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**WEST VIRGINIA EDUCATION
EMPLOYEES GRIEVANCE BOARD**

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C. DOUGLAS RICHMOND

vs.

DOCKET NO. 41-86-127-1

RALEIGH COUNTY BOARD OF EDUCATION

DECISION

Grievant, C. Douglas Richmond, is a librarian at Park Junior High School and has been employed by the Raleigh County Board of Education for eleven years.¹ On January 3, 1986 he filed a grievance alleging that the position of assistant principal at Park Junior High School was filled without proper posting and in disregard of seniority by an uncertified employee.

In early December, 1985 Mr. Ben Cook, principal at Park Junior High School, was presented with a personal, family situation which would require his absence from his post for an indeterminable period. Mr. Cook was concerned that Mr. Rumberg, the assistant principal, would require some aid and recommended to Superintendent Cantley that a substitute employee be hired to free one of the regular personnel to assist the assistant principal. Mr. Cook further recommended that Ronald Cantley II, the superintendent's son, perform

¹ He has a B.S. in Education, a Masters degree in Administration and twenty one hours post masters; he holds a state certification in administration.

those duties of aiding the assistant principal.² Mr. Cook advised Superintendent Cantley that he was not resigning but would return in January; he was, in fact, absent only four days.³ In the meantime speculation soared that Mr. Cook had resigned and it appears that it was assumed that Mr. Rumberg had been appointed principal and Ronald Cantley II assistant principal.

A level II hearing was conducted on January 28, 1986 at which it was agreed that there was nothing to be gained in the grievance because there was, in fact, no vacancy in the assistant principals' position but grievant wanted to insure that the situation did not recur.⁴ The grievance was denied at level two and grievant appealed to the Raleigh County Board of Education.

At the level III hearing on February 11, 1986 grievant requested the board of education to adopt a policy in accordance with Code, 18A-4-8b that would govern vacancies that were believed or expected to last twenty days; the administration acknowledged that when vacancies occurred at Park Junior High School and elsewhere they would be posted and

² Mr. Cook stated that Ronald Cantley II was an excellent classroom manager, related to students well and had an interest in the administrative functions; that he was the logical choice to do the job with the least disruption and was appointed dean of students. None of the parties impute any ill motives to the selection of Mr. Cantley II but were more concerned with the policy involved.

³ Mr. Cook took an absence without pay for the period. There was some speculation that Mr. Cook might resign after the 1985-86 school year and this compounded the situation.

⁴ The grievant solicited a decision that Code, 18A-4-8b required that if an administrative position was to be vacant for twenty days or less it would have to be posted and filled in the same manner service personnel positions were filled.

filled in accordance with Code, 18A-4-8b. The board unanimously denied the grievance.⁵

In addition to the foregoing the following specific findings and conclusions are made.

FINDINGS OF FACT

1. Mr. Ben Cook, the principal of Park Junior High School, took an authorized absence without pay for an unspecified period of time commencing in January, 1986. Mr. Cook was absent for four days.

2. Mr. Gary Rumberg, the assistant principal, assumed the duties of the principal for this period of time and Mr. Ronald Cantley II, a classroom teacher, was appointed dean of students to assist Mr. Rumberg.

3. Mr. Cantley received no additional compensation for these services and the position was for a four day duration.

4. There was no posting of this position as no vacancy existed and the assignment of Mr. Cantley II was a lateral change of assignment on a temporary basis.

⁵ No findings of fact or conclusions of law were made as contemplated by Code, 18-29-6 at either levels. Grievance evaluators are urged to include these findings and conclusions in their decisions to avoid the necessity of remanding the grievance for compliance. See, e.g., Burks v. McNeel, 264 S.E. 2d 651 (W.Va. 1980); Golden v. Bd. of Educ. of Harrison Co., 285 S.E. 2d 665, 668 (W.Va. 1981).

5. It was conceded by the grievant that the original grievance was rendered moot upon the return of Mr. Cook.

CONCLUSIONS OF LAW

1. There was no violation of Code, 18A-4-8b in the assignment of Mr. Cantley II to the temporary assignment of dean of students.


2. The intent of Code, 18-29-1 is to resolve problems at the lowest possible administrative level and when a grievance is resolved or rendered moot at levels one, two or three it should be dismissed.

3. The Education Employees Grievance Board will not issue advisory opinions or anticipate issues not fairly raised in the evidence.

As it is conceded that there is no relief to be granted in this grievance and that it was rendered moot upon the return of Mr. Cook, this grievance will be dismissed without further discussion.⁶

⁶ In accord, Ledbetter v. Braxton Co. Bd. of Educ., Docket No. 04-86-092, where grievant requested the hearing examiner to remedy a moot situation.

Either party may appeal this decision to the Circuit Court of Kanawha County or to the Circuit Court of Raleigh 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.


HEARING EXAMINER

Dated: _____

