LORRAINE HAINES

v. Docket No. 95-30-149

MONONGALIA COUNTY BOARD OF EDUCATION

DECISION

Grievant, Lorraine Haines, employed by the Monongalia County Board of Education (Board), advanced a grievance to level four on April 10, 1995, in which she complained of a salary reduction incurred after a transfer to another school. Both parties agreed to submit the matter for decision based upon the lower-level record supplemented with proposed findings of fact and conclusions of law filed on or before July 3, 1995.

The facts of this matter are not in dispute.

1. Prior to July 1994, Grievant was assigned to the Board's central office and was classified as a Secretary III.

2. The Board posted a vacant Secretary II position at Clay-Battelle High School from July 8, through July 15, 1994.

3. On August 16, 1994, the Board approved Grievant's placement into the Clay-Battelle position as a Secretary III.

4. In January 1995 Grievant was reclassified, without her consent, to Secretary II. Commensuarate with this adjustment, Grievant realized a $32.63 reduction in salary per pay period.

Grievant argues that while the position she holds meets the definition of Secretary II, the law does not prohibit her from holding a higher classification. She further asserts that the Board acted in violation of W.Va. Code §18A-4-8 when it reclassified her without her consent, and that the reclassification was completed outside the procedure set forth in W.Va. Code §18A-2-6. Grievant requests that the Grievance Board exercise the authority granted under W.Va. Code §18-29-6(b) to provide fair and equitable relief, to reinstate her salary and classification of Secretary III, because the Board failed to advise her of the consequences of the transfer.

The Board argues that the position at Clay-Battelle was properly advertised as a Secretary II and that the initial transfer action allowing her to retain the Secretary III designation was an error. Because Grievant has only three years' experience in the secretary classification, the Board asserts that it may not award her the Secretary III classification at this time. The Board asserts that Grievant was previously assigned to the Personnel Department and was aware of the classification of the position at Clay-Battelle. The Board denies responsibility for any misconception Grievant may have had of retaining the higher position. The Boarddenies any violation of W.Va. Code §18A-4-8.

W.Va. Code §18A-4-8 defines Secretary II as

personnel employed in any elementary, secondary, kindergarten, nursery, special education, vocational or any other school as a secretary. The duties may include performing general clerical tasks, transcribing from notes or stenotype or mechanical equipment or a sound-producing machine, preparing reports, receiving callers and referring them to proper persons, operating office machines, keeping records and handling routine correspondence. There is nothing implied herein that would prevent such employees from holding or being elevated to a higher classification.

W.Va. Code §18A-4-8 defines Secretary III as:

personnel assigned to the county board of education office administrators in charge of various instructional, maintenance, transportation, food services, operations and health departments, federal programs or departments with particular responsibilities of purchasing and financial control or any personnel who have served in a position which meets the definition of 'Secretary II' or 'Secretary III' herein for eight years.

The posting of the position in question as a Secretary II is entirely consistent with the statutory definitions. Grievant's years of experience do not qualify her for the advanced classification at this time. While it is unfortunate that an employee finds herself in a lower classification because of an inaccurate understanding of the law, it is clear that the position was posted as a Secretary II and that Grievant voluntarily applied for the transfer. As such, the Board has not relegated her to any condition of employment resulting in a reduction of salary without her consent or otherwise acted in violation of W.Va. Code §18A-4-8.

In addition to the foregoing findings of fact and discussion it is appropriate to make the following conclusions of law.

CONCLUSIONS OF LAW

1. The posting of the vacancy at Clay-Battelle High School as that of Secretary II is consistent with the definition of that classification set forth in W.Va. Code §18A-4-8.

2. The reclassification of Grievant from Secretary III to Secretary II upon her voluntary transfer to the position at Clay-Battelle High School did not relegate her to a condition of employment resulting in a reduction of salary without her consent, and was not a violation of that portion of W.Va. Code §18A-4-8.

Accordingly, the grievance is **DENIED**.

DATED SEPTEMBER 28, 1995 SUE KELLER, SENIOR ADMN. LAW JUDGE