

Final



Members
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**WEST VIRGINIA EDUCATION
EMPLOYEES GRIEVANCE BOARD**

ARCH A. MOORE, JR.
Governor

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ISABELLE ELLIS

v.

DOCKET NO: 23-86-101

LOGAN COUNTY BOARD OF EDUCATION

RECEIVED

NOV 24 1986

W.Va. Education Employees
Grievance Board

DECISION

This matter comes before the West Virginia Education Employees Grievance Board on appeal from a decision of the Logan County Board of Education. On October 31, 1986, the parties agreed, in writing, to submit the grievance for decision based upon the existing record and to waive an evidentiary hearing at level four.

The grievant, Isabelle Ellis, complains that her transfer is solely for the expediency of the Logan County Board of Education, namely, to shave a secretary's salary from next year's budget and that her transfer would be detrimental to the school system.

The respondent, the Board of Education of the County of Logan, contends that the transfer was necessary to enable the Board to decrease the number of central office staff resulting from the decrease in revenue available.

The facts essential to the disposition of the matter were undisputed. The grievant has been employed as a Secretary assigned

to the Board's maintenance department for over 24 years. Timely notice was received by the grievant of the Board's intent to place her on the transfer list and she was subsequently placed on the list.

WV Code §18A-2-7 in pertinent part provides:

The superintendent, subject only to approval of the board, shall have authority to assign, transfer, promote, demote or suspend school personnel and to recommend their dismissal pursuant to provisions of this chapter. However, an employee shall be notified in writing by the superintendent on or before the first Monday in April if he is being considered for transfer or to be transferred. Any teacher or employee who desires to protest such proposed transfer may request in writing a statement of reasons for the proposed transfer. Such statement of reasons shall be delivered to the teacher or employee within ten days of the receipt of the request. Within ten days of the receipt of the statement of reasons, the teacher or employee may make written demand upon the superintendent for a hearing on the proposed transfer before the county board of education. The hearing on the proposed transfer shall be held on or before the first Monday in May. At the hearing, the reasons for the proposed transfer must be shown.

It is uncontested by the grievant that the respondent followed the procedural requirements of WV Code §18A-2-7; however, the grievant contends that she cannot be transferred at the convenience of the Board and to the detriment of the school system.

It is clear that the Superintendent may transfer, subject only to the approval of the Board, any school personnel as per WV Code §18A-2-7, supra. The Superintendent, Dr. Sam Sentelle, explained that the transfer was necessary to improve overall operations and efficiency, including the reduction of costs.¹

¹The hearing before the Logan County Board of Education concerning this grievant's transfer and that of Helen Conley were held on the same day. Ms. Conley's hearing was immediately before the grievant's hearing.

The grievant offered no compelling evidence that the Board's subsequent decision was arbitrary, capricious, or not in the best interest of the school system.

In addition to the foregoing, the following findings of fact and conclusions of law are incorporated herein.

FINDINGS OF FACT

1. The grievant, Isabelle Ellis, is employed by the Logan County Board of Education as a Secretary.
2. The grievant has been employed, at the time of this grievance, by the respondent board for over 24 years.
3. The grievant received timely notice of the respondent's intention to place her on the transfer list.
4. The transfer of the grievant and Helen Conley were related matters and were heard by the respondent board in such a manner as to overlap.
5. The facts, as above recited, were undisputed by the parties.
6. The grievant provided no evidence upon which a conclusion that the respondent board's action was arbitrary, capricious, or detrimental to the school system could be based.

CONCLUSIONS OF LAW

1. Pursuant to WV Code §18A-2-7 and subject only to the approval of the Board, the Superintendent has the authority to

(footnote cont.)

On appeal to the West Virginia Education Employees Grievance Board the testimony of Ms. Conley and Ms. Ellis was separated into two appeals. However, the records by necessity had to be considered together in order to properly understand the proceedings and arrive at this decision.

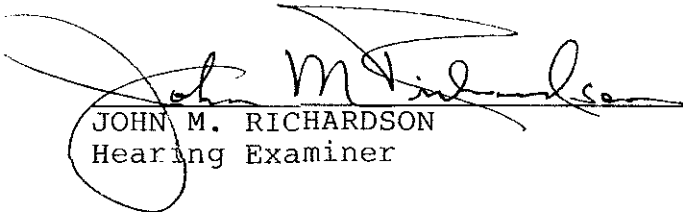
transfer school personnel.

2. In accordance with previous decisions of this Board and fundamental principals of law, the grievant is required to prove the essential elements of the grievance by a preponderance of the evidence.

3. The grievant has failed to offer evidence upon which a conclusion preponderating in favor of the grievant could be based.

For all of the foregoing reasons, the grievance is denied.

Either party may appeal this decision to the Circuit Court of Logan County or Kanawha County and such appeal must be filed within thirty (30) days of receipt of this decision. (WV Code §18-29-70 Please advise this office of your intent to do so in order that the record can be prepared and transmitted to the Court.


JOHN M. RICHARDSON
Hearing Examiner

DATED: Nov. 21, 1986