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**WEST VIRGINIA EDUCATION  
EMPLOYEES GRIEVANCE BOARD**

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ROGER DENNISON

vs.

Docket No. 17-86-095

HARRISON COUNTY BOARD OF EDUCATION

**DECISION**

By memorandum dated October 5, 1983, the Harrison County Board of Education announced a vacancy for a General Maintenance/Truck Driver/Plumber 1, a position with an employment term of 240 days per year. The grievant, Roger Dennison, was at that time employed by the board of education as a truck driver with a 261 day employment term. The grievant bid on and was offered the multiclassified position. Mr. Dennison formally accepted the offer in a letter to Superintendent James Bennett in which he stated: "I realize I will not get a vacation with this job."<sup>1</sup> The following week Superintendent Bennett notified Mr. Dennison that the Board had approved his reclassification to the multiclassified position.

In June, 1984, Mr. Dennison filed a grievance alleging that similarly situated employees had been permitted to change classifications and retain a 261 day contract.

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<sup>1</sup> A position with a 261 day employment term includes a paid vacation, a 240 day position does not.

The grievant alleges a violation of W.Va. Code, 18A-4-5b and Code, 18A-4-8 and requests to be restored to his 261 day employment term.

A hearing was held before the Harrison County Board of Education on August 22, 1984 with testimony and evidence presented as follows. On May 16, 1984 vacancies for the positions of electrician II and plumber II, both with 240 day employment terms were approved for advertising. Approximately one week later at least two individuals employed as electricians I submitted written requests to Superintendent Bennett asking to be reclassified into the advertised position of electrician II. On June 7, 1984 the board of education approved the reclassification of these these two individuals to electrician II and a third employee from plumber I to plumber II. There is no dispute that all three individuals retain a 261 day employment contract. Superintendent Bennett testified that these individuals had been misclassified and were promoted as a result of an annual review which occurred at essentially the same time the positions were advertised. He further stated that the promotions eliminated the need to fill some of the advertised positions and that the positions of plumber I and electrician I were later posted as a result of the reclassifications (T.pp. 54,55).

Because the Board views these individuals as being promoted through reclassification they were permitted to retain their longer employment contract as per county policy. (T.pp. 40-42) The grievant's situation is distinguished as his reclassification did not occur as a result of previous misclassification and was therefore not an upgrading within a job title but was a transfer to another position.

Whether the reclassifications were at the employees request or the result of administrative evaluation is not controlling. All of the employees discussed were reclassified into positions of a higher pay grade which had been advertised as having employment terms of 240 days. Some employees were allowed to retain the longer 261 day employment term which they had been hired under while the grievant was not. This action results in the denial of uniform treatment to the grievant.

Therefore the Board must reinstate the grievant to a 261 day employment term to assure uniform treatment with other employees who retained a 261 day contract when they reclassified to positions with advertised 240 day employment terms.

#### FINDINGS OF FACT

1. The grievant applied for and received reclassification from truck driver to general maintenance/truck driver/plumber I, a position of higher pay grade but shorter employment term.

2. Later, other employees were reclassified within the same class title into advertised positions of a high pay grade but shorter employment term yet allowed to retain the longer employment term.

#### CONCLUSIONS OF LAW

Counties may provide in a uniform manner benefits for service personnel which require an appropriation from local funds, including vacation time.

Either party may appeal this decision to the Circuit Court of Kanawha County or to the Circuit Court of Harrison County and such appeal must be filed within thirty (30) days of receipt of this decision. (Code, 18-29-7) Please advise this office of your intent to do so in order that the record can be prepared and transmitted to the Court.



SUE KELLER  
Hearing Examiner

Dated: 6/16/86