

BEFORE THE ARBITRATOR

In the Matter of the Arbitration of a Dispute Between

WEST BEND EDUCATION ASSOCIATION

and

WEST BEND JOINT SCHOOL DISTRICT NO. 1

Case 82

No. 65051

MA-13101

(Tom Stodola)

Appearances:

Jeffrey J. Wickland, UniServ Director, Cedar Lakes United Educators, 411 North River Road, West Bend, WI 53095, appearing on behalf of the West Bend Education Association.

David Shapley, Assistant Superintendent, 735 South Main Street, West Bend, WI 53095, appearing on behalf of the West Bend Joint School District.

SUPPLEMENTAL AWARD CLARIFYING CONSENT AWARD

West Bend Joint School District No. 1, (hereinafter referred to as the District or the Employer) and West Bend Education Association, (hereinafter referred to as the Association) requested that the Wisconsin Employment Relations Commission designate Daniel Nielsen as arbitrator of a dispute over the termination of teacher Tom Stodola. The undersigned was so designated. A hearing was held December 14, 2005 in West Bend, Wisconsin. In discussions held at the hearing, the parties agreed to the issuance of a consent award, setting forth the resolution of the matter. That Award was issued on December 16, 2005. The terms of the Consent Award were:

1. The Grievant will be treated as being on the payroll for the 2005-2006 school year. His first semester salary will be paid in a lump sum in the month of December, 2005. His second semester salary will be paid in a lump sum in the month of January, 2006.
2. The Grievant will resign effective as of the end of the 2005-2006 school year, and will provide the District with a signed letter to that effect.
3. The parties will jointly craft an acceptable letter of reference for the Grievant.

In a letter received on August 25, 2006, the parties wrote to the arbitrator, seeking clarification of the Award. According to the stipulation submitted by the parties, at the time of the Consent Award, the parties had not reached agreement on the 2005-2007 collective bargaining agreement. The District paid the Grievant lump sums in accordance with the Award based on the existing 2004-2005 salary schedule. The new contract was settled in May of 2006, and included retroactive increases in the salary schedule for 2005-2006. The District did not provide any retroactive pay to the Grievant.

The parties seek clarification of the Consent Award on the issue of retroactive pay. Specifically, the stipulated issue is:

Does your award include backpay for the difference between the Grievant's 2004-2005 salary schedule placement and his 2005-2006 salary schedule placement?

The Consent Award is clear, in that the Grievant was to be "treated as being on the payroll for the 2005-2006 school year." It does not specify a dollar amount for the payment, or make reference to the 2004-2005 salary schedule as the basis for his compensation. Further, his resignation was effective at the end of the 2005-2006 school year. According to the stipulation of the parties, all other teachers who were on the payroll during the year received retroactive pay when the new contract was settled and ratified. It follows that, unless the parties made special provisions for exempting people in the Grievant's situation from the retroactivity provisions of the salary settlement, he is entitled to receive backpay in the same manner as the rest of the faculty. Given the submission of this issue for clarification, I infer that no such provisions were negotiated.

On the basis of the foregoing, and the record as a whole, I have made the following

SUPPLEMENTAL AWARD

The Consent Award dated December 16, 2005 provides that the Grievant will be treated for the pay purposes in the same manner as any other teacher who was on the payroll during the 2005-2006 school year. This includes backpay for the retroactive increases in the salary schedule for that year.

Dated at Racine, Wisconsin, this 29th day of August, 2006.

Daniel J. Nielsen /s/

Daniel J. Nielsen, Arbitrator

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