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EMPLOYEES GRIEVANCE BOARD**
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ELSIE BOGGS

v.

DOCKET NO. 29-87-008-4

MINGO COUNTY BOARD OF EDUCATION

DECISION

Grievant, Elsie Boggs, is an instructor for the Licensed Practical Nursing Program employed by the Mingo County Board of Education and assigned to the Mingo County Vocational-Technical Center.

In October 1985, the grievant was diagnosed as having rheumatoid arthritis. Thereafter, the grievant continued to work, with occasional time off for visits to her doctor, until the middle of March 1986.¹ At that time and pursuant to her doctor's orders, the grievant informed her supervisor she would have to be off work for an undetermined period of time. Almost simultaneously with her notice of need to be off work, the grievant received a notice from the respondent

¹The grievant was working under a contractual arrangement which required that she sign a new contract every six months. The renewal of each contract was dependent upon (among other things) the number of students who enrolled in the program. The grievant renewed her last contract effective for the period of February 1, 1986 to June 30, 1986.

board that her position was being terminated effective July 1, 1986.²

On May 29, 1986, the grievant received notification that since her position was being terminated, her insurance coverage would lapse July 31, 1986; however, the grievant was allowed the option of paying her insurance premium for an additional three months or until October 31, 1986. The grievant exercised her option to continue her insurance coverage for the three additional months.

Following a conversation with the respondent board's insurance co-ordinator, the grievant was led to believe that by being granted a medical leave of absence she could further extend her insurance coverage until March 1987.³ In furtherance of this belief, the grievant, in October 1986, made a written request for a retro-active leave of absence effective April 1, 1986 to March 30, 1987.⁴

² Respondent's Exhibit #1 dated March 27, 1986 revealed that the reason for termination was due to low enrollment and uncertainty of state funding.

³ Apparently the grievant was informed that had she applied for medical leave in March 1986 she could have been covered by medical insurance for one year.

⁴ This request was acknowledged as having been received and subsequently denied by the respondent board's attorney on November 5, 1986, which acknowledgement and denial was entered as Grievant's Exhibit #3.

The grievant's request for medical leave was denied and she seeks to have that request granted together with her medical costs expended and further seeks to require the respondent board to establish a medical leave policy which will be followed in the future.

By way of denial of any wrongdoing, the respondent board admits that it has no medical leave policy; however, the grievant's request for medical leave could not be granted because her position was terminated (July 1, 1986) prior to her making any request for medical leave (October 1986).

The applicable portion of the West Virginia Code to which the parties make reference is WV Code §18A-4-10. While that section of the Code does provide for personal leave for illness, etc., it makes no provision relating directly to the facts herein except that portion which states:

Any board of education shall have authority to supplement such leave provisions in any manner it may deem advisable in accordance with applicable rules and regulations of the state board and the provisions of this chapter and chapter eighteen [§18-1-1 et seq.] of this code.

As previously mentioned, the respondent board has not promulgated any applicable medical leave policy and the quoted portion of WV Code §18A-4-10 does not create a mandatory duty that the respondent board issue such a policy.

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

FINDINGS OF FACT

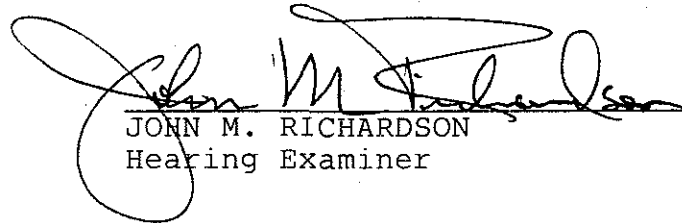
1. The grievant, Elsie Boggs, was employed as an instructor by the respondent board in its Licensed Practical Nursing Program.
2. The grievant entered into contracts of six month duration with the last contract being entered into effective February 1, 1986 through June 30, 1986.
3. The grievant sought a medical leave in October 1986 retroactive to April 1, 1986 through March 30, 1987.
4. The grievant's contract ended on June 30, 1986 and was not renewed pursuant to notice received in March 1986.
5. The respondent, the Mingo County Board of Education, has no medical leave policy applicable to the circumstances herein.

CONCLUSIONS OF LAW

1. WV Code §18A-4-10, while granting authority to any board of education to supplement leave provisions, does not create a mandatory duty to, in fact, supplement the contained leave provisions to include a medical leave policy.
2. The grievant has failed to establish any grounds upon which relief may be granted.

For the foregoing reasons, the grievance is DENIED.

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


JOHN M. RICHARDSON
Hearing Examiner

DATED: May 20, 1987