ROGER NANCARROW,

Grievant,

v. DOCKET NO. 94-20-147

KANAWHA COUNTY BOARD OF EDUCATION,

Respondent.

D E C I S I O N

Grievant Roger Nancarrow, a teacher at Elkview Middle School, filed a grievance on or about March 14, 1994, alleging that he was improperly charged a personal leave day in lieu of being granted a "snow day" for an absence from school on March 3, 1994. Kanawha County Schools were closed that day due to inclement weather, and Mr. Nancarrow alleges that teachers have never been required to report to work when schools were closed. The parties elected to rely on the record developed below, including the transcript and decision from Level II, from which the following findings of fact and conclusions of law are derived.

Findings of Fact

1. Mr. Nancarrow is employed by Respondent as a classroom teacher at Elkview Middle School.

2. Respondent issued Policy No. 133-93/94, Inclement Weather Procedures, dated October 11, 1993, to all employees, including Mr. Nancarrow. That policy directs the news media to be notified by6:00 a.m. when a decision is made to close schools due to inclement weather. The policy states that "teachers, secretaries, aides and cooks will not report to work" when schools are closed.

3. On March 3, 1994, Michael Bell, Public Information Director, pursuant to the inclement weather policy, began making telephone calls at approximately 5:00 a.m. to the radio and television news media to advise that Kanawha County Schools would be operating on a two-hour delay.

4. That same day, at approximately 7:00 a.m., Mr. Bell repeated this procedure with an

updated school status, advising that Kanawha County Schools would be closed, but that all employees were to report for work on a two-hour delay basis.

5. Mr. Nancarrow watched two local television stations the morning of March 3, 1994. One station advised that schools were closed; the other advised that custodians were to report to work. Neither stated anything about teachers reporting to work while Mr. Nancarrow was watching.

6. Mr. Nancarrow did not report to work on March 3, 1994, and took one day of personal leave to cover the absence.

7. The Elkview Middle School Payroll Attendance Form, entered as KCS Exhibit 2 in the Level II hearing, indicates that of approximately 66 employees, only five, including Mr. Nancarrow, were absent from work on March 3, 1994. The other four absentees took that day as sick leave and no evidence was presented to explain why they did not report to work.

8. It is apparent from the attendance list that the majority of employees obtained correct information to ascertain whether or not they were required to report to work.

Conclusions of Law

1. In order to prevail, a grievant must establish all elements of his grievance by a preponderance of the evidence. Black v. Cabell County Board of Education, Docket No. 06-88-238 (Jan. 31, 1989).

2. Mr. Nancarrow did not take any additional action, such as calling the school or central office, to determine whether he should report to work. (Cf. Toney v. Lincoln County Bd. of Educ., Docket No. 93-22-287 (Nov. 12, 1993), wherein grievants were denied a "snow day" based upon their failure to make a reasonable effort to call their place of employment and clarify the school closing announcement they received through the media).

3. Mr. Nancarrow has failed to establish that he was entitled to a "snow day" for his absence on March 3, 1994, when all but five of approximately 66 employees reported to work that day.

Accordingly, the grievance is DENIED.

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MARY JO ALLEN

Administrative Law Judge

Dated: June 16, 1994