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WILLIAM R. BLANKENSHIP

v.

DOCKET NO. 20-87-202-1

KANAWHA COUNTY BOARD OF EDUCATION

D E C I S I O N

Grievant, William R. Blankenship, is employed by the Kanawha County Board of Education and is assigned as a general maintenance employee. On April 2, 1987 he initiated grievance proceedings by requesting an informal conference with his immediate supervisor. He alleged violations of W.Va. Code, 18A-4-8 and 18A-4-8b as he was not awarded a position of "heavy equipment truck driver" when he had more seniority than the successful applicant and misclassification in that he had been performing the duties of that position. The grievance was denied at levels one and two; an evidentiary hearing at level four was conducted on September 21, 1987.¹

¹At level four the only issue raised for consideration was misclassification as the question of whether he was entitled to the position recently posted was withdrawn by the grievant.

The grievant argues that while he is presently classified as a general maintenance employee he drives "all types of trucks" approximately one-half of his work week. On cross-examination the grievant indicated that his driving was for the purpose of going to or returning from a job site or to pick up materials. When not driving he assists a craftsman with masonry work. The grievant requests reclassification with two years backpay in the amount of the difference between his present classification and that of truck driver.

The board of education argues that the grievant's primary duty is to assist a craftsman, that no driving is scheduled and any which occurs is incidental and subservient to his masonry work.² Additionally, the job description for a general maintenance worker provides that he may be called upon to drive a truck and therefore the grievant has not been misclassified.

In addition to the foregoing the following shall serve as the findings of fact.

²By his own admission, as a general maintenance worker, the grievant "does what needs to be done". This includes working with concrete, block work, driving a dump truck, pushing snow, picking up brush, fixing fences, etc. (T. Level II p.6.)

Findings of Fact

1. The grievant is employed by the Kanawha County Board of Education and is classified as a general maintenance employee.

2. As part of his duties the grievant drives a truck to and from work sites to run errands and perform duties as assigned.

3. The Kanawha County School job description for the position of general maintenance employee provides that he may be called upon to drive a truck.

4. The grievant has produced no evidence regarding the amount of time he is required to drive a truck or the type of vehicles he drives.

5. There is no indication that the driving performed by the grievant is anything other than incidental to his duties as a general maintenance employee.

Conclusions of Law

1. In the grievance proceeding it is incumbent upon the grievant to prove the elements of the grievance by a preponderance of the evidence. Young v. Kanawha County Board of Education, Docket No. 20-87-210-1.

2. The grievant has failed to prove that he is misclassified and otherwise failed to prove the essentials of the grievance. Smith v. Kanawha County Board of Education, Docket Number 20-86-277.

Accordingly, the grievance is **DENIED**.

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

DATED

October 26, 1987

Sue Keller

SUE KELLER
Hearing Examiner