BEFORE THE ARBITRATOR

In the Matter of the Arbitration of a Dispute Between

PORTAGE COUNTY COURTHOUSE, HEALTH CARE CENTER, DEPARTMENT OF HEALTH AND HUMAN SERVICES AND LIBRARY SYSTEM EMPLOYEES LOCAL 348, AFSCME, AFL-CIO

and

PORTAGE COUNTY

Case 176
No. 62434
MA-12281

Appearances:

Michael J. Wilson, Representative at Large, Wisconsin Council 40, AFSCME, AFL-CIO, 8033 Excelsior Drive, Suite B, Madison, Wisconsin 53717, appearing on behalf of the Union.

J. Blair Ward, Assistant Corporation Counsel, Portage County, County-City Building, 1516 Church Street, Stevens Point, Wisconsin 54481, appearing on behalf of the County.

ARBITRATION AWARD

The Union and the County are parties to a collective bargaining agreement which provides for final and binding arbitration. Pursuant thereto, the parties jointly requested that the Wisconsin Employment Relations Commission provide a panel of Commission-employed arbitrators from which the parties selected Dennis P. McGilligan to resolve the dispute set forth below. Hearing was held on October 9 and November 19, 2003. The hearings were transcribed. The parties completed their briefing schedule on June 5, 2004.

After considering the entire record, I issue the following decision and Award.

STIPULATED ISSUES

1. Whether or not there was just cause to terminate Collene Ottum for misconduct on March 13, 2003, in accordance with the collective bargaining agreement?

2. If not, what is the appropriate remedy?

DISCUSSION

In December, 2002, the Portage County ("County") Finance Committee approved the implementation of an accounting study that ultimately would result in all County accounting positions reporting to the Finance Department.

At or about the same time, a subcommittee of the Solid Waste Management Board ("Board") met to discuss reorganizing the Solid Waste Department. Members of the subcommittee included Corporation Counsel Michael J. McKenna, Personnel Director Laura Belanger, Finance Director Bo DeDeker, and Board members Jeanne Dodge, John Gardner and Jim Krems. The subcommittee met approximately four times, twice in December, 2002, and twice in February, 2003.

One of the items the subcommittee discussed was whether or not the Accounting Specialist position held by Collene Ottum ("Grievant") should be eliminated. On February 18, 2003, Personnel Director Belanger recommended to the subcommittee that the position be eliminated. After taking into consideration the accounting study, the fact that the Solid Waste Administrator's position had been vacant for almost a year, the County's desire to no longer operate a landfill, the job descriptions of the positions within the Solid Waste Department and the duties performed by the Grievant, the subcommittee accepted this recommendation and referred it to the Board.

On February 18, 2003, representatives of the subcommittee including Corporation Counsel McKenna, Personnel Director Belanger, and two members of the Board met with the Interim Solid Waste Administrator, Jeff Lodzinski, and the Grievant. They informed them that a recommendation was going to be made to the Board to reorganize the Solid Waste Department. They informed them of the specifics of the recommendation which included elimination of the Accounting Specialist position effective June 1, 2003.

On the following day, Wednesday, February 19, 2003, or Thursday, February 20, 2003, the Grievant made substantial changes to the Solid Waste website (the terms "website" and "web page" are used interchangeably in this decision) which had the temporary effect of turning a large, rather elaborate County website with many pages and numerous links into a

one or two page website with no links. The website was created approximately four years ago by the Grievant (in a different, smaller format) and she was paid $876.00 by the County for the overtime that it took to create the site.

The reduction in the size of the website was dramatic. The website as it existed before February 19 or 20, 2003 consisted of "almost a full ream of paper." This is in comparison to the website existing after those dates which consisted of "one two-sided page." The website went from 139 links to none and from 679 files to two.

The County conducted two pre-disciplinary meetings. The first one took place on February 25, 2003. Those present included the Grievant, two Union representatives, Board Chairperson Dodge, Interim Solid Waste Administrator Lodzinski, Corporation Counsel McKenna and Personnel Director Belanger. This meeting lasted about a half hour and gave the Grievant an opportunity to explain her conduct to management. At this meeting the Grievant gave the reasons for her changes to the website that included she "wanted to see if anyone used it," the website took up a lot of space, she had discretion to change the website, because "[she] wanted to", and because she didn't trust what was going on at the Landfill. She also informed the County representatives that the former web page was still available on disk and could be restored at any time.

On February 26, 2003, the Grievant sent to Data Processing Manager Craig Flagel "backup copies of the department webpage . . . . I am doing this in order to ensure that copies of these files remain available when needed as well as to counter the possibility that I will be accused of destroying these files."

The second pre-disciplinary meeting took place on February 27, 2003 and also lasted about one-half hour. At this meeting, the Grievant again indicated that she had a back-up to the website on disk.

Following these two meetings, the Board met on February 28, 2003 to consider disciplinary action against the Grievant. At this meeting Personnel Director Belanger made a presentation and, along with Corporation Counsel McKenna, recommended termination. After the Grievant spoke, the Board voted 3 AYES, 4 NAYS, not to terminate the Grievant. Thereafter, the Board voted to table further action on the issue until March 13.

On March 3, 2003, Data Processing Manager Flagel sent a memo to the Grievant, Board members, Corporation Counsel McKenna and Personnel Director Belanger. In this memo, he informed the Grievant that he was "permanently revoking access to all network resources" from her. In this memo, Flagel stated:

. . .

> Regardless of the information you believe, or the delusions that you have formed regarding this incident this was a willful and knowing act of destruction of information on the County's system. I will be the first to admit the information destroyed was not critical to the day-to-day operation of the County. I am not concerned with this data as I was the willful act of destruction. What is next? . . .
>
> In my discussions with my network technician regarding this incident I have determined that this act was deliberate. . . .

. . .

Flagel wrote this memo, in part, because he was disappointed in the Board's failure to take disciplinary action against the Grievant at its February 28 meeting and because he had heard from a number of people, including a County Board member, that "nothing wrong was done."

On March 13, 2003, the Board again met. After much discussion, the Board voted 5-3 to terminate the Grievant.

By letter dated March 13, 2003, the Board, by James F. Krems, Acting Chair, notified the Grievant that her employment with the County was terminated effective immediately. The letter stated, in material part, that:

> The termination is based upon the determination that you intentionally committed serious misconduct on or about February 21, 2003 when you deleted the Portage County web site without any authorization, permission or even discussion. When asked about why you took such action, you stated to another County official that it was your web-site and that you could do with it as you pleased, or words to that effect. After the site was deleted you replaced it with simple name references and stated that you just wanted to see if anyone would notice, or words to that effect. In our meeting of February 25, you confirmed that you took these actions and that you essentially acted in this manner because you felt like it. These actions show an actual destruction of county equipment or property, insubordination for failure to seek or request permission, or to even consult with the interim administrator or other Solid Waste officials, and essentially reflect poorly on the Department, all in violation of the grounds for discipline as set forth in the Portage County Personnel Policy. Your actions are similar in nature to an employee who copies an official file, brings the copy home and shreds the original file, claiming that they did not destroy the employer's property, and were vandalization of county property.

On March 25, 2003, the Grievant filed a grievance protesting her termination. The parties stipulated that there are no procedural issues and that the instant dispute is properly before the Arbitrator for a decision on the merits pursuant to the terms of the parties' collective bargaining agreement.

At issue is whether there was just cause to terminate the Grievant.

The County opines that it had just cause to terminate the Grievant while the Union takes the opposite position.

Standard

Since the record does not indicate that the parties share an express understanding or agreement on the specifics of a just cause standard, the Arbitrator will apply his own test.

There are two fundamental, but separate, questions in any case involving just cause. The first is whether the employee is guilty of the actions complained of which the County herein has the duty of so proving by clear and satisfactory preponderance of the evidence. If the answer to the first question is affirmative, the second question is whether the punishment is contractually appropriate, given the offense. As discussed in both NEW LISBON BOARD OF EDUCATION, Case 34, No. 53778, MA-9457, pp. 14-18 (McGilligan, 3/96) and LAFAYETTE COUNTY, Case 69, No. 55002, MA-9864, pp. 21-31 (McGilligan, 4/99), procedural issues involving just cause may be addressed in answering the second question.

Basis for Discipline

Applying the above standard to the instant case, the Arbitrator first turns his attention to the question of whether the Grievant is guilty of the actions complained of.

It is undisputed that the Grievant drastically reduced the size of the County Solid Waste Department webpage meant to be viewed and used by the public. The question is whether the Grievant is guilty of the conduct complained of when she took this action.

The letter of termination states that the Grievant "intentionally committed serious misconduct on or about February 21, 2003 when you deleted the Portage County web site without any authorization, permission or even discussion." Specifically, the termination letter describes this misconduct as unspecified violations of the County Personnel Policy alleging that these actions:

- "show an actual destruction of county equipment or property"; and
- "insubordination for failure to seek or request permission, or to even consult with the interim administrator or other Solid Waste officials"; and
- "essentially reflect poorly on the Department"; and
- "were vandalization of county property."

The first question then is whether the Grievant destroyed County equipment or property when she drastically reduced the size of the disputed web page. An answer to this question also resolves the County's fourth allegation noted above because "destruction" and "vandalization" of County property are essentially the same complaint. (Tr. p. 199).

The County argues that the Grievant destroyed County property by her actions. For the reasons discussed below, the Arbitrator disagrees.

It is undisputed that the Grievant temporarily drastically reduced the size and altered the content of the web page intended for public consumption. In doing so, the web page went from a document(s) containing lots of valuable information on the County Solid Waste Department and Sanitary Landfill, (Joint Exhibit No. 4), to a bare-bones web page consisting only of names, addresses, and phone numbers for various relevant County officials and facilities. (Joint Exhibit No. 5).

However, the Grievant never actually sent the altered web page out to the public. Instead, she sent it to a staging area for Data Processing to forward it out to the "live web." (Tr. pp. 30-31, 402, 414). The public only saw it "after it was loaded to the server by Data Processing." (Tr. p. 414). It was the enabling action by the County that actually "destroyed" the disputed web page.

The County moved the altered web page out to the "live web" even after it knew there was something drastically wrong with the web page. (Tr. p. 30). The County offered no reason for taking this action. This is perplexing given the County's expressed concern over the changes in the web page.

In addition, there were at least six or seven copies of the old web page available to the County. (Tr. pp. 62, 356). The County knew or should have been aware of these back-ups almost immediately. (Joint Exhibit No. 6, Union Exhibit Nos. 22 & 29, Tr. pp. 43-45, 130, 356). It would only take a short time to restore the prior large web page. (Tr. pp. 49-50).

Nevertheless, it took at least a week, (Tr. p. 46), but probably longer (after March 13, 2003) before the old web page was restored. (Tr. p. 442).

County Data Processing Manager Flagel argues that even though there was back-up the Grievant's actions constitute destruction of County property. He opines: "Backup tapes are nothing more than an insurance policy. And when do we use insurance? When we have a disaster, something is destroyed." (Tr. p. 120).

County Data Process Manager Flagel is comparing apples to oranges. It is true that insurance protects against specified loss in return for premiums paid. *The American Heritage Dictionary of the English Language, New College Edition*, (10th Ed. 1981) p. 681. However, nothing was lost or destroyed here. The dictionary defines destroy as "to ruin completely; spoil so that restoration is impossible." *The American Heritage Dictionary of the English Language, New College Edition, supra*, p.358. Here, there were numerous back-up tapes that the County could have used to almost immediately restore the web page to its prior condition. Nothing was ruined or lost.

In addition, back-up tapes are a different kind of insurance. They are important for a many reasons. Something can be lost. (Tr. p. 30). Somebody can make a mistake. Id. The system can malfunction. Somebody may want to make temporary changes. (Tr. pp. 374, 431). If the web page is changed, it can be changed back for at least a five week period. (Tr. p. 62).

Here, the Grievant simply, albiet dramatically, altered the web page destined for public use. If the County wasn't satisfied with the changes the Grievant made, it could have easily and quickly substituted the earlier version of the web page or ordered the Grievant to do same.

Based on the foregoing, the Arbitrator finds that the Grievant did not destroy or vandalize County property by her actions. A question remains as to whether her actions constitute insubordination.

The Grievant did not refuse to carry out an order. Nor did she fail to carry out her job assignment. She had complete authority to maintain and to revise the web page in dispute. (Tr. pp. 30, 127-128, 327).

The Arbitrator understands the County's reaction/conclusion that the timing of the Grievant's changes to the web page creates an inference that she acted in retaliation for the announcement that her position would be eliminated effective June 1, 2003. However, absent the timing of the changes to the web page, the County has no other persuasive evidence that the Grievant acted in retaliation for the County's decision to eliminate her position. Nor is there any persuasive evidence that the Grievant acted in willful and deliberate defiance of

management's authority. The Grievant did not have to get permission from her immediate supervisor, or anyone else, before making changes to the disputed website. (Tr. pp. 327, 378-379, 438).

The County argues that termination was appropriate based on statements made by the Grievant to Data Processing Technician Nancy Miller on February 24, 2003. Miller described this conversation stating that when she asked the Grievant about the missing website, the Grievant replied: "That's mine. They're not getting it." (Tr. p. 33). The County opines that this attitude is consistent with the Grievant's response in a subsequent phone conversation on February 25, 2003 with Miller wherein the Grievant called Miller and the first comment she made was "so, did you rat me out?" (Tr. p. 56). The County believes this statement shows that the Grievant knew what she did was wrong and that she was not happy with Miller reporting the changes to the website to her supervisor.

However, Miller's testimony is so replete with inconsistencies that it is impossible to credit her testimony on any issue in dispute much less the point that the Grievant made the changes in the web page to get back at the County for eliminating her job. To the contrary, the Grievant presented strong, consistent testimony as to some legitimate reasons for making the changes and retaliation for the County's action in eliminating her job was not one of them.

For example, one reason was that the website was too big. Data Processing Manager Flagel acknowledged that the former website was large and took up a lot of space. (Tr. p. 122). He also stated that the County didn't need the space, and the former website took up less than 1% of the total County website space. *Id*. However, the Grievant didn't know how big the County's website was, (Tr. p. 382), and there is no reason to discount the Grievant's concern over the size of the website.

A second reason was that the Grievant did not have enough time to maintain the former website. (Joint Exhibit No. 6). The County counters that during December, 2002, and January, 2003, records indicate that the Grievant spent exactly three minutes checking links. (Employer Exhibit Nos. 7 & 8, Tr. p. 125). Data Processing estimates that there was less than a total of four hours of work performed by the Grievant on the website between the end of November and the end of January. (Tr. p. 124).

However, the aforesaid two months were not representative of the time the Grievant spent working on the website due to the death of her son in an automobile accident in December and her absences from work. (Tr. pp. 331-332). In addition, checking links is only the tip of the iceberg as it relates to time spent maintaining the website. The Grievant had to research information on programs like the Landfill and recycling, design a web page, format it and proof it. (Tr. p. 333). The Grievant does not dispute that she only took four hours of time to make changes to the web site during the time in question. (Tr. p. 342). It is the

research and verification that takes time. Id. Prior to December, 2002, the Grievant spent 7 or 8 hours per week on the website maintaining it. (Tr. p. 436).

The Grievant also argues that the disk was not destroyed because it was available on a back-up disk. For the reasons discussed above, the Arbitrator agrees.

The County contends that the only plausible reason for the Grievant's action was the announcement that her position would be eliminated at the County Landfill.

However, the Grievant had picked up additional responsibilities and needed to prioritize her work load because she had less time to spend on the website. (Tr. pp. 127, 328-329, 331, 337-340, 343, 386). She was having trouble maintaining the website; it was starting to deteriorate; and didn't meet the high standards that she set for it. (Tr. pp. 351, 374-375). This makes sense since the Grievant took pride in her work, (Tr. p. 375), and "did a very good job at that website." (Tr. p. 128).

In addition, the Grievant was looking to the future:

> I thought it was better to put a simple web page out until I could rework the large one as a whole and not in bits and pieces, so that things worked. And so if this reorganization actually went through, somebody besides me would know what was on there and what they wanted on there. (Tr. p. 374).

This kind of planning is consistent with the Grievant's "great job" in maintaining the website, (Tr. p. 121), as well as her strong work record. (Tr. p. 375, 445-446).

The alleged retaliation by the Grievant, on the other hand, is not only inconsistent with the Grievant's work record, it doesn't make any sense. The Grievant knew that reorganization of the Solid Waste Department and possible elimination of her position had been on the table for some time. (Tr. pp. 97-102, 157-158, 369). So she shouldn't have been nor was she surprised by the announcement that her job was being eliminated. (Tr. pp. 99-101, 369).

Even though the Grievant's position was being eliminated, this was not synonymous with terminating her employment with the County. (Tr. p. 161). She would have had an adequate number of jobs to select from. (Tr. p. 162). Because of her role as Union president in negotiating and administering contracts, the Grievant was familiar with her seniority rights and understood her options. (Tr. p. 373). She knew that she had the option of posting into a vacant position or bumping somebody from an occupied position. (Tr. p. 371). She had applied for a number of other jobs with the County because of the uncertainty regarding the future of the Solid Waste Department. (Tr. p. 372). She had also looked at job possibilities outside the County. (Tr. p. 403). There is no reason that she would want to poison her future employment possibilities with the County or elsewhere by destroying the large website.

More importantly, the Grievant knew that the County had adequate back-ups and that she couldn't destroy or hide the large website even if she wanted to. (Tr. p. 391). She also informed the County of these back-ups at her earliest opportunity.

It is also noteworthy that there is no persuasive evidence to suggest that the Grievant knew that she could slip something radically different onto the website without it being caught sooner or later by Data Processing. While the Grievant had sole authority and responsibility to maintain the departmental website, she knew that any changes she made to the departmental website were sent to the staging area of the W drive to be moved onto the County's web site by Data Processing. (Tr. pp. 31, 414, 426). Data Processing normally does some review of departmental websites before moving them onto the County website. (Tr. pp. 33, 52-53, 55). There is no reason to doubt that the Grievant was aware that Data Processing would have known about the changes to the website at or about the same time it moved them onto the County website. In fact, Data Processing understood that major changes had been made to the website prior to moving it from the staging area to the County's website. (Tr. 52).

The Arbitrator is somewhat troubled by the Grievant's testimony that she made the changes to the website, in part, because she was concerned about what was going on at the Solid Waste Department, and thought her work might be criticized. (Tr. p. 434-435). However, the better evidence supports a finding that there was no relationship between the date she received the information indicating that her position would be terminated and the changes that she made to the website. (Tr. p. 418). The timing was "purely coincidence." *Id*.

The final charge against the Grievant contained in the letter of termination was that her actions "reflected poorly on the Department." The Arbitrator agrees. It is undisputed that the large website contained a lot of valuable information on County programs with many links to other useful information. (Tr. pp. 28, 128, 156, 333, 336-337, 435, Union Exhibit No. 37). The small web page contained none of that information. In addition, the website had about 2,500 hits over the past four years. (Tr. p. 122). The Grievant didn't think that was a lot, but as pointed out by Data Processing Manager Flagel that wasn't her decision to make. (Tr. p. 123). It also may be true that the Grievant wasn't able to maintain the website at the high standard of excellence that she wanted to due to other work pressures and stress in her personal life. However, again this wasn't her decision alone to make notwithstanding her authority to maintain the website. Both the Board and the Interim Solid Waste Department Administrator Lodzinski had a responsibility and interest in the disputed website. In fact, Lodzinski's biggest lament over the situation is that the Grievant didn't give him a "heads-up" over the changes. (Tr. pp. 285, 292, 294-295). This led, in part, to his resignation as Interim Solid Waste Department Administrator. (Tr. p. 295).

Even the Grievant admits that it "would have been more prudent to ask for permission to make the changes", and that she would not make changes to such extent again without asking permission. (Tr. p. 439).

Based on the foregoing, the Arbitrator finds that the County did not sustain its burden of proof on its claim that the Grievant destroyed or vandalized County property or acted insubordinately by her actions in changing the disputed web site. The County did sustain its burden of proof on its claim that the Grievant's actions "reflected poorly on the Department."

Therefore, based on all of the above, the Arbitrator finds that there is some factual basis on which to discipline the Grievant, although not nearly as much as claimed by the County. The fact that the Grievant's actions reflected poorly on the County is not a sufficient factual basis upon which to discharge the Grievant. A question remains as to what punishment is contractually appropriate.

Appropriateness of the Disciplinary Action

A review of this question may be undertaken within the context of the other issues raised by the Union in arguing against discharge as well as the other arguments by the County supporting termination.

The County argues that termination is appropriate because the Grievant's action was "flagrant." It is undisputed that the Grievant's action in changing the website was deliberate. However, it was not "deliberately conspicuous; notorious; shocking" as the term "flagrant" is defined in the dictionary. *The American Heritage Dictionary of the English Language, New College Edition, supra,* p. 498. This is especially true since the changed website now looked like most of the other County departmental websites and was intended to be only temporary. (Tr. p. 51, 128-129, 263-264, 266-268, 374, 387-388, 429, 431).

It is true that in cases of extremely serious offenses, arbitrators are more than willing to recognize the need for enforcing penalties that meet the seriousness of the offense. Elkouri and Elkouri, *How Arbitration Works*, 5th Edition, p. 916 (1997). However, the instant offense does not rise to the level of seriousness necessary to support discharge. See, for example, Elkouri and Elkouri, *supra*, footnote 149, p. 916.

The County also argues that termination is appropriate based on her statements to Data Processing Technician Miller. However, as noted above, Miller's testimony was so inconsistent, confusing and contradictory that it is impossible to credit her testimony on anything in dispute. To the contrary, the Grievant gave consistent, believable testimony on how her alleged statements to Miller were misconstrued or not made at all. (Tr. p. 364-366, 402-405, 410-411, 427-428).

The County further argues that its discipline was appropriate because the Grievant's action was "meanspirited." The record, however, does not support a finding regarding same.

Finally, the County argues the fact that the Grievant had been a long term employee of the County without previous discipline was considered when it decided to terminate the Grievant. However, because the County has not established that the Grievant destroyed and/or vandalized County property or acted in an insubordinate manner when she changed the disputed website, the Grievant's unblemished work record as a County employee since May 26, 1987, including good to excellent evaluations, and no prior discipline, should be accorded greater weight for mitigation of the discipline imposed on the Grievant than that given by the County. (Tr. pp. 179, 295, 445-446).

Based on all of the above, the Arbitrator finds that termination of the Grievant is not contractually appropriate.

The Union argues against any discipline stating that the Grievant was subject to "double double jeopardy" because her supervisor knew all the facts, considered possible discipline and then communicated his approval to the Grievant without imposing discipline. Double jeopardy is defined as "the act of putting a person through a second trial for an offense for which he has already been prosecuted." *The American Heritage Dictionary of the English Language, New College Edition, supra*, p. 419. In the instant case, it is clear that the Grievant's immediate supervisor did not have the authority or ability to discipline the Grievant for the actions in question. (Tr. pp. 84-85, 275-276). It is also clear that the Board did not take final action to discipline the Grievant until its second meeting on the subject (March 13, 2003). (Tr. pp. 18-19, 69-72, 206-207). It was proper for the Board to reconsider its action regarding the Grievant on March 13, 2003. (Tr. pp. 218-219). Based on same, the Arbitrator rejects this argument of the Union.

The Union submits a number of other arguments against discipline or discharge of the Grievant. However, based on the discussion and conclusions below, the Arbitrator finds it unnecessary to address those arguments.

Based on all of the above, the Arbitrator finds that the answer to the issue as stipulated to by the parties is NO, the County did not have just cause to terminate the Grievant, Collene Ottum, for misconduct pursuant to the terms of the collective bargaining agreement. However, the County did have just cause to give the Grievant a written reprimand for her exercise of poor judgment in reducing the size of the Solid Waste Department's website to just two pages. Therefore, the Arbitrator is reducing the Grievant's termination to a written reprimand. Such discipline is consistent with other discipline given employees in the Solid Waste Department for improper use of the computer system. (Tr. p. 401).

In reaching the above conclusions, the Arbitrator is cognizant of the concern by some Board members and management personnel that they have lost "trust" in the Grievant because of her actions in reducing the size and content of the website. (Tr. p. 18, 140, 207).

However, reinstatement is appropriate because the County has revoked the Grievant's access to the W drive which is the County's staging area of the web, (Tr. p. 114). The County has also restricted the Grievant's use of the computer and e-mail. (Union Exhibit No. 20). The County has the ability through its Data Processing Department to monitor any changes the Grievant would make to the website. The County also has the ability to monitor her other electronic usage.

Based on all of the above, and the record as a whole, it is my

AWARD

The grievance is sustained and the County is ordered to: (1) reduce the Grievant's discharge to a written reprimand; and (2) immediately reinstate the Grievant to her former position with all seniority and rights she had under the collective bargaining agreement and make the Grievant whole for all wages and benefits lost as a result of the discharge, minus all wages the Grievant earned in the interim that she would not have received except for her discharge and any benefits she may have received from unemployment compensation, and minus any monetary reduction as a result of the Union's late filing of its brief(s).

The Arbitrator will retain jurisdiction over the application of the remedy portion of the Award for at least ninety (90) days to address any issues over remedy that the parties are unable to resolve.

Dated at Madison, Wisconsin, this 17th day of August, 2004.

Dennis P. McGilligan /s/
Dennis P. McGilligan, Arbitrator

DPM/gjc
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