the work and (b) the physical abilities of the employees are relatively equal and the employees can qualify for the position as set forth in Section C." (Emphasis added.) Section A, which is a modified seniority clause calling for seniority in

qualify for the position before being given the position and the trial period that goes with it. The parties are not debating the relative merits of the senior bidder and the person getting the position.

The Union's dispute here also centers on the qualifications and believes that the County's qualifications are not reasonable nor consistent with the anticipated duties of the positions, as required by Section B of Article 9. Whether or not the requirements for the position at issue are higher than positions in the same pay range is not the issue. The issue is whether the requirements are reasonable for this position and are consistent with the anticipated duties. The pay ranges for comparable positions and what are comparable positions are matters for the bargaining table.

I find that the County's qualifications are reasonable. First of all, the qualifications have not been changed in a couple of decades. They have been reviewed by those most familiar with the job. The Union objects to the requirement of an associate degree in accounting, but it could also be a related field. The Grievant's associate degree was for legal assistant, which is not particularly related to accounting. She had three accounting courses which including a basic accounting course, one related to income taxes, and one related to debt and creditors' relations. Much of her transcript relates to law, such as domestic law, business law, real estate law, criminal law, torts, litigation, etc. The Grievant did not meet the requirement for the type of office experience working with accounting principles or a combination of education and experience needed to be considered equivalent. The Grievant had some office and bookkeeping experience, but it did not include the type of accounting experience sought for this particular position of Deputy County Clerk/Accounting Assistant.

The Accounting Assistant needs to back up the Accountant, as Kilty noted, and needs to be able to perform at that level of expertise. Some testimony centered on the double entry modified accrual accounting system and the fact that prior Accounting Assistants were not doing that work. However, the Department wants the Accounting Assistant to do the double entry work, and it is a reasonable qualification because it is consistent with the anticipated duties of the position. Kilty did it as an Accounting Assistant herself. The double entry duties take about 10 percent of one's time, a significant enough portion of time for Kilty to want to delegate it to the assistant rather than continue to do all of it herself. The County Clerk believed that Kilty was actually doing two jobs. Kilty found the current job description to be accurate.

There is nothing in the record that convinces me that the qualifications for this position are either unreasonable or inconsistent with the anticipated duties of the position. And because one must be qualified before being given the position and the trial period, the County has not violated the collective bargaining agreement.

AWARD

The grievance is denied.

Dated at Elkhorn, Wisconsin, this 12th day of July, 2004.

Karen J. Mawhinney /s/

Karen J. Mawhinney, Arbitrator

