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**MAC HALL**

**v.**

**DOCKET NO. 29-87-237-1**

**MINGO COUNTY BOARD OF EDUCATION**

**D E C I S I O N**

Grievant, Mac Hall, is employed by the Mingo County Board of Education as Reading/Inventory Coordinator. He was notified in March 1987 by letter that the Superintendent of Schools had recommended to the Board that his contract of 261 days be terminated and another one initiated for 220 days to be effective for the 1987-88 school term. The letter notified grievant that a regular meeting of the Board would be held on April 9, 1987 and he could appear at that time if he desired. The letter also indicated the action was taken pursuant to W.Va. Code, 18A-2-2 because of a lack of need. Grievant chose not to request a hearing and filed a Level I grievance on August 15, 1987 protesting the cutback in his days of employment. A Level II decision was adverse to the grievant

and the Board waived participation at Level III. A Level IV evidentiary hearing was held on November 25, 1987.

The grievant's main argument is one of discrimination. He contends his employment contract term was reduced while others with less seniority in the same area of employment were actually allowed to work days in excess of their contract requirements. He also contends he should have been given a list of employees with less seniority in the county so he could have "bumped" someone and maintained his 261 days contract status.

The Board contends its actions were all in accordance with the West Virginia Code and the grievance should be disallowed because of Mr. Hall's failure to file it within statutory time limits and his decision not to request a hearing when first notified on March 27, 1987 that he had a right to do so before a final decision on his contract was made.

W.Va. Code, 18-29-4(a)(1) sets forth a requirement that grievances are to be filed within fifteen working days following the occurrence of the event upon which the grievance is based. In the present case, over four months elapsed between the time Mr. Hall was informed of the Board's action on his contract and the date he filed his grievance.<sup>1</sup> Grievant also chose not to request

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<sup>1</sup>Grievant and Mr. Fullen, the Board's representative, both made remarks to the effect that the Board did take final action and terminate grievant's 261 day contract and approve a new 220 day contract and indicated this action took place in March 1987. Grievant  
(footnote cont.)

a hearing before the Mingo County Board of Education took final action on the Superintendent's recommendation.

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

#### FINDINGS OF FACT

1. Grievant was employed by the Mingo County Board of Education in 1982 on a 261 day contract basis and has been serving in the capacity of Chapter 1 Reading Director.

2. Grievant was notified in March 1987 that the Superintendent of Schools had recommended that the Board terminate his 261 day contract and replace it with a 220 day contract effective the beginning of the 1987-88 school term.

3. Grievant was informed of his right to a hearing on the proposed cutback in his employment contract before the Board took final action on the Superintendent's recommendation and chose not to request such a hearing.

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(footnote cont.)

did not raise any issue of inadequacy of notice or provide any explanation for the delay in filing his grievance. Although grievant did allude to a denial of due process during the course of the Level IV hearing, he presented no evidence to support that claim and allegations raised but not developed or pursued are considered abandoned. Church v. McDowell County Board of Education, Docket No. 33-87-214; Farmer v. Logan County Board of Education, Docket No. 23-87-052-4.

4. In March 1987 the Board accepted the Superintendent's recommendation and made the recommended cutback in grievants contract effective the beginning of the 1987-88 school term.

5. Grievant filed the grievance in the present case on August 11, 1987.

#### CONCLUSIONS OF LAW

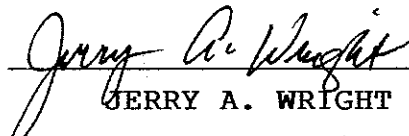
1. W.Va. Code, 18-29-4 requires grievance proceedings to be initiated within fifteen days of the date on which the event became known to the grievant or within fifteen days of the most recent occurrence of a continuing practice giving rise to a grievance.

2. It is incumbent upon an employee to timely pursue his rights through the grievance process or to demonstrate a valid reason for the delay. Murphy v. Mingo County Board of Education, Docket No. 29-86-341-4; Scarberry v. Mason County Board of Education, Docket No. 26-86-291-1; Scroggs v. West Virginia University, Docket No. BOR1-87-054-2.

3. The present grievance was not timely filed and the grievant demonstrated no reasons for the delay.

Accordingly, 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 within receipt of this decision. (W.Va. Code, 18-29-7). Please inform this office of your intent to do so in order that the record can be prepared and transmitted to the Court.

  
JERRY A. WRIGHT  
Hearing Examiner

DATED:

January 6, 1988