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**WEST VIRGINIA EDUCATION
EMPLOYEES GRIEVANCE BOARD**

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SHIRLEY HALE

v.

Docket No. 22-86-241-1

LINCOLN COUNTY BOARD OF EDUCATION

DECISION

Grievant, Shirley Hale, is employed by the Lincoln County Board of Education as a substitute bus operator working out of the Harts attendance area. On May 27, 1986, she filed a grievance alleging that the school board had improperly called another substitute driver, Douglas Skeens, for a Harts attendance area run in violation of W.Va. Code, 18A-4-8b. A level two response was filed on June 2 and an evidentiary hearing was conducted before the board of education on July 15, 1987. An appeal to level four was filed on August 6, 1986, and an evidentiary hearing was conducted on March 18, 1987.¹

¹ Originally the grievance was to be submitted to the hearing examiner on the transcript of the level three hearing and legal memoranda. This was later changed to a request for evidentiary hearing and the level three transcript of evidence was filed in the Education Employees Grievance Board office on March 16, 1987. References thereto will be noted as (T. __).

Early in the morning on May 9, 1986, two regular bus drivers, Geneva Ramey and Ed Skeens, requested Myra Vance, the school board switchboard operator, to obtain substitute drivers for their runs. Ms. Vance does not recall which of the requests she received first but recalls that she called several drivers, including grievant, to take Geneva Ramey's run and the drivers refused.

Ms. Vance maintains a rotating list of substitute drivers for the four attendance areas in Lincoln County and for the Geneva Ramey run she went to the Harts area substitute list and grievant refused to take the run. For the Ed Skeens run she went to the Guyan Valley list, began calling and Douglas Skeens accepted the run. She assumed the Ed Skeens run was a Guyan Valley run because that was where the bus was parked and Ed Skeens was listed as a Guyan Valley/Harts driver.² Part of the confusion attending this grievance was the characterization of the bus run because the run commenced in the Guyan Valley area, traveled to the Harts area and terminated in the Hamlin area. Additionally, no agreement had ever been reached between the school administrators and the

² At the level four hearing Ms. Vance testified that it was normal procedure to call the area where the bus is parked because that is the area from which the run starts. She had worked this position for four years and this was the first time this problem had arisen. Since this grievance she now logs in each call as to the exact time and the problem with this run has been corrected.

At level three grievant insinuated Ms. Vance was favoring Douglas Skeens (T.14) but this was not developed or pursued.

drivers concerning this run.³

Grievant testified that she was called about 6:00 a.m. and when she was requested to take the Geneva Ramey run she immediately refused it (T. 15); that she would not drive for Geneva Ramey because they had been engaged in a "fued" for over four years (T. 23). She was not aware that Ed Skeen's run had been given to another driver at the time she refused to take the Geneva Ramey run and the reason she had refused was the "personal vendetta." (T. 23, 24).⁴

In addition to the foregoing recitation, the following specific findings of fact and conclusions of law are appropriate.

³ Superintendent Smith testified at level four that since the initiation of this grievance there had been a definitive policy initiated identifying the Edward Skeens run as a Harts area run.

Ex-superintendent McCann had testified at level three that there was a general agreement that substitutes would be called from the respective areas (T. 14) and grievant acknowledged this situation had never happened to her before (T. 10).

⁴ She stated she didn't care if they called her five times a week -- she wouldn't drive for her.

At the level three hearing at one point she had testified that the reason she had not taken the Ramey run was because she was angry because Douglas Skeens had been called first. When the inconsistency was pointed out she stated that if she said that "I lied. I will put it plain." (T. 25). This was noted in the level three decision. (Joint Exhibit 2).

FINDINGS OF FACT

1. Grievant is employed as a substitute bus operator for the Harts attendance area. Douglas Skeens is a Guyan Valley attendance area substitute bus operator.

2. Prior to May 9, 1986, there was no agreement between substitute drivers and school administrators defining the bus run of Edward Skeens as a Harts area run or a Guyan Valley run.

3. On May 9, 1986, about 6:00 a.m. Myra Vance, a school board switchboard operator charged with the responsibility of obtaining substitute drivers for regular drivers not able to work, called grievant to take the bus run of Geneva Ramey. Grievant refused for purely personal reasons.

4. Ms. Vance does not recall the order of calls but Douglas Skeens was eventually obtained to take the substitute run for Edward Skeens.

5. Ms. Vance was following normal procedures adopted at the time for selection of substitute bus drivers and no evidence of intentional or arbitrary conduct on her part has been shown by grievant.

CONCLUSIONS OF LAW

1. In the grievance procedure it is incumbent upon the grievant to establish the essential elements of the grievance by a preponderance of the evidence. Edith Harrison v. Kanawha County Board of Education, Docket No. 20-86-219.

2. Grievant has failed to prove the essential elements of the grievance or that she was entitled to compensation for the substitute run performed by another substitute driver under then existing policy. Karen Sue Connor v. Barbour County Board of Education, Docket No. 01-86-197-2.

Accordingly, the grievance is DENIED.

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



LEO CATSONIS

Chief Hearing Examiner

Dated: April 27, 1987