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MICHAEL POLING, TIM BOSELEY  
and WILLIAM MOUSER

v.

DOCKET NO. 89-01-047

BARBOUR COUNTY BOARD OF EDUCATION

DECISION

Grievants, Michael Poling, Tim Boseley and William Mouser, are employed by the Barbour County Board of Education (Board) as custodians III assigned to Philip Barbour High School. These employees filed a level four grievance on February 7, 1989 in which they alleged that they were entitled to out-of-classification pay for hours spent replacing ceiling tile. The grievance had previously been denied at levels one, two and three. An evidentiary hearing was held at level four on May 10, 1989.

On October 6, 10 and 11, 1988 the grievants were relieved of most of their routine custodial duties and assigned to paint and/or replace water damaged ceiling tiles

throughout the school.<sup>1</sup> The grievants indicated on the level four appeal form that they worked 18 (Poling), 12 (Mouser) and 4 (Boseley) hours, respectively, at this task which required that they replace 271 and paint 153 tiles. They argue that this work was outside their classification as W.Va. Code §18A-4-8 provides that custodians perform only minor repairs. They assert that this assignment could not be considered minor in nature as evidenced by the amount of time needed to complete the project, that their routine duties were neglected to allow them time to work on the tiles and by the large number of tiles repaired or replaced. The grievants request that they be paid for their work at the proper maintenance scale, carpenter or painter, and that they not be required to do such work in the future.<sup>2</sup>

The Board argues that the assignment was consistent with applicable law and policy and was in fact a task which the grievants normally perform. Other than the number of tiles repaired or replaced the assignment was not complicated, required no special skills and would otherwise be considered minor in nature. The Board asserts that the work was not outside the grievants' classification as custodians III.

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<sup>1</sup>This project was given priority as the county was preparing for an on-site accreditation review by the State Board of Education on October 13 and 14.

<sup>2</sup>Custodians III are compensated at paygrade C while carpenters and painters are classified at paygrade E.

Ed Larry, Director of Maintenance and Auxiliary Services, testified that the ceiling tile is the two by four foot cardboard fiber panel type which is simply placed on a supporting gridwork. Some tiles required cutting with a utility knife to fit corners, edges, etc. and those tiles which were minimally damaged were painted. No installation or repair of the gridwork was required.

In support of its position the Board cites an interpretation of the State Superintendent of Schools (January 2 and 29, 1986) which stated that while custodians could not be assigned specialized work outside their job descriptions, they are able to cope with many common, minor maintenance jobs which might be included within the duties of other job titles. "Minor repairs" was defined as duties which include but are not limited to fixing commodes, replacing light bulbs, reconditioning doors, restoring latches and locks, replacing ceramic tiles, changing or rewiring an electric receptacle or plug, unclogging a drain, changing washers on faucets, some waterproofing, cement work, painting and polishing.

W.Va. Code §18A-4-8 defines custodian III as personnel employed to keep buildings clean and free of refuse, to operate the heating or cooling systems and to make minor repairs. The grievants do not argue that changing or painting the ceiling tile is a minor repair. Grievant Poling testified at level two that it is a part of his

routine duties and that he has no objection to repairing/replacing one or two tile as needed.

The grievants' argument that it was the number of tiles involved which made it a major rather than a minor repair is flawed. By the grievants' own admission the activity is one which they normally perform as a minor repair. The amount of skill did not change when the quantity was increased. A larger than usual assignment of specific minor repair work which they generally perform does not entitle grievants to higher classification pay.

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

### **Findings of Fact**

1. Grievants are employed by the Barbour County Board of Education as custodians III assigned to Philip-Barbour High School.

2. In order to prepare for an on-site inspection by the State Board of Education the grievants were assigned to replace/repair ceiling tile for three days in October 1988.

3. Grievants normally replace/repair ceiling tile as part of their regular duties although usually only a few tile at a time.

## Conclusions of Law

1. Custodians III are personnel employed to keep buildings clean and free of refuse, to operate the heating or cooling systems and to make minor repairs. W.Va. Code §18A-4-8.

2. An increased quantity of minor repair work which does not require additional or increased skills for completion does not entitle an employee to compensation at a higher paygrade.

Accordingly, the grievance is DENIED.

Either party may appeal this decision to the Circuit Court of Barbour County or to the Circuit Court of Kanawha County and such appeal must be filed within thirty (30) days of receipt of this decision. (W.Va. Code §18-29-7) Neither the West Virginia Education and State Employees Grievance Board nor any of its Hearing Examiners is a party to such appeal, and should not be so named. Please advise this office of any intent to appeal so that the record can be prepared and transmitted to the appropriate Court.

DATED: July 27, 1989

Sue Keller  
SUE KELLER

SENIOR HEARING EXAMINER