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EVERETT E. YOHO

v.

DOCKET NO. 25-86-129-2

MARSHALL COUNTY BOARD OF EDUCATION

DECISION

Everett Yoho, grievant, is employed by the Marshall County Board of Education as a General Maintenance worker permanently assigned to John Marshall High School. He alleges that a carpentry vacancy occurred in the county maintenance crew, and the job was not posted thus denying him an opportunity to bid on the position. He contends that a less senior maintenance employee, Raymond Yoho, was instead reclassified as a Carpenter II, and in effect, filled the vacant position.

The case comes on for decision following a level four evidentiary hearing conducted September 15, 1986. At that time, the school board introduced into evidence county salary schedules for grievant's position and that of a carpenter II. Additionally, brief testimony was adduced to supplement the existing record and level two hearing and oral argument

was heard. The parties submitted proposed findings of fact and conclusions of law some weeks later.

Not in dispute are the basic facts of this grievance. The county has a general maintenance department with eleven employees who, except for grievant, perform various maintenance services on a county-wide basis.. Again, with the exception of grievant, all of the maintenance personnel are multi-classified. Testimony established that multi-classification is necessary for labor efficiency. All of the county-wide crew perform a variety of duties, from grass cutting and customary maintenance to more highly skilled tasks and individual specializations such as carpentry, plumbing and electrical work when the need arises. If members of the county-wide crew had only a single classification, such as plumber or carpenter, there may be days when they would have no tasks to perform and they would sit idle. Conversely, there are times when the foreman may need the entire crew for groundwork, and without multi-classified personnel, would be shorthanded.

Grievant must also perform a variety of duties and perhaps more diversified tasks than any other multi-classed maintenance men holding several specialties. The maintenance foreman, Robert Foster, stated that grievant must be a "jack-of-all-trades" and have a smattering of knowledge and skills for simple plumbing, electrical repair, carpentry and the like. However, if problems

occur in grievant's building which require more advanced skills than his to resolve, a member of the county-wide crew would be assigned to the task. Since grievant is required to perform diverse tasks which range probably exceeds that of any single member of the county-wide crew, his work assignment is unique in the county. In recognition of this fact and the responsibilities entailed, grievant has the sole designation in the county salary classification as "maintenance - A" and his salary is the highest in the county for service personnel with the exception of those who have a state "G" classification. In fact, grievant's present salary exceeds that which he would receive as a Carpenter II. At the level four hearing, however, grievant stated that he would take a salary cut to join the county-wide crew because of his belief that he would receive more overtime work. This belief was not supported with documentation.¹

The basis of grievant's dispute with the school board arose in July, 1985. Russell Knox, a county-wide maintenance employee with multi-classification as Carpenter II became ill and was granted a leave of absence. Raymond Yoho, on the county-wide crew, had assisted and worked with Mr. Knox

¹ Grievant Everett Yoho currently has a companion grievance, Docket No. 25-86-129-2, regarding overtime assignments in the county and discussion of that topic shall be contained in a separate decision.

extensively on numerous carpentry and building projects before Knox's illness and subsequently performed carpentry duties, when required, in Knox's absence. At some point in time R. Yoho was reclassified as a carpenter II. Mr. Knox eventually returned to work with the county-wide crew and R. Yoho retained the carpenter classification.

At the level two hearing school officials admitted that R. Yoho probably should have been reclassified much earlier, even before Knox's illness, because he had been performing carpentry work for a lengthy period of time, had demonstrated his proficiency and was presently doing the work as the need arose, and thus, deserved the pay. (T.12,13). During the level four hearing Richard Canestraro, general supervisor in the county, testified that a WSSPA representative had advised them to reclassify R. Yoho as is required by law.²

Grievant, E. Yoho, contends that Knox's absence created a position for a carpenter in the county-wide crew which was not posted but was filled by the improper reclassification of R. Yoho, an employee less senior than he. For relief, grievant asks that a Carpenter II position be advertised by the board in order that he may utilize his seniority with the county as a maintenance employee to apply and vie for the position.

² During his board employment, R. Yoho had previously been upgraded from groundskeeper to equipment operator as a result of reclassification requirements.

The board maintains that no job was created by Knox's illness since his absence was temporary and his position was being held for him. It further argues that no position existed because none of the county-wide maintenance men perform one specialized job, including carpentry, on a full-time basis; that R. Yoho performed carpentry duties as needed before and after Knox's absence; and lastly, no additional permanent full-time maintenance personnel were required in Knox's absence. Because those events occurred during the summer when school was not in session, an extensive staff of short-term substitute maintenance persons were also available and employed in the county as painters, groundskeepers and the like, to refurbish the county classrooms and grounds. Lastly, the board argues that R. Yoho was reclassified as a legal requirement.

W.Va. Code, 18A-4-8 states in relevant part, "The county boards shall review each service personnel employees job class annually and shall reclassify all service personnel as required by such job classification." Thus it appears that the board's action to reclassify R. Yoho was not to promote him into Knox's position while Knox was absent but rather to fulfill a legal obligation due Mr. Yoho. A regular employee at the same work station as the absent employee and holding the same classification may fill the position of said absent employee and a substitute employee may then work in the regular employee's stead. W.Va. Code, 18A-4-15. Mr. R. Yoho's retention of the carpentry classification upon Mr. Knox's return to employment did not constitute a vacancy for an additional carpenter as

grievant asserts.

FINDINGS OF FACT³

1. Grievant, Everett Yoho, is employed by the Marshall County Board of Education as a general maintenance employee with a permanent site assignment at John Marshall High School.

2. All other maintenance employees are multi-classified, do not have permanent site location duties but are assigned on a county-wide basis.

3. Grievant's salary supplement exceeds the state minimum standards and reflects the county's recognition of his unique duties and responsibilities.

4. In July, 1985, Russell Knox, a member of the county-wide crew and classified as a general maintenance/carpenter, became ill and was granted a leave of absence.

5. Prior to Knox's illness, Raymond Yoho, on the county-wide crew, had assisted Knox on construction/carpentry projects and continued to perform carpentry tasks during Knox's absence. The county had a large substitute maintenance crew at that time.

³ All proposed findings and conclusions submitted by the parties have been considered, as have their contentions. To the extent such proposals and contentions are consistent with the decision rendered herein they are accepted.

6. Upon the advice of a service personnel representative and because he had long qualified for job advancement, R. Yoho was reclassified to Carpenter II.

7. R. Yoho thereupon continued to perform carpentry duties when needed and retained the Carpenter II classification upon Knox's return to employment.

CONCLUSIONS OF LAW

1. Code, 18A-4-8 requires a county board of education to annually review service personnel job classifications to reclassify when necessary.

2. A county board of education must reclassify those employees who meet the requirements of an advanced classification. W.Va. Code, 18A-4-8.

3. A board of education may reserve an employee's position when he has been granted a leave of absence for illness and when the present staff is capable of performing the duties of said absent employee.

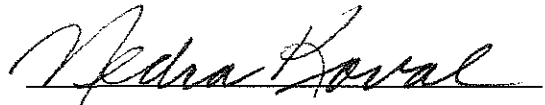
4. Substitute service personnel may be employed to perform the duties of a regular employee filling in for an absent employee when the latter employees are assigned the same work station and hold the same employment classification. W.Va. Code, 18A-4-15

5. A county board of education may fix salary schedules for service personnel in excess of state minimum requirements as long as uniformity requirements are met. Code, 18A-4-5b *E-b*

No vacancy for a carpenter existed in the county-wide maintenance crew during R. Knox's illness as his job was held for him upon his return to employment. Further, no additional maintenance personnel were needed or required during Knox's approved absence and R. Yoho's reclassification to Carpenter II during that period was necessary as a matter of law.

For all of the foregoing reasons and based upon the record in its entirety it is determined that this grievance is denied.

Either party may appeal this decision to the Circuit Court of Kanawha County or to the Circuit Court of Marshall County and such appeal must be filed within thirty (30) days 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.


NEDRA KOVAL
Hearing Examiner

Dated: 12/31/86