



**Members**  
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**WEST VIRGINIA EDUCATION AND  
STATE EMPLOYEES GRIEVANCE BOARD**  
ARCH A. MOORE, JR.  
Governor

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**BOBBY PLEASANT**

**v.**

**Docket No. 20-88-201**

**KANAWHA COUNTY BOARD OF EDUCATION**

**DECISION**

Grievant Bobby Pleasant is employed by Respondent Kanawha County Board of Education as special education teacher at Chesapeake Elementary School. On June 22, 1988, Grievant presented a document, styled in part "Kanawha County Schools-Form A," to his immediate supervisor, Chesapeake Principal Jean Peters. This document was a request for an informal conference with Ms. Peters to attempt resolution of a potential grievance. Mr. Pleasant's complaint was related to his June 1, 1988 performance evaluation. Due to the summer hiatus from school, Grievant, Ms. Peters, and Mr. Bill Courtney, Director of Employee/Employer Relations for Respondent, agreed that this conference would be held but delayed until August 9, 1988.

On August 9, that meeting was conducted and, by memorandum of same date, Ms. Peters advised Grievant that no modification of his evaluation would be forthcoming as a result thereof. She attached to that memo a form appropriate for the filing of a formal grievance at Level I. According to Grievant, he completed that form on August 12, 1988 and, upon the advice of Kathleen Smith, his West Virginia Education Association representative,<sup>1</sup> he hand-delivered the same on that date to Respondent's Office of Employer/Employee Relations.<sup>2</sup> He further asserted that he handed the form to a woman with black hair sitting behind a desk he assumed was a secretary, and that she assured him he had delivered the form to the appropriate office.

By letter of September 30, 1988, Ms. Smith advised Mr. Courtney that Grievant wished to advance his case to Level II since he had received no notification of disposition from Level I. She attached a copy of a completed grievance form, dated August 12, 1988, to that letter. That form was stamped as being received in Respondent's Associate Superintendent for Personnel's office<sup>3</sup> on October 3, 1988;

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<sup>1</sup> Mr. Richard Stonestreet of WVEA was Grievant's representative at the Level IV hearing.

<sup>2</sup> The parties agreed at Level IV that this method of initiating a grievance at Level I is appropriate when a grievant's immediate supervisor is unavailable, as Ms. Peters was on August 12.

<sup>3</sup> The Associate Superintendent for Personnel and the  
(Footnote Continued)

according to Mr. Courtney, October 3 was the first date he or anyone in his office saw the form<sup>4</sup> or was aware of Mr. Pleasant's grievance.<sup>5</sup> By letters of October 3 and October 13, Mr. Courtney informed Ms. Smith that Respondent considered the matter untimely filed per W.Va. Code §18-29-4 and that it therefore would not be processed at any level.<sup>6</sup> On October 24, 1988, Grievant filed his complaint at Level IV, and a hearing, limited to the issue of timeliness, was conducted on November 10, 1988.

In addition to the foregoing, it is appropriate to make the following findings of fact and conclusions of law:

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(Footnote Continued)

Director of Employer/Employee Relations share an office in Respondent's central headquarters.

<sup>4</sup> Courtney testified that neither of the secretaries in his office has black hair, but that both are well aware of the importance of grievances and would not characteristically have misplaced, forgotten or incorrectly processed a grievance form.

<sup>5</sup> Despite the outcome herein, this Grievance Board is persuaded that either Grievant or Ms. Smith, his representative, could have without great difficulty taken further steps to ensure that this matter had been properly submitted at Level I.

<sup>6</sup> Despite Respondent's statement in this regard, this Grievance Board considers Grievant's complaint as having been denied at each of Levels I, II and III on the basis of timeliness.

### FINDINGS OF FACT

1. Grievant Bobby Pleasant, a teacher employed by Respondent Kanawha County Board of Education, disagreed with his Performance Evaluation dated June 1, 1988.

2. A conference between Grievant and his immediate supervisor, Ms. Jean Peters, was held on August 9, 1988 to discuss this matter. By memorandum of August 9, Ms. Peters advised Grievant that no change would be made in his evaluation. A form appropriate for the filing of a formal grievance was attached to the memo.

3. On August 12, 1988, Grievant completed the grievance form and, upon the advice of his representative, hand-delivered it to Respondent's central headquarters, although possibly not to the appropriate office within that building.

4. With an accompanying letter dated September 30, 1988, Ms. Kathy Smith, grievant's representative, sent a copy of the grievance form to Mr. Bill Courtney, Respondent's Director of Employer/Employee Relations.

5. On October 3, 1988, Mr. Courtney first saw the aforementioned grievance form and first became aware of Grievant's complaint.

6. Respondent denied the grievance as untimely per W.Va. Code §18-29-4 at each of Levels I, II and III.

### CONCLUSIONS OF LAW

1. "Within ten days of receipt of the response from the immediate supervisor following the informal conference, a written grievance may be filed with said supervisor by the grievant or the designated representative on a form furnished by the employer or agent." W.Va. Code §18-29-4(3).

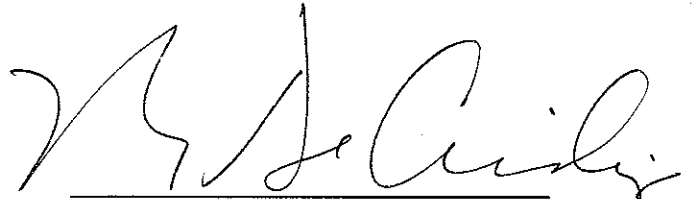
2. "A grievance must be filed within the times specified in [Code §18-29-4]... ." Code §18-29-3(a).

3. The grievance procedure for West Virginia education employees is intended "to provide a simple, expeditious and fair process for resolving problems at the lowest possible administrative level" and it "shall be construed to effectuate that purpose." Code §18-29-1.

4. Grievant made a reasonable, good faith effort to comply with the timeliness requirements of Code §§18-29-1 et seq.

5. The instant grievance was timely filed at Level I.

Accordingly, this grievance is **REMANDED** to Level I for prompt consideration and disposition on the merits.



**M. DREW CRISLIP**

**HEARING EXAMINER**

DATED: November 23, 1988