

BEFORE THE ARBITRATOR

In the Matter of the Arbitration of a Dispute Between

WEST SALEM POLICE ASSOCIATION

and

VILLAGE OF WEST SALEM

Case 612.0000

(Jacob Donley Holiday Pay Grievance)

AWARD NO. 7978

Appearances:

Andrew Schauer, for the Association.

Thomas J. Kieffer, for the Village.

ARBITRATION AWARD

Pursuant to the terms of a collective bargaining agreement, the Wisconsin Employment Relation Commission assigned me to serve as arbitrator as to a holiday pay grievance. A ZOOM hearing was held and recorded on March 10, 2021. The parties thereafter filed briefs by May 12, 2021.

ISSUE

The parties were unable to agree on a statement of the issue but did agree that I could fashion the issue after considering their respective positions. Having done so, I conclude the issue to be resolved is:

Did the Village violate the contract when it only provided the grievant with a statutorily required 80 hours of pay? Is so, what remedy is appropriate?

DISCUSSION

The grievant was scheduled to work 92 hours from September 11-September 24, 2020. He was exposed to COVID-19 and ordered to stay home during that same period of time. Pursuant to the Families First Coronavirus Act, he received 80 hours of pay for that period of time. The Village

gave the grievant the option of using various types of leave if he wished to be paid for 12 additional hours. He chose to use holiday pay hours.

The Association contends that the Village violated the Article 12 holiday pay provisions of the contract which give employees the “discretion” to use holiday pay in certain circumstances. The Association asserts that the grievant was not able to use his “discretion” because he was confronted with a “Hopson’s Choice” of using holiday pay or even less desirable leave options if he wished to be paid for 12 additional hours. I do not find the Association’s argument to be persuasive.

Boiled to its essence, the Association is actually arguing that the grievant should not have been obligated to use any type of leave. Essentially, the Association contends that once the grievant was scheduled to work 92 hours, the Village was contractually obligated to pay him for 92 hours even if COVID exposure led to a reasonable order that he stay home for two weeks. I do not find there to be any contract provision that creates that obligation. Clearly the Article 12 holiday leave “discretion” provision relied on by the Associations falls far short of any such pay guarantee.

Given the foregoing, I conclude the Village did not violate the contract.

Issued at Madison, Wisconsin, this 11th day of June, 2021.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

Peter Davis, Arbitrator