

[Labor Relations Agency Stationery]

ORDER AND DECISION #64

RE: UNIT CLARIFICATION 80-15

On March 25, 1981, a hearing was held on the above entitled matter concerning Marvin Edwards, PCN number 262579 and Donald Grant PCN number 262578, both being employees of the State of Alaska and classified as Airport Safety Officers number 1. Representatives of APEA and the State of Alaska were also present to plead their respective clients cases. Officer Hynes, the immediate supervisor of the two subject positions also testified.

GRANT AND EDWARDS

TESTIMONY PRESENTED

The State of Alaska petitioned. that APEA move the employees presented in a supervisory bargaining unit to the general government bargaining unit. APEA opposed this proposal.

Mr. Edwards and Mr. Grant stated that they had substantial responsibility regularly to participate in the employment, promotion, suspension, discharge, and grievance adjudication procedures within their department. They admitted that the final authority rested with Officer Hynes to make the final

decision unless, (a) Officer Hynes was not present, (the testimony was that officer Hynes was absent on trips, annual leave, or performing other duties approximately three (3) months out of the year); or (b) Officer Hynes delegated the specific tasks to either Officer Edwards or Grant. Furthermore, whenever a decision had to be made concerning the employment, promotion, suspension, discharge, or grievance adjudication the three (3) individuals met and exchanged recommendations and made a joint decision. Of course Officer Hynes had the final authority to agree or disagree with Mr. Edwards or Grant, however his testimony was that he rarely did so.

Mr. Edwards produced copies of letters of reprimand and suspension at the Hearing.

The State of Alaska ably pointed out that (See Exhibit #2) the Department policy was to allow the Commissioner of the Department of Transportation to act as the appointing authority for all positions within the department at range twenty and above. The authority to dismiss, suspend, demote, layoff or transfer is delegated to Deputy Commissioners and

division directors. Further delegation authority is prohibited. Consultations with the departmental personnel officer is urged in the case of dismissal, suspension, demotion, layoff or transfer to insure the action is proper.

FINDINGS OF FACT

The hearing officer finds that Officer Edwards and Grant have substantial responsibilities regularly to participate in a majority of the functions concerned, namely employment, promotion, suspension, discharge, adjudication of grievances. These officers spend the majority of their time in supervising work and do actually participate regularly in a responsible capacity in a majority of the six functions concerned.

It was apparent from Officer Hynes testimony that these officers are considered supervisors and their authority is clearly established as well as the amount of time they actually spent in supervision.

CONCLUSION OF LAW

It is held as a matter of law that the employees meet

the criteria found in Order and Decision 8, 15, and 26 concerning their placement in the supervisory category. By this Order and Decision we do not disregard the policies and procedures set forth by the State of Alaska. However, we do realize that the centralization of authority by a policy and procedure directive does not preclude subordinates from having substantial responsibility to regularly participate in performance of a supervisory functions.

SYLVESTER NEAL

The third individual involved in the case, UC-15 is Sylvester Neal, airport safety officer 1, located at Fairbanks, Alaska. The Hearing was held March 27, 19~1, at Fairbanks, Alaska. Testifying were representatives of APEA, the State of Alaska, Mr. Neal, and Hal Hume, Mr. Neal's division director.

TESTIMONY PRESENTED

The State of Alaska presented the P 402 form. Mr. Neal presented several exhibits showing his past acts in employment, promotion, transfer, suspension and adjudication of grievances.

Mr. Hume testified and his testimony was particularly persuasive. He informed the hearing officer that Mr. Neal had substantial responsibility to participate in the performance of all the six supervisory functions. Mr. Hume testified that Mr. Neal was in effect his eyes, ears and voice at the airport. Mr. Neal's recommendations were rarely, if ever, disregarded.

FINDINGS OF FACT

After consideration of all the testimony elicited, the hearing officer finds that Mr. Neal regularly participates in the performance of the employment, promotion, transfer, suspension, discharge, and adjudication of grievances at the airport. He spends the great majority of the his time in supervising work as opposed to performing a function.

The board also finds that Mr. Neal does confer with his district director before undertaking the final act of suspension or discharge.

However, Mr. Neal confers with the district director so the district director may be appraised of what Mr. Neal is doing. The conference allows the department to

run more smoothly and does not in any way diminish Mr. Neal's substantial responsibility.

RECOMMENDATIONS OF THE HEARING OFFICER

It is recommended that Marvin Edwards, PCN number 262579, Donald Grant PCN number 262578, Sylvester Neal PCN number 265508 remain in the supervisory bargaining unit.

ORDER AND DECISION

The report and recommendation of the hearing officer, William J. Pauzauskie are hereby adopted, as if set out in full. Any party desiring to have a full hearing in front of the entire Labor Relation Board should notify the agency in writing within ten (10) days of the receipt of this Order and Decision.

DATED this 20th day of August, 1981

SIGNED:

C. R. "Steve" Hafling, Chairman

SIGNED:

Morgan Reed, Member

SIGNED:

Ronald M. Henry, Member

[Signatures of Hafling and Henry on File]