

BEFORE THE ARBITRATOR

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In the Matter of the Arbitration of a Dispute Between

**LOCAL 1362, AFSCME, AFL-CIO**

and

**CALUMET COUNTY**

Case 130  
No. 64562  
MA-12938

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**Appearances:**

**Helen Isferding**, Staff Representative, Wisconsin Council 40, AFSCME, AFL-CIO, 1207 Main Avenue, Sheboygan, Wisconsin, appearing on behalf of the Union.

**John Haase**, Attorney at Law, Godfrey & Kahn, S.C., 333 Main Street, Suite 600, P.O. Box 13067, Green Bay, Wisconsin, appearing on behalf of the County.

**ARBITRATION AWARD**

The Union and Employer named above are parties to a 2004-2006 collective bargaining agreement that provides for final and binding arbitration of certain disputes. The parties jointly asked the Wisconsin Employment Relations Commission to appoint the undersigned as the arbitration in the grievance of Kris Leverenz. A hearing was held on June 3, 2005, at which time the parties were given the opportunity to present their evidence and arguments. The parties completed filing briefs on September 1, 2005.

**ISSUE**

The parties did not agree on the framing of the issue. The Arbitrator prefers the Union's version, which is:

Did the Employer violate the collective bargaining agreement when it denied Kris Leverenz the Child Support Specialist position on October 26, 2004? If so, what is the appropriate remedy?

## BACKGROUND

The County merged its Child Support Agency with the Human Services Department in the Fall of 2004. The Agency has positions of Secretary, Child Support Clerk, Child Support Specialist and one Child Support Lead Worker in the bargaining unit. Before the merger, the Child Support Agency was under the supervision of the Corporation Counsel's office.

The Grievant, Kris Leverenz, is a Child Support Clerk who started with the County on July 17, 1995. Marjorie Thiel, who was awarded the position at issue, has a seniority date of May 11, 2000. LeAnne Karls also posted for the position. Her seniority date is December 11, 2000.

The Grievant started working for the County as a Child Support Secretary for about three years and then went to the Child Support Clerk position. She posted for the Child Support Specialist position previously and was awarded it in 1999. She held the Child Support Specialist position for about two to three weeks, and she decided during the trial period that she would prefer to go back to the Clerk position. The Grievant was pregnant during the trial period and was ill with complications from the pregnancy, and she did not feel she could give 100 percent to the position. When the Grievant was awarded the position, the other applicant was Sue Jannette, who later became the Child Support Lead Worker.

In the Clerk's position, the Grievant handles the financial duties for the office and enters court orders into the KIDS system, a statewide computer system for child support that has child support financial and nonfinancial orders and notes connected with each case on it. The Grievant calculates arrears or determines whether arrears need to be calculated. She maintains a case load that has duties similar to that of a Child Support Specialist. Her case load includes cases where private attorneys represent parties and the agency is not involved, while the Specialist position handles cases with enforcement activity. The Grievant may have to go to court to answer questions about arrears calculations. The Grievant has a lot of contact with the public through the telephone, and some people will stop in the office. It is common that people coming in are upset or angry about their accounts or cases. The Grievant estimated that about 30 percent of her time is spent on the phone or dealing with clients, attorneys, or the public.

Before working for the County, the Grievant worked at a bank, starting as a secretary, then as a loan specialists and filling in as a teller. The Grievant also took a one year office assistant program which had accounting and office procedures and computer work.

Thiel worked as a backup to the Grievant and was paid on the basis of 75 percent secretary and 25 percent clerk. Her duties as secretary were to serve as receptionist, answer phones, deal with clients coming in, and screen calls to see if she could answer questions rather than refer the calls. She also prepared court documents, stipulations and backed up those duties for the clerk.

When the Grievant applied for the Child Support Specialist position (for the second time), she asked if she was supposed to take a test, and she was told that she did not need to take the test. She had taken a test in 1999 for that position. The test was written by Corporation Counsel Melody Buchinger, who was also the Child Support Director until the Fall of 2004 when the Child Support Agency merged with the Human Services Department. The Grievant worked for Buchinger for about 10 years. Buchinger was very familiar with all the employees and the work of the Child Support Agency. She made final reviews of job evaluations and signed them. Buchinger promoted the Grievant to the Child Support Specialist position based on the test she took in 1999.

The County used a team to interview for the position. The team consisted of Human Resources Director Patrick Glynn, the Deputy Director of Human Services Todd Romenesko, and the Economic Support/Child Support Manager Lynn Brenner.

After the interviews, the Grievant asked Shelly Tyson in Personnel about the test scores. Tyson explained that the Grievant had scored an 89 percent, but they made some changes because other applicants did not have to complete a section on arrears calculations that was worth 6 points. The Grievant's score was adjusted to reflect that change, and the whole test was reviewed and the Grievant was given some extra points for two definitions previously marked wrong which were actually correct. Thiel's test score was 94 percent and Karls was 77 percent. The Grievant's score in 1999 was 90.2 percent, and her corrected score in 2004 was established to be 89 percent. Glynn testified that the test scores did not make one person or the other more or less qualified. The concern was whether the applicant could perform some or most of the mathematical problems needed on the job. Glynn stated that the hiring or promotion process may include a test in order to weed out some people and send others on to the next step in the process, such as an interview. Applications and backgrounds are taken into consideration, as well as supervisors' recommendations or references. Glynn noted that the test given was the same as the Grievant took in 1999 with two or three exceptions. A question regarding arrears was deemed to not be valid anymore, and another question was considered to be unrealistic. Glynn determined that the Grievant had demonstrated the core competency that the test would provide and she was able to move on to the job interview process.

Brenner had been the Grievant's supervisor for two months at the time of the interview. When the Child Support Agency was under the Corporation's Counsel's office, Buchinger was the Grievant's supervisor. The Grievant used Buchinger's name as a reference for the promotion, and Buchinger told the Grievant that she was not asked to give a formal statement about her.

The Grievant recalled being asked in the interview whether people in the office liked her, and how she would answer a question if someone came in to talk to her about his or her case. There were 18 questions asked of the candidates

Glynn, Romenesko and Brenner ranked the applicants after the interviews and agreed that Thiel was their first choice, Karls was their second choice and the Grievant was their third choice. The group also looked at the job application to see what kind of overall experience the candidates had. Karls has education as a paralegal, and Thiel and the Grievant have banking experience. The management team found that Thiel's 19 years of experience in a bank weighed heavily in her favor. Thiel was in customer service, a teller supervisor, and worked directly with the bank president.

Glynn looked at the experience with the Child Support Agency and determined that the Grievant's experience of nine years was not substantially greater than Thiel's five years in the agency. However, he found Thiel's 19 years in banking versus the Grievant's four years to be important. However, he thought that the interview put Thiel far above the Grievant. Thiel's answers were clear, concise and insightful. The Grievant's answers were short and in some cases, the interviewers had to restate the question to elicit more information. Glynn felt that the job description refers to negotiating with clients, communicating, educating, and Thiel showed those skills in the interview. The Grievant's responses were correct but not elaborate enough to demonstrate her verbal skills. Glynn noted that one question asked about interview techniques with clients. The Grievant responded that she would ask the required questions. Thiel responded by saying she would establish a rapport with the client, ask them questions, and if they didn't understand them, ask the questions in a different way to see if she could elicit the appropriate responses.

Another question asked what to do if an attorney called to ask for an adjournment for a hearing set for next Friday because the attorney wanted to attend the State Bar golf outing. The Grievant responded by saying that it was not her problem, that it was up to the Clerk of Courts to deal with it. Thiel responded by saying she would talk with the attorney, explain that the courts are backed up for two and three months, and if it's just for a golf outing, it was not an acceptable reason to cancel the court date. Another question dealt with giving an example of the applicant's contribution to the team, and the Grievant talked about going to the compensation review committee and getting a raise for her and Thiel. Thiel talked about backing each other up, pitching in to help when one person's workload was too much. One question asked about handling "Mr. Angry," who shows up regarding paying his arrears. Romenesko recalled that the Grievant said she would explain the arrears policy to him, and that was about it, while Thiel talked about dealing with him as being upset and understanding why he was upset, and then explain more of what the arrears was. Another question asked what to do when you suspect that a father has intimidated a mother from seeking child support. Romenesko said that the Grievant gave a very brief answer and that she would refer to human services. Thiel went into detail about getting the mother alone and getting her out of any intimidating situation, then contacting human services and making sure that this was an appropriate referral.

Romenesko agreed with Glynn's assessment that Thiel emerged in the interviews as the most qualified candidate. He testified that Thiel was heads above the other candidates in her ability to answer questions relating to child support. Romenesko was concerned about the

Grievant's inability to respond or lack of elaborations, initiation or insight. Thiel's answers to questions were more elaborate, and she answered questions asking about situations better than the Grievant did. Romenesko considered Thiel's skills to match up with the job description's qualifications for language skills, and that her ability to communicate effectively with child support clients made a significant difference in her qualifications. Also, he considered her overall experience in the banking business in customer service, as a teller and a teller supervisor to be critical for the position. He felt that 50 percent of the job dealt with the public. He noted that the specialist has to deal with difficult people on a regular basis. He recalled that the management interview team discussed whether the candidates were relatively equal and decided unanimously that there was a significant difference in the ability to communicate effectively.

Brenner supervised the applicants since July of 2004. She did not view the jobs as a natural progression and she did not agree that being a successful clerk would naturally make one a successful specialist. Brenner had observed that the Grievant did not enjoy being on the phone, and the Grievant had told her that she did not enjoy the phone duties. The Grievant liked the financial part of the job, working out numbers and not constantly dealing with clients. Brenner observed that Thiel took an active role in answering customer questions.

Following the job interviews, Brenner concluded that Thiel was the most qualified person for the specialist position based on her language and reasoning skills. Thiel can explain policy and procedure and negotiate with clients to work out stipulations. Brenner felt that the Grievant did not have those abilities, and she did not consider the Grievant to be qualified for the job. Brenner noted that language and reasoning skills are necessary in the job, because the person has to interview applicants to determine the father or potential fathers, which requires a lot of tactfulness. Then in determining how much child support is to be paid, neither party is happy. The specialist is often on the phone with custody issues and questions about child support if a parent is dissatisfied with the custody arrangements.

When the agency was in the process of moving from the Corporation Counsel's supervision to Human Services, Romenesko and Brenner spoke with Buchinger about the staff. They discussed eliminating a management position and creating a lead worker in Child Support, and the lead worker was going to be a bargaining unit position. Buchinger said that Jannette would post for the lead worker position, the Grievant would post for the specialist position, Thiel would post for the clerk position, and they would be left with the clerk position to be filled. Buchinger told Romenesko and Brenner that the Grievant would not be the best person for the specialist position because she did not like dealing with difficult people and she did not like to answer the phones. Brenner had a later conversation in Buchinger's office to go over the staff of the agency, and Brenner testified that Buchinger told her that the Grievant needed a lot of direction and supervision.

Buchinger believed that the Grievant was more qualified for the position at issue than Thiel. When the Grievant was notified that Thiel got the position, she called Buchinger at

home at night. Buchinger called Romenesko the following morning and asked him to let her keep Thiel on as a backup secretary while her secretary was gone on maternity leave. Buchinger also told Romenesko that she did not agree with the decision to promote Thiel over the Grievant, that she had given the Grievant the job once before and she was the most qualified.

Buchinger sent Glynn, Romenesko and Brenner an e-mail telling them she disagreed with the decision to promote Thiel instead of the Grievant. She also stated that this would make her a witness for the Union, and they should get some legal advice and use a law firm other than the usual one used by the County as she considered it a conflict of interest to have her usual attorney adversely examining her in an arbitration hearing. Glynn responded by noting that Buchinger was venting, and Buchinger replied that she was not venting, that she gave the Grievant the job once and that made her a witness. Also, she noted that she could not support his conclusions, which was another problem for him. She again advised him to get outside counsel on this matter.

Buchinger agreed that verbal communications skills are an important part of the job and if one individual had superior skills and everything else was equal, that person would be more qualified. Also, the ability to interview people or present themselves well in front of people would be important qualifications for the position.

### **THE PARTIES' POSITIONS**

#### **The Union**

The Union asserts that the Grievant is the more qualified applicant because of her total years of experience at the more progressive type levels in the Child Support Office. She had nine years in the department, compared to Thiel's four, with three years at the same job Thiel does and six more at a higher paying position related to the Child Support Specialist position in dispute. The Union finds the whole process arbitrary and capricious, from the test and interview to the action of the Employer.

The Union argues that the County manipulated the selection process by not retesting the Grievant. She had not been tested since 1999, and she never had a chance to show through testing what she learned on the job as a Child Support Clerk. Instead, the Employer manipulated her test score and redid it. There were five points between Thiel and the Grievant, and Thiel was not head and shoulders above the Grievant. The decision to hire Thiel was already made before the Union became aware of the test fiasco.

Moreover, the Employer never contacted the department head for an opinion. Buchinger was the department head and she was not contacted. She had promoted the Grievant before to this position and she would do it again. A supervisor's opinion is important but it

was just ignored here. Great weight should be attached to her opinion. In two prior cases involving this Employer, deference was given to the supervisors' opinions. This time, the Union has the support of the department head.

The Grievant is the best qualified candidate. Looking at the job descriptions of Secretary, Child Support Clerk and Child Support Specialist, one can see a normal progression in responsibilities, knowledge and experience towards the Child Support Specialist position. The Child Support Clerk's job qualifications show increased difficulty and required experience over that of the Secretary, and therefore, a candidate who had over six years experience as a Child Support Clerk plus three years as Child Support Secretary is more qualified for the position of Child Support Specialist.

### **The County**

The County asserts that under the relative ability clause of the contract, the Union has the burden to prove that management's decision was discriminatory, arbitrary or was made in bad faith. The facts show that Thiel and the Grievant's qualifications were not relatively equal. Thiel's job application and interview showed that she was the most qualified applicant, and the County's decision was not arbitrary, capricious, discriminatory or made in bad faith. The Grievant places sole reliance on the Corporation Counsel's opinion and the fact that the Corporation Counsel had awarded her the position five years ago. However, when Buchinger awarded the position to the Grievant, Thiel was not in the applicant pool. Buchinger did not take part in the 2004 interviews and had no idea who performed better during the interviews.

The County states that the Grievant was ranked third out of the three applicants and her qualifications were never relatively equal to those of Thiel. Thus, seniority is not a determining factor. The County retains the right to determine the specific qualifications needed. Thiel had mastered both the Child Support Secretary and Child Support Clerk positions in her four years with the County. Both Thiel and the Grievant held the same positions and were exposed to similar job duties. All three members of the interviewing team found Thiel to be head and shoulders above the Grievant after the interviews.

The County believes it has proven that Thiel's qualifications were definitely, distinctly, and substantially, and better than those offered by the Grievant. The Grievant's application was incomplete. She did not have any reference to the two positions she held within the Child Support Agency. Thiel's 19 years in a bank weighed heavily in the discussions. While the Union challenged the emphasis that the County put on the interview process and the situational questions therein, the weight of interview results has been upheld within grievance arbitration forums. During the interview, Thiel's communication skills and reasoning abilities proved to be far superior to those of the Grievant. Thiel responded to questions with more detail, showed more sensitivity toward clients, was self-confident about uncomfortable situations, and had more insight and initiative than the Grievant in her answers.

The County argues that it made its decision in good faith. While the Union suggested that the interview team acted in bad faith by not interviewing the Corporation Counsel to get her opinion, that is not accurate. Buchinger told team members that the Grievant would have to get the Child Support specialist position but that she was not the best candidate because she did not like to answer the phone or deal with the public. Brenner testified that Buchinger said that the Grievant shied away from dealing with difficult clients and didn't have the language or communications skills necessary for the job.

### **The Union's Reply**

The Union contends that the selection of Thiel was based on office politics and the Employer's brief shows it. The direct examination of Glynn regarding Buchinger shows that Glynn felt that Buchinger should not be a member of the hiring team because it was not for one of the positions she would be supervising. Moreover, Glynn testified that he felt Buchinger would have problems letting go of the child support work, and that she had difficulties letting go in the past when she had been the administrator. Thus, the Grievant was supported by the old regime – that factored into the selection of Thiel. That's why the Employer ignores the performance evaluation and puts all its righteous eggs in one basket of a subjective interview basket. It was done to manipulate the selection of Thiel as the sole decision of the new regime.

The Union finds the Employer's reliance on an Onieda County case to strengthen the unfairness argument. The Onieda County case stated that an oral examination must be reasonable and objective, fair, impartially administered and scored and cannot be arbitrary, capricious or discriminatory. The Employer only ranked the candidates and spouted the term "head and shoulders" to justify its position. No complete record of the interview was entered into the record – just the questions. Also, in the case quoted, there was a large spread in the interview scores.

The Union notes that the Employer said it judged Thiel as having gained the core skills, knowledge and abilities to perform the functions of the positions in five years. Is the employer saying she is just minimally qualified? The Grievant had more than the core skills and was more qualified. The Grievant had experience testifying in Court, unlike Thiel. The Employer opened the door to let the Union argue that none of the interviewers had more than three months experience in Child Support. They were concerned about Buchinger's difficulties in letting go and the team's desire to have an employee who fit the mold of human services and have a human services decision. The Grievant was tainted by Buchinger's support.

But the Grievant should not be denied moving up the ladder because of office politics and the lack of knowledge of the Child Support Department by the interview team, the Union argues. It is immaterial if one fits the mold of human services. Buchinger's support should carry great weight. The Union never relied solely on Buchinger's support, but the Grievant's



work experience, good job evaluations and increased responsibilities made her the most qualified candidate to take the next step up in the Child Support arena.

### **The County's Reply**

The County takes issue with the Union's position that the Grievant was the most qualified applicant. Thiel was the most qualified and presented the skill set needed to the interview team. Her prior work experience, her performance within Child Support, and her interview showed her to be the most qualified. The hiring process was not arbitrary and capricious and the interview was not flawed. The testing was not flawed and the County's action was not biased. Moreover, the County contends that the Union failed to satisfy its burden of proving that the Grievant's qualifications were relatively equal to those of Thiel.

The Union seeks credits for the Grievant's experience as secretary and clerk without recognizing that Thiel had experience within both positions as well. Thiel demonstrated her far superior language skills during the interview, and all of the team members endorsed her in her speaking abilities. Thiel provided assurance to the interviewing committee that she was much more qualified than the Grievant, and the committee ranked the Grievant as the lowest qualified of the three applicants. Thiel revealed an aptitude for handling the special requirements of the job, such as reasoning and communication and dealing with the clientele of the Agency. The written exam was not a significant factor in the selection process, and the County told the Union that even if it credited the Grievant with a perfect score, it would not change the results of the interview process or the final selection. The exam was only a screening device.

Contrary to the Union's assertions, the interview team sought input from the Grievant's prior supervisor. Romenesko and Brenner contacted Buchinger, who said that the Grievant would not be the best person for that position because she did not like dealing with difficult people or answering phones. Members of the interview team talked to Buchinger on two occasions, and on both occasions, Buchinger told them that the Grievant was not the best candidate for the position. At the hearing, Buchinger testified that the Grievant should have been selected, but did not offer any specific and understandable evidence, and she relied on an outdated 1999 decision. Buchinger had selected the Grievant once before, and thought she should have been hired this time, but she did not address the issue of who was most qualified.

The County disputes the Union's assertion that it did not consider the applicants' evaluations. Also, it objects to the Union's claim that the interview process was just a façade to supply a subjective reason to select Thiel. If the Union prevails on the logic that since the Grievant was once awarded the position and should get it again, that would make the interview a façade. How can the Union explain that all of the candidates were asked to respond to the same set of 18 questions, that each member of the interview team expressed reservations about the limited scope of the Grievant's responses, that each team member rated the candidates independently, and that each of them ranked Thiel first, Karls second and the Grievant third.

Finally, the Union fails to recognize that it has the burden of showing that the senior employee is relatively equal in qualifications to the junior employee in order for seniority to become a factor.

### DISCUSSION

The starting place, as always, is the contract language. The relevant language is in Article IV, Seniority, at Section 4.05, which states:

- A. In filling vacancies, new positions or in making promotions, preference shall be given to the most qualified applicant. If qualifications are relatively equal, the positions shall be awarded to the most senior qualified applicant.
- B. A notice of such vacancies shall be posted on the bulletin board for six (6) working days to give all employees an opportunity to apply for the position. The County will indicate on which bulletin boards in the Courthouse and in Human Services the notices will be posted.
- C. Any interested employee shall apply for the position in writing to the Human Resource Director.
- D. At the end of the six (5) day posting period, the position, within twenty (20) working days, shall be awarded to the most qualified applicant, or, qualifications being relatively equal, the most senior qualified applicant.

The parties have an excellent understanding about the “relative ability” clause of their contract, and the Arbitrator will not cite much about the standard for choosing a junior employee over a senior employee. The parties used the “head and shoulders” language freely, and thus have been well rehearsed or refreshed in the standard used by arbitrators in these types of cases. Suffice it to say, the Arbitrator is looking to see whether the junior employee’s ability and qualifications are substantially above the senior employee’s ability and qualifications.

On paper, the Grievant and the junior applicant that got the job would appear to be relatively equal in qualifications, with the Grievant having an edge for greater experience in the Agency. The interview team looked at the evaluations at some point and decided there were no red flags, nothing to distinguish one from the other. They both also had banking experience before working for the County, with Thiel having greater experience at a more responsible level. Both of them had done secretary and clerk work in the Agency, and both understood what the specialist position required.

There does appear to be something of the old-regime-versus-new-regime element going on here. Buchinger was the Grievant's long-time supervisor, and did not have a say in the ultimate decision. Had Buchinger made the choice, the job would have been the Grievant's. Buchinger found the Grievant to be more qualified than the other applicants. While Buchinger told Romenesko and Brenner that the Grievant may not be the best person for the position because she didn't like dealing with difficult people, Buchinger still found the Grievant to be more qualified. Buchinger knew what the contractual standard was, supported the Grievant and thought that the interview committee made the wrong choice.

Certainly Buchinger's opinion is entitled to some weight because she was the supervisor for about nine years, while Brenner was the supervisor for only two months at the time of the job interviews. Buchinger had more working knowledge of the applicants' abilities than Brenner could have gained in a short period of time. Buchinger's opinion has made this case a bit of a close call. It is impossible to know whether Buchinger would have found Thiel to be substantially more qualified than the Grievant if Buchinger had sat in on the interviews and heard Thiel speak so much more eloquently than the Grievant or give more elaborate answers to the questions. Buchinger admitted that if everything was equal except one person had superior verbal communications skills, that person would be more qualified.

The testing element had its problems too. The Grievant should have been offered the opportunity to take the test at the same time in the same manner as other applicants. While she had passed it before, it was five years ago and the test was slightly changed. While this did not work to the Grievant's disadvantage, it appeared to be an arbitrary element in that the Grievant's score from 1999 was re-worked. However, the County also offered to remedy the testing process by saying it would give the Grievant every benefit of doubt on the test and credit her with 100 percent score. Thus, the test did not have much effect in the final determination of the candidates' qualifications. Karls scored lower on the test than either Thiel or the Grievant and she was considered by the interview committee to be a better candidate for the position than the Grievant. The test was the gateway to the interview.

And it was the interview that put Thiel head and shoulders above the Grievant. All three interviewers found that Thiel's communications skills were far superior to the Grievant's, and all three were able to articulate just what had put Thiel far above the Grievant. While judging language and communication skills can be quite subjective, the interview team all found Thiel's answers to be insightful and found that the Grievant's answers to be short. In some cases, the interviewers had to restate the question to elicit more information from the Grievant. Thiel answered questions in a manner that assured the team that she was exactly what they were looking for. The team members were able to recite at hearing her answers and explain why her answers were much better than the Grievant's answers (see Background section). The Grievant answered questions in a technically correct way, but she failed to show initiative and the ability to establish rapport with people – whether it would be clients or the people on the interview team.

Communication and language skills are an important part of the Child Support Specialist position. The job description calls for qualifications to include language skills, mathematical skills, reasoning ability, and computer skills. Communication skills are related to the job. About 50 percent of the job is dealing with the public. The Specialist deals with clients who are unhappy about the child support arrangements in some cases, and the Specialist may be explaining policies and procedures to them or negotiating with one party or the other. The Specialist may have to work on paternity and custody issues. Both reasoning and language skills play a large part in this position.

Therefore, there is a sound and logical basis for the interview committee's decision and determination that Thiel emerged from the interview as a substantially superior candidate. The committee considered the standard to see whether Thiel was head and shoulders above the Grievant, and it found that she was indeed so. It is hard to overturn this type of decision where the communications skills are related to the job, the questions asked were related to the job, the committee can articulate exactly the difference in communication skills, and the junior candidate soared above the senior candidate in communications skills. While the Grievant was once awarded the job and left it of her own volition, the applicant pool had changed. The Grievant was not even second in the running after the interview – she was ranked third out of the three applicants.

Therefore, I find no reason to overturn the County's decision and will deny the grievance.

**AWARD**

The grievance is denied and dismissed.

Dated at Elkhorn, Wisconsin this 14<sup>th</sup> day of November, 2005.

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

KJM/dag  
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