

[Labor Relations Agency Stationery]

BEFORE THE LABOR RELATIONS AGENCY

ORDER AND DECISION #63

Re: Unit Clarification  
80-14

On or about October 27, 1980 the State of Alaska, Department of Administration petitioned the Labor Relations Agency to hear 16 disputes between certain individuals who oppose being moved from supervisory to the general government bargaining unit. Marvin Taylor, PCN #247705, and George Imbsen PCN #240749 withdrew their disputes from the Agency's files by a letter dated December 19, 1980. An Order dismissing same was signed February 9, 1981. A hearing scheduled for March 26, 1981 was canceled due to poor weather at Valdez.

The Valdez trip was rescheduled for April 16, 1981. The Agency was notified the week] of April 6th that the State of Alaska and APEA were still conferring on the Valdez dispute and that the parties desired a continuance until further notice to the Agency. The Valdez disputes involved are. Shepard PCN #249329, Don Morefield Valdez PCN #249736, a vacancy PCN #249329 and Herman Londagin PCN #249706. Those hearings will be heard when the Agency is notified in writing by both parties that they desire the matters to be placed in front of the hearing officer.

APEA notified Carolyn Hinke and the agency on or about March 17, 1981 that APEA wished to withdraw their objections of the proposed unit changes of Rodney Anderson of Fairbanks PCN #245715, Allan Neidholt of Fairbanks PCN #245846, Lynn Harnisch PCN #245835, and Al Brawner of Fairbanks PCN #24579. Those cases are to be dismissed without Prejudice.

On March 27, 1981 the following cases were heard, Findings of Fact and recommendation follow.

ROBERT FINNERTY PCN #3245709

Mr. Finnerty has been employed by the State for approximately 18 years. He has been in the supervisory unit since the unit was formed. He is the construction office engineer for the Department of transportation, Fairbanks office, and spends 70% of his time in the office. He is the main individual who hires Labor Trade and Crafts personnel.

At any given time he might be involved in 15 to 20 projects that the department is undertaking in the Fairbanks district.

THE TESTIMONY PRESENTED

Mr. Finnerty testified that he processes the requests from his subordinates to place personnel in any individual

job. He has the authority to place any given individual in any particular job, in any given area. He is a direct line supervisor of Mr. Tiemesson and Mr. Ronken. He is a supervisor of Mr. Blacklund, although Mr. Blacklund is involved in the surveying of jobs as opposed to construction or labor positions. Mr. Finnerty testified that whenever someone such as Tiemesson, Ronken or Blacklund needed a new employee they would contact his office. because of their lengthy service record with the State and in the department they often times had specific recommendations as to a specific employee to be hired. Whenever possible, Mr. Finnerty will follow their recommendations. Mr. Finnerty reserved the right to not follow their recommendations because that individual's particular talents may be needed at a different job site in the district. Mr. Finnerty testified that he overlooked the promotion and transfer of individuals, all the while admitting that Local 71's contract with the State of Alaska basically governed the promotion or transfer of individuals within the district. In large part, promotion and transfer functions

were precluded by the Local 71 contract. The local "job boss" such as Tiemesson and Ronken might recommend promotion for an individual but only in a rare instance.

Mr. Blacklund had full authority in his department because of its specific survey nature.

Mr. Tiemesson and Mr. Blacklund did transfer individuals and had done so in the past. Their specific transfers were always followed by Mr. Finnerty. Mr. Ronken testified that he did not transfer individuals because of the Local 71 contract and because the projects which he supervised were basically in the bush area.

Mr. Finnerty testified that he processed the paperwork and had direct line authority insofar as suspension of individuals was concerned. However, Mr. Tiemesson and Mr. Ronken and Mr. Blacklund all had authority to suspend individuals on the spot.

Mr. Finnerty testified that in the past several years he'd only known of two people being discharged. The recommendations of the local site "job bosses" were followed particularly if the job boss had as much experience as Mr. Tiemesson and

Mr. Blacklund.

Mr. Finnerty testified that the grievance procedure set forth in Local 71 (a contract assigned January 1, 1980 to September 31, 1982, on page 8 and 9) clearly set forth a complaint and grievance procedure that LTC had negotiated with the State of Alaska. The grievance starts with the employer reporting in writing a grievance and filing it with the employees' first line supervisor outside the Labor Trades and Crafts Unit. This supervisor would be a Mr. Tiemesson, Mr. Blacklund or Mr. Ronken. Mr. Finnerty testified that approximately 80% of all grievances were settled at step 1.

Step 2 moves the grievance to the executive head of the department or agency in which the grievant is employed. Step 3 involves the grievance moving to the commissioner of the Department of Administration. Step 4 is arbitration. Mr. Finnerty testified that he was involved with Step 1 grievances as the grievants' immediate supervisors did report them to his office and he attempted to settle the grievance at that time and place.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

I find that Mr. Finnerty has substantial responsibility regularly to participate in the performance of the employment, promotion, transfer, suspension, discharge, and the settling of grievances. Therefore, Mr. Finnerty should remain in the supervisory bargaining unit.

The testimony of Mr. Finnerty, as it relates to Mr. Tiemesson, Mr. Blacklund and Mr. Ronken was particularly helpful and has been considered in the Findings of Fact and Conclusions of Law in those cases.

JOHN TIEMESSON

Mr. Tiemesson is and has been an employee of the State of Alaska for 20 years. He has been in the supervisory unit since it was formed. He works in Fairbanks approximately 2/3 of the time and 1/3 of the time outside of Fairbanks. He is a project engineer and supervises Local 71 employees in remote areas. In 1980 he was placed in a position in Fort Yukon and supervised 2 employees. In 1979 he supervised 10 employees and in 1978 he supervised 30 employees. These employees are part of his job crew.

Mr. Tiemesson testified that because of his long duration

with the State of Alaska he knows what type of job he has been assigned to, the type of personnel that he needs to fulfill the requirements of that job. He requests specific individuals for specific job tasks. In the great majority of those instances he is granted the work crew he requires.

The Local 71 contract with the State of Alaska states the pay rate for the job function. An advertisement is placed pursuant to the Local 71 contract of papers. Seniority in most instances determines the promotion of employees rather than the individual selection by Mr. Tiemesson or the district office. The district office is more directly involved in the promotion function. However, Mr. Tiemesson would strongly oppose recommendations for people who are not qualified for jobs.

Mr. Tiemesson makes final decisions concerning transfer and has the paperwork processed through the district office of the Department of Transportation.

Mr. Tiemesson can only recommend discharge of employees. Of course, because he is working in remote job sites, his recommendation is followed by the district office in 80-90%

of the instances. Discharge does rarely occur, but over his 20 year work history he has discharged employees through the district office. It is his recommendation that is followed by the district office any time an employee is discharged.

Mr. Tiemesson has suspended employees for a one day period of time over the last several years. Once again his hands are tied by the Local 71 contract and the need for suspension is not an every day occurrence in his position.

He knows what people he needs for jobs and he picks those people and there has been a long standing work relationship between himself and most members of his crew. Insofar as adjudicating grievances, Mr. Tiemesson takes step 1 grievance procedures.

#### FINDINGS OF FACT

In summation, Mr. Tiemesson is basically in a "lead capacity" with responsibilities that make him the direct line supervisor while he is employed. However, Mr. Tiemesson is only out of the Fairbanks area approximately 1/3 of the time. His functions in employment are to recommend individuals he needs for a job. He does not have the final authority to



hire someone. Mr. Tiemesson can make recommendations on promotion, but cannot and does not regularly participate in the promotion function. Likewise, as a discharge function, Mr. Tiemesson's recommendations are normally followed, but he does not have substantial authority to regularly participate in the performance of that function.

I find that Mr. Tiemesson does regularly participate and has substantial responsibility in the areas of transfer, one day suspensions and grievance procedures. Therefore Mr. Tiemesson only qualifies for three of the functions and should be moved to the general government unit.

#### CONCLUSION OF LAW

Based on the foregoing Findings of Fact, I conclude that Mr. Tiemesson should be moved from the supervisory bargaining unit to the general government unit.

#### OLIVER BLACKLUND

Mr. Blacklund is in a lead level engineering position. He is basically involved in survey and is charged with the responsibility of field surveys for the design right of way utilities, bridges, etc. in the Fairbanks district. His

particular position is one of a kind in the Fairbanks area. He basically has a free hand to run his field of expertise in the manner he sees fit. Mr. Blacklund makes the basic recommendations of who he wishes to employ in his shop. Some degree of his authority is usurped by the Local 71 contract, but it is up to him to make the final determination as to whether someone is fit to be a proper member of his crew.

He in effect employs his crew. Insofar as promotion is concerned the Local 71 contract binds him to advertise the positions for promotion, and seniority usually determines whether or not the individual will be promoted. However, if a person desires to be promoted and has not worked the requisite jobs to be promoted, Mr. Blacklund can object to the promotion.

Mr. Blacklund has even more authority concerning the transfer of his subordinates. He in effect has transferred subordinates and his recommendations are always followed concerning the transfer of individuals.

Mr. Blacklund has not suspended anyone within the last year but does have the authority to do so. He also resolves

grievances of step 1.

In summation, Oliver Blacklund does have substantial responsibility regularly to participate in performances of employment, transfer, suspension, and the adjudication of grievances.

CONCLUSIONS OF LAW

It is therefore concluded as a matter of law that Oliver Blacklund should remain in the supervisory bargaining unit.

DONOVAN RONKEN PCN #255722

Mr. Ronken has been employed by the State for 17 years and has been in the supervisory bargaining unit since the unit was organized. He is the local service project coordinator for the Roads and Trails Office of the Interior Region. He is involved 80% in the office and 20% in the field. He is basically a one man shop. The Local Trails Project mainly involves the building of roads or other construction in remote areas of the State. Mr. Ronken basically goes to local villages and approves the project with village counsel.

He then hires the local villagers, or Local 71 People, and

is then in charge of the project.

FINDINGS OF FACT

It is found that Mr. Ronken does in fact have substantial responsibilities from the actual employment of individuals for the Local Service and Trails projects. He is actively involved in any suspension or discharge of employees. His position is similar to Mr. Finnerty's except that Mr. Finnerty is his supervisor. He is not active in adjudicating grievances because most of them are adjudicated before they reach his office. However, he does have the authority to adjudicate grievances, is actively involved with the paperwork and the promotion or transfer that needs to be done on any of the Local Service Trails jobs.

CONCLUSIONS OF LAW

It is therefore concluded as a matter of law that Donovan Ronken has substantial responsibility regularly to participate in the performance of the employment, provide for transfer, suspension, the adjudicating of grievances of his subordinates. He should therefore be kept in the supervisory bargaining unit.

ORDER AND DECISION

The report and recommendations of the hearing officer William J. Pauzaskie are hereby adopted. Any party desiring to have a hearing in front of the full board should notify the Board in writing from 10 days from the date of receiving this Order and Decision.

DATED this 20th day of April, 1981.

SIGNED:

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C. R. "Steve" Hafling, Chairman

SIGNED:

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Morgan Reed, Member

SIGNED:

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Ronald M. Henry, Member

[Signatures of Hafling and Henry on File]