JAYELL FROATS

v. Docket No. 93-15-463

HANCOCK COUNTY BOARD OF EDUCATION

DECISION

Grievant, Jayell Froats, employed by the Hancock County Board of Education (Board) as a bus operator, filed a level four grievance appeal on November 10, 1993, in which she complained that she had not been properly compensated for work completed on July 12, 14, 16, 23, 26, 28, and 30, 1993. Following a level four hearing for this and other matters on April 21, 1995, the grievance became mature with the close of briefing on June 13, 1995.

The record in this matter consists of the decisions issued at levels one, two, and three, a level two transcript, with exhibits, supplemental testimony at level four with one exhibit submitted by the Board. Notwithstanding hearings at two levels, the complaint remains inadequately stated and vaguely addressed. Based upon the foregoing evidence, thefacts of this matter are as follows:

1. Grievant is a long-term employee of the Board and is classified as a bus operator during the regular school term.

2. During Summer 1993 Grievant was hired as an alternate, or substitute, bus operator for the Summer Handicapped Program, effective July 1-30.

3. Three regular bus operator positions were allocated to the summer program. Two employees were awarded three and one-half hour contracts and the third employee worked a seven hour contract.

4. Grievant was assigned substitute runs for both employees who worked three and one-half hours.

5. Grievant actually substituted on July 16, 23, 26, 28, and 30.

6. Grievant did not work on July 12 and 14 but was inadvertently bypassed on the

substitute roster. The Board agreed to pay her for those days.

7. Based upon the assumption that she had been paid, apparently via direct deposit, Grievant wrote personal checks for which she lacked sufficient funds, incurring an unspecified dollar amount in fees relating to these checks.

8. Schedules submitted for Bus #2 establish that the morning run began at 7:52 a.m. and concluded at 8:55 a.m. The afternoon run began at 12:05 p.m. and ended at 1:10 p.m.

9. The schedule for Bus #1 indicates that the driver was to leave the garage shortly after 8:00 a.m. with the morningrun completed by 8:55 a.m. The afternoon run began at 12:05 p.m. and ended at 12:56 p.m. Drivers were also required to complete pre- and post-trip inspections.

10. The Board asserts that the grievance was not timely filed on September 10, 1993.

11. Grievant had originally requested an informal grievance conference by letter dated July 26, 1993. (See footnote 1) **By memorandum of the same date, Grievant and Superintendent Daniel Curry agreed to waive the time limits of the grievance conference "to coincide with the commencement of the 1993-94 school year. . . ."**

Grievant asserts that on July 12, 14, 16, and 23, she substituted for an employee with a seven-hour assignment and that her compensation, calculated with her years of experience, should have been $15.48 per hour. On July 26, 28, and 30, Grievant claims to be entitled to $87.86 per day. The Board notes that Grievant replaced bus operators who held three and one-half hour contracts, that her actual driving time was always less than two hours, and that no evidence was offered to show that her duties exceeded the three and one-half hour contract for which she was paid. In this case, the Board must prevail.

Because the issues raised in this matter are not disciplinary in nature, it is incumbent upon the Grievant toprove the elements of the grievance by a preponderance of the evidence. Workman v. Clay County Bd. of Educ., Docket No. 95-08-170 (July 14, 1995). A contract issued to Pat Pugh, one of the bus operators for which Grievant substituted, establishes that she was employed for 3.5 hours per day. Grievant did not offer any evidence that the other bus operator was employed for a longer period of time. Neither did Grievant prove that she worked in excess of the allotted time, even with pre- and post-trip inspections.

Although Grievant does not explicitly articulate such an argument, calculation of her work

day, beginning with the pre-trip inspection prior to the morning run and including all the clock hours through the post-trip inspection for the afternoon run, would be incorrect. These summer runs, like those of the regular school year, are calculated based upon actual time worked. Grievant did not work the hours between the morning and afternoon shift and cannot be paid for them. It does appear that Grievant's hours may have been extended on July 30, as evidenced by a letter sent to parents regarding a field trip which would require an entire day (9:00-3:00) instead of a half-day session. However, Grievant failed to prove that her compensation was not adjusted for that day.

In addition to the foregoing findings of fact and discussion it is appropriate to make the following formal conclusions of law.

CONCLUSIONS OF LAW

___1. In order to prevail, a grievant must establish the truth of the allegations by a preponderance of the evidence. Workman v. Clay County Bd. of Educ ., Docket No. 95-08-170 (July 14, 1995).

2. Grievant has failed to prove by a preponderance of the evidence, that she was entitled to compensation in excess of that which she received.

3. Grievant has failed to prove a violation of any statute, regulation, or policy which would entitle her to reimbursement for charges attendant to checks returned for insufficient funds based upon her belief that the Board had deposited additional money in her account.

Accordingly, the grievance is DENIED.

DATED 8/28/95 SUE KELLER, SENIOR ADMN. LAW JUDGE

Footnote: 1*The claim regarding July 30 was added prior to the level two hearing.*