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KAREN THOMPSON

v.

Docket No. 05-87-242-3

BROOKE COUNTY BOARD OF EDUCATION

D E C I S I O N

Grievant, Karen Thompson, is employed by the Brooke County Board of Education as a Custodian III. She alleges violation of her seniority rights when she was not selected by the board for a vacant secretarial position. The level four appeal appears to have been filed subsequent to adverse decisions at the lower grievance levels; the parties submitted the matter for decision upon the existing record and written briefs. Grievant's proposed findings of fact and conclusions of law were filed November 13, 1987 and the board's, November 23, 1987.

A secretary II or III position was posted in June 1987 for Follansbee Middle School (FMS), grievant's current school assignment. Grievant applied for the position and was interviewed by her principal and vice-principal who joked with her about her application. Grievant states that her principals' comments to her during the interview procedure were improper and unprofessional, even if in jest.

The board did not hire grievant, who had eight years seniority as a regular employee, but instead hired a substitute secretary who had far less seniority than grievant.

Grievant contends that the most senior applicant and regular service employees must be given preference over substitutes in the filling of vacancies. She claims she meets the qualifications of the secretarial position based on her past work experience as a cashier, sales clerk, motor route driver and dietary server for a hospital, and her completion of high school business courses as well as refresher courses. Grievant asserts that skills testing is not an exclusive means to determine whether someone is qualified for a position and her need to "learn on the job" is something everyone must face when starting a new position, regardless of

their qualifications. She requests instatement to the secretary III position at FMS and back wages and benefits.<sup>1</sup>

The board of education states that shorthand skills are required of all new secretarial positions and applicants as the school system has no dictating machinery. Persons wishing to qualify for a secretary's position must pass a performance test in shorthand and other basic skills. Grievant's scores, the respondent contends, were not acceptable upon the two occasions that she tested.

The board argues that grievant was considered but not found to be qualified for the position of secretary as reflected by her test scores. It relies on West Virginia Education Employees Grievance Board decisions that a board of education does not have to employ service personnel applicants who do not possess skills required of the position.

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

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<sup>1</sup>In his level four brief, counsel for grievant seemed to be equating the employment of the successful applicant as a denial of a promotion for grievant and argues that an employee must be given notice of performance deficiencies and an improvement opportunity prior to the denial of a promotion. School officials denied that her non-selection for the position was based on absenteeism problems of the last school year, although the principal did mention the subject during her interview.

### FINDINGS OF FACT

1. Grievant has been employed by the board of education for approximately eight years and is currently assigned to Follansbee Middle School (FMS) as a custodian. She does not hold a secretary classification.

2. She applied for a secretary vacancy at FMS and was interviewed for the position by her principals who apparently joked with her about her desire to become a secretary.

3. The board requires that its secretaries possess shorthand skills since dictating equipment is not available in the county. It offers secretarial proficiency testing in order that employees in other classifications may demonstrate that they possess the requisite secretarial skills.

4. Grievant herein testified that she took business courses in high school and had taken a refresher typing and a shorthand course of late. Notwithstanding those recent endeavors she did not meet acceptable proficiency scores in either of two attempted secretarial tests administered by the board.

5. The positions of cashier, sales clerk, motor route driver and dietary server do not involve necessary secretarial skills such as answering the telephone, typing, the taking of shorthand notation, filing and related tasks, thus, grievant's claim that her job experiences in those positions qualified her for a secretarial position is without merit. Grievant may possess useful and worthy skills as a result of her past employment, but those enhancements are not transferrable to the specific skills required of a secretary and set forth in the statutory description of secretary.

6. The board of education hired a substitute secretary who possessed the requisite skills but who had less seniority than grievant for the secretary vacancy at FMS.

#### CONCLUSIONS OF LAW

1. W.Va. Code, 18A-4-8b(b) requires that in filling a service personnel position a county board of education must consider seniority, qualifications and past evaluation. Lish v. Brooke County Board of Education, Docket No. 05-86-218-3; J. Jones v. Ohio County Board of Education, Docket No. 02-87-162-2.

2. A service personnel applicant holding a classification title for the vacant position and those service employees who are most senior are given and a preferred status for the vacancy. W.Va. Code, 18A-4-8b(b).

3. At the time she applied for the position at issue, grievant did not demonstrate that she possessed the necessary skills to be employed as a Secretary III and a board of education is not required to fill a vacancy with an applicant who does not possess skills required for the position. Lish v. Brooke County Board of Education, supra; Jones v. Ohio County Board of Education, supra.

Accordingly, this grievance is DENIED.

Either party may appeal this decision to the Circuit Court of Kanawha County or to the Circuit Court of Brooke 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:

December 23, 1987

Nedra Koval

NEDRA KOVAL  
Hearing Examiner