



Members
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**WEST VIRGINIA EDUCATION
EMPLOYEES GRIEVANCE BOARD**

ARCH A. MOORE, JR.
Governor

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ROBERT PERKINS, et al.

v.

Docket No. 43-86-312-3

RITCHIE COUNTY BOARD OF EDUCATION

DISMISSAL ORDER

Grievants, Robert Perkins and others, are employed by the Ritchie County Board of Education as teachers. A dispute arose between grievants and their employer shortly after they received their first paychecks for the 1986-87 school year. Grievants objected to notification that their salary payments would be spread out over twelve months with no option for ten month payment formerly available.

A level one grievance was filed on or about September 29, 1986.¹ For relief, grievants asked that the ten or twelve month payment options remain. The level one administrator waived

¹ Grievants cite violation of W.Va. Code, 21-5-2, "Every person, firm or corporation...shall settle with its employees at least once every two weeks...and pay them the wages due...", and W.Va. Code, 18A-4-9, "...the number of pays to be made during the school year to the various classes of employees shall be determined by the Board..." (Emphasis added).

decision as he had no authority to act.

Grievants filed a level four appeal to this board in late October, 1986 with a request for an evidentiary hearing and formal acknowledgment was made by letter dated November 5, 1986 to grievants' West Virginia Education Association representative.

By letter dated October 31, 1986, to this examiner with relevant parties copied, Joseph Furtado, grievants' WVEA representative, requested that the grievance be remanded to level three in order that the respondent board hear the merits of the case. Mr. Furtado objected to a level two decision issued by the Superintendent of Schools sans an evidentiary hearing and subsequent to grievants' level three appeal filed on or about October 14, 1986. He also objected to the lack of timeliness on the part of the respondent board to hear the case when it was originally filed at level three.²

Dixon Law, Superintendent of Ritchie County Schools, contacted this examiner by memorandum dated November 7, 1986:

These individuals (grievants) refused to discuss with me their grievance after the five day lapse period. I requested such a meeting, but I had no response.

In reviewing their grievance, I have instructed our finance office to recalculate their annual salaries and make adjustments to reflect a twenty payment employment term...(Grievants) were notified in writing of the change...

² Of record is a letter dated October 24, 1986 to one of the grievants in which the superintendent indicated that grievants had not contacted him since October 13, 1986 about scheduling a level two hearing and, "...therefore, I must deny this grievance."

Therefore, I feel this grievance has been resolved...

Mr. Law suggested the grievance "could had been resolved earlier" had the parties been more cooperative about the time lines established in the grievance procedure, W.Va. Code, 18-29-1, et seq.

W.Va. Code, 18-29-4(b) states that "the chief administrator... shall conduct a hearing...within five days of receiving the appeal" at level two, but W.Va. Code, 18-29-3(o) allows that, "[g]rievances may be processed at any reasonable time, but attempts shall be made to process the grievance in a manner which does not interfere with the normal operation of the institution or with employees' normal working hours." These two provisions may appear to be mutually exclusive but "the specified time limits may be extended by mutual written agreement." W.Va. Code, 18-29-3(a). Grievants and employers are reminded that one purpose of the grievance procedure is "for resolving problems at the lowest possible administrative level..." W.Va. Code, 18-29-1. Therefore, it is incumbent upon the parties to keep communication lines open and be cooperative with one another in order to effect that goal.

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

FINDINGS OF FACT

1. Grievants are teaching employees of the Ritchie County Board of Education who objected to cancellation of options for

either ten or twelve month salary disbursements and subsequently filed a grievance pursuant to W.Va. Code, 18-29-1, et seq.

2. A breakdown in communications appeared to ensue between the parties to this dispute regarding timeliness and other requirements of the grievance procedure and ultimately the grievance was appealed to level four with a request first for an evidentiary hearing and later for a remand to level three.

3. Subsequent to the requests made to the hearing examiner, the superintendent of schools granted grievants' desire for a ten month, twenty payment salary adjustment for their term of employment.

4. After the resolution of their dispute, grievants requested in writing on December 1, 1986 through their WVEA representative, to withdraw their grievance from level four.

CONCLUSIONS OF LAW

1. The legislative intent and purpose of the grievance procedure is to provide means whereby education employees and their employer could resolve problems that arise between them in the employment relationship at the lowest possible administrative level. W.Va. Code, 18-29-1.

2. An employee may withdraw a grievance at any time by giving written notice of such intent to the level wherein the grievance is current. W.Va. Code, 18-29-3(d).

It is accordingly ORDERED that this grievance be dismissed from the docket as compromised and settled by the parties.

Either party may appeal this decision to the Circuit Court of Kanawha County or Ritchie County and such appeal must be filed within thirty days of receipt of this decision. (W.Va. 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.

A handwritten signature in cursive script, reading "Nedra Koval", written over a horizontal line.

NEDRA KOVAL
Hearing Examiner

Dated: 12-29-86