

BEFORE THE ARBITRATOR

In the Matter of the Arbitration of a Dispute Between

AFSCME LOCAL 70

and

KENOSHA COUNTY

Case 241

No. 64802

MA-13021

(Prescott Reassignment Grievance)

Appearances:

Mr. Thomas G. Berger, Wisconsin Council 40, AFSCME, AFL-CIO, P.O. Box 044635 Racine, Wisconsin, appearing on behalf of Local 70.

Ms. Lorette Pionke, Senior Assistant Corporation Counsel, County of Kenosha, Courthouse, 912 56th Street, Kenosha, Wisconsin, appearing on behalf of Kenosha County.

ARBITRATION AWARD

AFSCME Local #70, hereinafter "Union," and Kenosha County, hereinafter "County," requested that the Wisconsin Employment Relations Commission provide a panel of arbitrators in order to select an arbitrator to hear and decide the instant dispute in accordance with the grievance and arbitration procedures contained in the parties' labor agreement. Lauri A. Millot, of the Commission's staff, was selected to arbitrate the dispute. The hearing was held before the undersigned on May 23, 2006, in Kenosha, Wisconsin. The hearing was not transcribed. The parties submitted post-hearing briefs, the last of which was received on August 18, 2006, whereupon the record was closed. An Award was issued on November 17, 2006. On December 28, 2006 the County requested clarification with regard to whether mileage between the Kenosha County Center and the Public Safety Building was intended pursuant to the make whole remedy. Having considered the matter, the undersigned makes and issues the following Supplemental Award.

BACKGROUND

On November 17, 2006 I issued the following Award:

1. No, the level of discipline issued to Stan Prescott was not fair and with just cause.
2. The Grievant's four-day suspension was fair and with just cause and is therefore upheld.
3. The appropriate remedy for the violation found in item one above is as follows: the County shall immediately expunge all references to Prescott's assignment to the Public Safety Building from its personnel files and shall make him whole without interest for all money and benefits, including overtime, that he otherwise would have earned, but for his temporary assignment.
4. I shall retain jurisdiction for at least (60) days to resolve any questions involving application of this Award.

DISCUSSION

The County has requested clarification with regard to the remedy issued in this case. Specifically, the County seeks to know whether the remedy ordered intended the payment of mileage calculated as follows:

the number of miles between the Kenosha County Center and the Public Safety Building multiplied by the number of days that Mr. Prescott worked at the different location based on the IRS rate.

The Grievant was issued a suspension with cause and was assigned to the Public Safety Building without cause. As a result of the assignment, the Grievant was obligated to travel additional miles in order to report for work. But for the County's inappropriate assignment, the Grievant would not have incurred the additional mileage costs. The make whole remedy ordered in this case included compensation for mileage.

AWARD

The County is directed to compensate the Grievant for any and all miles traveled in excess of what he would have driven in order to report to his assigned work site with the Kenosha County Highway Division on all dates he worked at the Kenosha County Public Safety Building between January 10, 2005 and May 9, 2005. Payment for miles shall be based on the 2005 IRS rate.

Dated at Rhinelander, Wisconsin, this 2nd day of February, 2007.

Lauri A. Millot /s/

Lauri A. Millot, Arbitrator

LAM/gjc
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