
 ELBRIDGE ANDERSON,
 Appellant,
 v.
 JOHN C. WEAVER, President,
 University of Wisconsin,
 Respondent.
 Case No. 74-83

OPINION AND ORDER

OFFICIAL

Before: JULIAN, STEININGER, and WILSON

OPINION

I. Nature of the Case

A grievance alleging a violation of State law and the Administrative Code regarding the hiring of limited term employees was filed and subsequently denied through the three steps. An appeal from this action was filed.

II. Facts

Appellant in his capacity as vice-president of AFSCME, Council 24, local 383, filed step one of a grievance of the statutes and Administrative Code in the hiring of the limited term employees. This step and steps two and three were denied, the last step being denied July 23, 1974. A letter of appeal from this action was received by this Board's office August 5, 1974.

Appellant is a permanent employee working at the University of Wisconsin at Stout. His position is classified as Security Officer (SR 1-05).

There were six security officers including Appellant and Leroy Knutson at U.W.-Stout. The immediate supervisor of these men was Leonard Oas, Security Chief. In September, 1973 Mr. Knutson left state service for a job elsewhere. His position which he left vacant was full-time and fully funded.

James R. Nowaskey, Director of General Services, of which the Department of Security is a part, directed Mr. Oas, Security Chief, to hire a limited term employee. In late March, 1974, Scotty Sutliff was hired under this directive. This action was authorized by the personnel department at U.W.-Stout.

Mr. Sutliff worked approximately 261 hours for nine months in 1974 and a total of 311 hours for ten months from March 30, 1974 through February 1, 1975. (Respondent's Exhibit No. 1.) His wage was Three Dollars and Forty-Nine Cents (\$3.49) per hour. He earned a total of \$738.14 in 1974 from his work at U.W.-Stout in the Security Department.

There were budgeted for 1973 and 1974 seven full-time security officer positions in addition to Mr. Oas' position as Security Chief. Only six of these were filled. After Mr. Knutson left, there were two full-time fully funded positions left vacant.

There was also budgeted some \$1,800 for use to pay limited term employees. Mr. Sutliff was the first limited term employee to be hired.

Mr. Sutliff worked in the Security Department. He apparently performed duties similar to those of the Appellant. However, he was never issued mace nor furnished a uniform nor a badge.

III. Conclusions

Respondent Through His Use Of
Limited Term Employees In The
Department Of Security Is Not In
Violation Of The Administrative
Code Or The Statutes.

Appellant contends that Mr. Sutliff was hired as a limited term employee to fill the permanent position vacated by Mr. Knutson. This use of limited term employees is strictly prohibited by Administrative Code Section Pers. 10.02 except under emergency situations.

Limited term employment is defined in Administrative Code Section Pers. 10.01 as:

. . . employment on a noncareer basis which may be identified as short term, project, part-time or student. In addition, emergency and provisional appointments are included under a limited term employment as provided under section 16.21 (1), Wis. Stats..

Mr. Sutliff was not hired as a provisional or emergency employee. A provisional or emergency employee is one who is hired to fill a vacant position without the normal procedures of recruitment or examination because of urgent or emergency conditions. He was hired to come in when and if the need for an extra person arose. He was obviously not hired as a replacement for Mr. Knutson per se. He did not report regularly nor was he even furnished the normally issued items such as a badge or uniform.

Part-time limited term employment is "any position where the time worked is less than half-time on a daily, weekly, or monthly, basis." (Administrative Code Section Pers. 10.01 (3).) Mr. Sutliff's

position would certainly fall within this category. He worked an average of seven to seven and a half hours per week in 1974.

(Respondent's Exhibits Nos. 1 and 2.)

Therefore, although Mr. Sutliff did substitute work, he was not being substituted for Mr. Knutson. There is no provision in the statutes or Administrative Code which prohibits limited term employees from performing duties also performed by permanent employees. Mr. Sutliff was undoubtedly used when the Department of Security was short of personnel because of illnesses or vacations. Under Administrative Code Section Pers. 8.02 (3), the characteristics of limited term employment are that it is on a non-career basis and that it is the type of employment "for which the use of normal procedures for recruitment and examination are not practical." Mr. Sutliff's employment had both these characteristics. He worked irregularly and for a minimal number of hours. To proceed through a full examination process for a position which would involve far less than even half the usual hours of a full-time permanent position is a waste of Respondent's time and money.

There was budgeted by the Department of Security at U.W.-Stout some money for limited term employees. Mr. Sutliff was the first limited term employee hired under that budget. He was paid out of those budgeted funds.

Therefore, we conclude that there was no violation of either the statutes or the Administrative Code in the hiring of Mr. Sutliff as a limited term employee. A department should not be required to fill a full-time position which is fully funded if it has determined

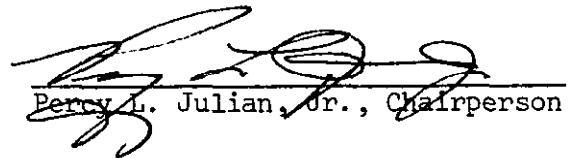
that there is no need for that position. In the instant case, that was the situation. Mr. Nowaskey, Director of General Services of which the Security Department is a part, determined that there was no need to fill Mr. Knutson's former position. It was still vacant at the time of this appeal. Mr. Sutliff was hired simply to fill in when the need arose.

ORDER

IT IS HEREBY ORDERED that the decision of Respondent be affirmed.

Dated August 29, 1975.

STATE PERSONNEL BOARD


Percy L. Julian, Jr., Chairperson