

ARBITRATION DECISION NO.:

630

UNION:

OCSEA, Local 11, AFSCME, AFL-CIO

EMPLOYER:

Department of Administrative Services

DATE OF ARBITRATION:

DATE OF DECISION:

April 9, 1996

GRIEVANT:

James Fitch

OCB GRIEVANCE NO.:

02-00-(95-02-15)-0460-01-09

ARBITRATOR:

Harry Graham

FOR THE UNION:

Jenny Worden

FOR THE EMPLOYER:

Angela Plummer

KEY WORDS:

Permanent Relocation

Report-in Location

Seniority

ARTICLES:

Article 17 - Promotions,
Transfers, and Relocations

§17.02-Definitions

§17.09-Permanent

Relocation

FACTS:

The grievant was hired as a Delivery Worker in October, 1992. At that time, his report-in location was the State of Ohio Computer Center (SOCC) located at 1320 Arthur E. Adams Drive. From the SOCC the grievant transported computer tapes to the State Office Tower, located at 30 East Broad Street. The grievant worked with another employee whose report-in location was also the SOCC. Normally, the grievant would report to work before his colleague and make the initial delivery of tapes from the SOCC to the State Office Tower. The grievant would then return to the SOCC and assist his colleague in loading tapes onto the truck for the next delivery to the State Office Tower. The grievant would then typically perform various other tasks before going to a storage facility located on Chestnut Street in Columbus.

In 1993 the State created the Ohio Data Network, and associated with that development, the report-in location for the grievant was changed to the State Office Tower. The State Office Tower was made the grievant's permanent report-in site in March, 1995.

UNION'S POSITION:

The Union claimed that the Employer violated Article 17 of the Agreement when the grievant's report-in location was changed from the SOCC to the State Office Tower. Section 17.02(C) of the Agreement defines a "Permanent relocation" as the "movement of an employee and his/her position to another location within the same headquarters county." Thus, the Union argued, once the grievant had been permanently relocated, the provisions of Section 17.09 were triggered.

Section 17.09(A) provides that a canvass must be undertaken to determine if volunteers are available who would be willing to accept a relocation. That was not done in the grievant's case. Additionally, in the event a canvass had been performed and no volunteers were found, the least senior employee must be moved. The grievant was not the least senior employee, as he was senior to his colleague at the SOCC.

The Union sought an award that would allow the grievant to report-in at the SOCC. Furthermore, because the grievant was required to pay for parking at the State Office Tower and he did not have to do so at the SOCC, the Union claimed that the grievant was entitled to an award in the amount of the parking expenses incurred by the grievant from the time that the grievant's report-in location was changed from the SOCC to the State Office Tower.

EMPLOYER'S POSITION:

The Employer asserted that a violation of the Agreement has not occurred in this case. The posting for the vacancy that was filled by the grievant shows the job location to be both the State Office Tower and the SOCC. That the grievant's report-in location eventually changed from the SOCC to the State Office Tower is not relevant given the possible report-in locations indicated on the vacancy notice.

The change of the grievant's report-in location was not done arbitrarily. Although the grievant does work with an individual who has less seniority than the grievant, that individual's position description is somewhat different than that of the grievant and it was necessary to maintain the report-in location of the grievant's colleague at the SOCC.

Furthermore, the grievant was initially assigned to report-in at the State Office Tower more than one year prior to the filing of this grievance. In essence, the grievant slept on his rights, if indeed any rights were violated.

ARBITRATOR'S OPINION:

The vacancy notice for the position of Delivery Worker stated that the Job Location was to be 30 East Broad, 7th Floor and SOCC. The State contemplated the Delivery Worker position to be located at two places; the State Office Tower and the SOCC. The fact that at one time the grievant regularly began his work day at the SOCC did not guarantee that he would always do so, given the language of the vacancy notice.

Furthermore, Section 17.02(C) of the Agreement defines "permanent relocation" as "the movement of an employee and his/her position to another location within the same headquarters county." That did not occur here. The report-in location of the grievant changed, but his work location did not. The grievant is a delivery driver, and during the typical workday he moves throughout the Columbus area--his work position is not fixed.

In sum, the grievant's position has not moved to another location within the same headquarters county. From its inception the grievant's position has had two report-in locations. At one time the grievant was assigned to one of the two specified report-in locations, the SOCC. He was later assigned to the other report-in location, the State Office Tower. There was no violation of the Agreement in this situation.

AWARD:

The grievance was denied.

TEXT OF THE OPINION:

In the Matter of Arbitration
Between

OCSEA/AFSCME Local 11

and

**The State of Ohio, Department
of Administrative Services**

Before:

Harry Graham

Case No.:

02-00-950215-0460-01-09

Appearances:

For OCSEA/AFSCME Local 11:

Jenny Worden
Staff Representative
OCSEA/AFSCME Local 11
1680 Watermark Dr.
Columbus, OH. 43215

**For Department of
Administrative Services:**

Angela Plummer
Department of Administrative Services
30 East Broad St.
Columbus, OH. 43215

Introduction:

Pursuant to the procedures of the parties a hearing was held in this matter before Harry Graham. At that hearing the parties were provided complete opportunity to present testimony and evidence. The record in this case was closed at the conclusion of oral argument.

Issue:

At the hearing the parties agreed upon the issue in dispute between them. That issue is:

"Did the Employer violate Article 17 of the Collective Bargaining Agreement in this situation? If so, what shall the remedy be?"

Background:

There is no dispute over the events prompting this proceeding. The Grievant, James Fitch, was hired as a delivery worker in October, 1992. He was assigned to report at the State of Ohio Computer Center

(SOCC). From there he transported computer tapes to the State Office Tower (SOT). Mr. Fitch worked with a colleague, Ron Vance. Vance also began his day at the SOCC. In the normal course of events Fitch reported to work before Vance and made the initial delivery of tapes from the SOCC to the SOT. He would then return to the SOCC and assist Vance. They would load the truck and make another delivery to the SOT. Then Fitch would perform various other tasks prior to going to a storage facility on Chestnut St. in Columbus. At that site both delivered and picked-up computer tapes.

In the Fall of 1993 the State created the Ohio Data Network within the Media Administration Section. Associated with that development the report-in location for Mr. Fitch was changed. He began his day at the State Office Tower, rather than the State of Ohio Computer Center. That report-in site was made permanent in March, 1995. A grievance protesting the change was promptly filed by Mr. Fitch. It was processed through the grievance procedure of the parties without resolution and they agree it is properly before the Arbitrator for determination on its merits.

Position of the Union:

In the opinion of the Union Article 17 of the Agreement has been violated in this situation. Section 17.02C defines a "Permanent relocation" as the "movement of an employee and his/her position to another location within the same headquarters county." The facts of this situation show that to have occurred. When an employee is permanently relocated, the provisions of Section 17.09 are triggered. Section 17.09A provides that a "canvass" shall be undertaken to determine if volunteers are available. That was not done in this instance. This, despite the contractual provision mandating a canvass occur and the practice of doing so at the SOCC. If there are no volunteers, the least senior employee must be moved. In this instance, the Grievant has more seniority than his colleague, Mr. Vance. In the Union's view the movement of Mr. Fitch to the SOT constituted a "permanent relocation" within the meaning of the Agreement. Additional support for this view is shown by the fact that at the SOT Mr. Fitch faces expense for parking that he did not incur when his day began at the SOCC. As that is the case, the Union seeks a finding in its favor and an award of parking expenses improperly incurred by the Grievant.

Position of the Employer:

The State asserts there is no violation of the Agreement in this case. The Grievant was initially assigned to report-in at the SOT more than a year prior to filing of this grievance. He did not grieve. In essence, he slept on his rights, if indeed he had any rights. The Employer claims Mr. Fitch had no rights in this instance. The posting for the vacancy that came to be filled by the Grievant shows the "job location" to be both 30 East Broad St. (the SOT) and the SOCC. That Mr. Fitch's report-in location came to change from the SOCC to the SOT is immaterial given the location indicated on the vacancy notice.

The change in report-in location for the Grievant was not done arbitrarily. Mr. Fitch's colleague, Ron Vance, has a somewhat different position description than does the Grievant. Seventy percent (70%) of Vance's duties are delivery. Fifty-five percent (55%) of Fitch's duties are as a backup delivery worker. He is Vance's backup. When he was permanently assigned to report-in at the SOT it was due to a change in the manner in which deliveries were to be done in Columbus. Vance was the primary delivery worker based on his position description. Fitch was the back-up. Deliveries commenced at the SOCC, hence the retention of Vance at that site. As the assignment of the Grievant to the SOT at the start of the work day is in accord with the position for which he was hired, no violation of the Agreement occurred in this instance in the opinion of the Employer. It urges the grievance be denied.

Discussion:

The original vacancy notice soliciting applicants for the Delivery Worker position shows the "Job Location" to be "30 E. Broad, 7th Fl. & SOCC." There can be no doubt that the State at all times has contemplated the Delivery Worker be located at two places, the SOT and the SOCC. That the Grievant at one time regularly commenced his work day at the SOCC does not guarantee that to him in perpetuity in the face of the

posting. In fact, the Grievant started his work day at the SOT for many months prior to filing his grievance.

At Section 17.02C a "Permanent relocation" is defined as "the movement of an employee and his/her position to another location within the same headquarters county." That did not occur in this situation. The report-in location of the Grievant changed. His work location did not. The Grievant is a delivery driver. During the day he moves throughout the Columbus metropolitan area. He is not fixed in place. His tasks have not changed. He has not moved to "another location" within the County as where he starts his day is a minuscule part of his duties. Further, his "Position" has not "moved to another location within the same headquarters county." Reference is again had to the original posting. From its inception Mr. Fitch's position has had two report-in locations. For some time he was assigned to one of the two specified report-in locations, the SOCC. Then he was assigned to the other report-in location, the SOT. There was no permanent relocation. Hence, there was no violation of the Agreement in this situation.

Award:

The grievance is denied.

Signed and dated this 9th day of April, 1996 at Solon, OH.

Harry Graham
Arbitrator