

9/26/68

FF

2114

RECEIVED
SEP 27 1968

FACT FINDING PROCEEDINGS

LABOR MEDIATION BOARD
DETROIT OFFICE

BETWEEN

CLINTONDALE PUBLIC SCHOOLS
Clintondale Board of Education

AND

REPORT OF FACT FINDER

AMERICAN FEDERATION OF STATE,
COUNTY & MUNICIPAL EMPLOYEES,
AFL-CIO, Local 1630

DUDLEY E. WHITING, HEARINGS OFFICER

APPEARANCES

FOR THE BOARD

Charles Boda
Donald D. Kenney

FOR THE UNION

Clyde R. Alsop
Thomas Melton
Kay Scholz

Clintondale Public Schools

REPORT OF FACT FINDER

BACKGROUND

On October 6, 1964 the Board of Education acted to place an elementary school library clerk, Bette Less, in the position of Acting Junior High School Librarian upon condition that, when a certified librarian was hired, she would revert to her former status. There was then no agreement with the Union.

On August 20, 1968, with an agreement in effect between the parties, a certified librarian was hired. Meanwhile the Junior High School had been renamed the Intermediate School and moved to a new building. Bette Less reverted to the classification of Library Clerk. This resulted in seven employees in the classification with six positions available, so the junior employee in that classification was laid off. She had been assigned at the Intermediate School library.

To avoid any possible conflict in authority, to better utilize Less' experience and qualifications, and to provide a less experienced library clerk an opportunity to work under a certified librarian, the Board decided to assign Bette Less to the Price Elementary School library and reassign the library clerk there, Katherine Konopnick, to work at the Intermediate School library. Less was agreeable but Konopnick was not, as there were two less senior library clerks still employed. To resolve the resulting dispute the parties entered into the following agreement on September 12, 1968:

"After exhausting mediation between Council 23, AFSOME, Local 1630, and the Clintondale Board of Education, the parties mutually agree to the following temporary arrangement:

Mrs. Betty Less shall be placed in the position of Library Clerk at the Intermediate School. Mrs. Katherine Konopnick shall return to the position of Library Clerk at the Price Drive Elementary School as of 8:30 A.M. Friday, September 13, 1968.

The parties agree to waive Article X and Steps 1, 2, and 3 of Article XI and immediately file a joint request to the State Labor Mediation Board for a Fact Finder.

The parties further agree to be bound by the decision and recommendation of the Fact Finder."

DISCUSSION

Article XIV of the agreement between the parties provides in part:

"(3) Seniority shall be on a district-wide basis by classification in accordance with the employee's last date of hire."

Article XVII of the agreement provides in part:

"(B) Transfer

Transfer shall mean the re-assignment of any employee to any positions not deemed a promotion as provided in this Agreement, and without a reduction in salary, other than shift premium, or an assignment within his classification to a different work location or shift.

(C) Employees desiring a job transfer to a vacancy or newly created position within the bargaining unit, shall submit such a request in writing within the seven (7) day calendar posting to the Assistant Superintendent, stating the reasons for desiring a change. Transfers shall be based on seniority and the ability to perform the work satisfactorily.

(D) In the event of a vacancy or newly created position employees shall be given the opportunity to apply for a transfer by submitting a request in writing within the seven (7) day calendar posting, to the Assistant Superintendent."

The basic contention of the Board is that the provisions of Article XVII are not applicable because there was no vacancy or newly created position. Certainly there was no new job and, with six library clerks available to fill six positions, there was no vacancy.

It is true, as the Union contends, that the definition of transfer in part (B) of Article XVII includes reassignment within a classification to a different work location. The only provision, however, for employee exercise of seniority respecting transfers is upon requests for "transfer to a vacancy or newly created position". There is no provision for the exercise of seniority by displacement or bumping of juniors, nor any limitation of transfer or reassignment to the least senior employee in the classification. The rights exercisable by seniority are only those provided in the agreement.

The right to assign or transfer employees within their classification to work locations where they are needed or where they can best be utilized is generally recognized to be a managerial function, subject only to the specific limitations thereon contained in the collective labor agreement. Article XVII of this agreement obviously recognizes that principle.

In this case it appears that the Board decided to switch the work locations of two employees to achieve the objective of placing Bette Less in an elementary school library. Since she was senior to Katherine Konopnick, her assignment to the Price school was in accordance with seniority and, since the agreement does not require transfer of the least senior employee first nor provide any employee

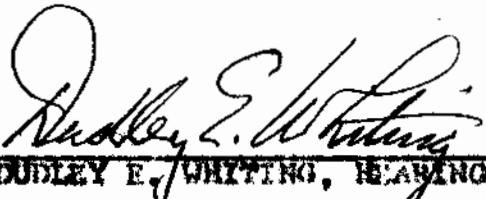
bumping rights, the switch of their location assignments was not violative of the agreement.

Under these contract provisions the action of the Board must be sustained.

RECOMMENDATION

I recommend that the reassignment of Betty Less to the Price Elementary School library and Katherine Konopnick to the Intermediate School library be made effective immediately.

Dated this 26th day of September, 1968.


DUDLEY E. WHITING, HEARINGS OFFICER