

**WEST VIRGINIA PUBLIC EMPLOYEES
GRIEVANCE BOARD**

SYNOPSIS REPORT

Decisions Issued in November 2022

The Board's monthly reports are intended to assist public employers covered by a grievance procedure to monitor significant personnel-related matters which came before the Grievance Board, and to ascertain whether any personnel policies need to be reviewed, revised or enforced. W. Va. Code §18-29-11(1992). Each report contains summaries of all decisions issued during the immediately preceding month.

If you have any comments or suggestions about the monthly report, please send an e-mail to wvgb@wv.gov.

NOTICE: These synopses in no way constitute an official opinion or comment by the Grievance Board or its administrative law judges on the holdings in the cases. They are intended to serve as an information and research tool only.

TOPICAL INDEX
COUNTY BOARDS OF EDUCATION
PROFESSIONAL PERSONNEL

KEYWORDS: Experience Credit; Pay; Salary; Discrimination; Favoritism

CASE STYLE: Miker v. Monongalia County Board of Education
DOCKET NO. 2022-0581-MonED (11/1/2022)

PRIMARY ISSUES: Whether Grievant provided evidence of discrimination or favoritism.

SUMMARY: Grievant is employed by the Monongalia County Board of Education as a heating, ventilation, and air conditioning teacher. Grievant's starting salary was based on 28 years of experience for private sector work in the field. An audit conducted in 2013 concluded that Grievant was improperly paid for these years of experience. No action was taken by Grievant at that time. In December of 2021, Grievant obtained a Bachelor's degree and was awarded a pay increase consistent with the salary schedule. Grievant then sought 28 years of work experience. The record established that the initial years of experience had been awarded in error. Grievant's private sector experience did not comply with the statutory definition for years of experience for salary computation. In addition, Grievant provided no evidence to support his allegation of discrimination and favoritism. This grievance is denied.

TOPICAL INDEX
STATE EMPLOYEES

<u>KEYWORDS:</u>	Timelines; Workers' Compensation Temporary Total Disability; Policy; Leave; Arbitrary and Capricious
<u>CASE STYLE:</u>	<u>Rexrode v. Department of Homeland Security</u> DOCKET NO. 2022-0664-DHS (11/16/2022)
<u>PRIMARY ISSUES:</u>	Whether Grievant proved by a preponderance of the evidence that employees receiving TTD benefits are exempt from annual leave carry-forward limits.
<u>SUMMARY:</u>	Grievant went on Workers' Compensation Temporary Total Disability (TTD) in 2020, after being injured on the job with Respondent. Grievant remained on TTD through 2022, resulting in loss of annual leave exceeding carry-forward limits. Grievant asserts carry-forward limits do not apply to employees receiving TTD benefits. Respondent counters that no such exception exists under policy and that the grievance was untimely. Grievant seeks reinstatement of 188 hours of annual leave, 20 hours for 2020 and 168 hours for 2021. The record is silent as to when Respondent made its carry-forward decision accessible to Grievant. Thus, Respondent did not prove the grievance was untimely. Regardless, Grievant failed to prove Respondent's interpretation of policy was unreasonable. Accordingly, this grievance is DENIED.