

United States of America

BEFORE THE FEDERAL SERVICE IMPASSES PANEL

In the Matter of )

DEPARTMENT OF THE AIR FORCE )  
SCOTT AIR FORCE BASE )  
SCOTT AIR FORCE BASE, ILLINOIS )

and )

LOCAL R7-23, NATIONAL ASSOCIATION OF )  
GOVERNMENT EMPLOYEES, SEIU, AFL-CIO )

Case No. 92 FSIP 165

DECISION AND ORDER

Local R7-23, National Association of Government Employees, SEIU, AFL-CIO (Union), filed a request for assistance with the Federal Service Impasses Panel (Panel) to consider a negotiation impasse under section 7119 of the Federal Service Labor-Management Relations Statute between it and the Department of the Air Force, Scott Air Force Base, Scott Air Force Base, Illinois (Employer).

The Panel directed to factfinding that portion of the dispute concerning the elimination of environmental differential pay for employees assigned to asbestos abatement projects.<sup>1/</sup> With respect to the remaining issue concerning the smoking policy in Building 3650, the parties were ordered to show cause why the Panel should not impose the same outcome as it did in Department of the Air Force, Scott Air Force Base, Scott Air Force Base, Illinois and Local R7-23, National Association of Government Employees, SEIU, AFL-CIO, Case No. 92 FSIP 68 (July 16, 1992), Panel Release No. 333 (Scott Air Force Base). In that case, the Panel ordered the parties to adopt the following wording to resolve a dispute over the smoking policy in Building 1904:

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1/ Chief Legal Advisor Donna M. DiTullio conducted a factfinding hearing on September 29, 1992. She will report to the Panel, without recommendations, based upon the record developed during the course of that proceeding. After receipt of her report, the Panel will take whatever action it deems appropriate to resolve that portion of the impasse.

1. All smoking in Building 1904 is prohibited.
2. Smoking cessation classes will be provided at no cost for interested employees, who will be excused from work on official time, workload permitting, to attend classes that are scheduled during their work time.
3. The Employer shall designate an outdoor smoking area which (a) is reasonably accessible to Building 1904 employees and (b) provides a measure of protection from the elements.

#### BACKGROUND

The Employer is the headquarters of the Military Airlift Command, which provides logistical military airlift services to activities of the Department of Defense. The bargaining unit consists of approximately 2,500 General Schedule (GS) and Wage Grade (WG) employees who work in a wide variety of technical and administrative occupations. The parties' collective-bargaining agreement is due to expire in April 1993.

The dispute arose as a result of negotiations over an Employer proposal to prohibit indoor smoking in Building 3650. This 2-story building is occupied by approximately 46 full-time employees of the 932 Aeromedical Airlift Group, 17 of whom smoke. Currently, seven rooms in the building are designated as indoor smoking areas.

#### ISSUE AT IMPASSE

The issue is whether the Panel should adopt the same outcome as it did in Scott Air Force Base, or take other appropriate action.

#### 1. The Employer's Position

The Employer proposes the following wording:

(a) All smoking in Building 3650 is prohibited;

(b) Smoking cessation classes will be provided at no cost for interested employees, who will be excused from work on official time, workload permitting, to attend classes that are scheduled during their work time; [and]

(c) Designated smoking areas will be outside the north, east, and west entrances. The covered west entrance will

provide protection to smokers during inclement weather.

This approach is consistent with the Panel's Decision and Order in Case No. 92 FSIP 68. The harmful effects of sidestream smoke are well documented by medical research, and adopting the approach set forth in the prior case would afford the occupants of Building 3650 protection from secondhand smoke. Currently, environmental tobacco smoke escapes from the areas where smoking is permitted; closing a door does not stop the harmful gases and carcinogens contained in the smoke from being dispersed throughout the entire building. This proposal should accommodate the interests of smokers by providing for a protected outdoor area as well as smoking cessation classes.

## 2. The Union's Position

The Union did not submit a response to the Panel's Order to Show Cause. During the initial investigation of the case, it was learned that the Union's position is that the status quo should be maintained.

## CONCLUSIONS

Having considered the evidence and arguments in this case, we conclude that the same outcome should be adopted in this case as in Scott Air Force Base. In our view, neither party has shown cause why this dispute, which involves an issue identical to the one in the earlier case, should not be treated in a like fashion. In our view, a ban on indoor smoking is necessary to enhance the health of everyone who works in Building 3650. Moreover, since the Employer-sponsored smoking cessation classes would benefit some employees, such a provision should be incorporated into the parties' smoking policy. Finally, with respect to the outdoor smoking areas proposed by the Employer, we are unable to determine from the written record their adequacy or accessibility. Therefore, we shall impose the more broadly-worded provision requiring the Employer to designate at least one outdoor smoking area which (1) is reasonably accessible to employees who work in Building 3650, and (2) provides a measure of protection from the elements. Disputes over the adequacy or accessibility of the designated area(s) may be resolved through the parties' negotiated grievance procedure.

ORDER

Pursuant to the authority vested in it by section 7119 of the Federal Service Labor-Management Relations Statute, 5 U.S.C. § 7119, and because of the failure of the parties to resolve their dispute during the course of proceedings instituted under the Panel's regulations, 5 C.F.R. § 2471.6(a)(2), the Federal Service Impasses Panel under section 2471.11(a) of its regulations hereby orders the adoption of the following wording:

1. All smoking inside Building 3650 is prohibited.
2. Smoking cessation classes will be provided at no cost for interested employees, who will be excused from work on official time, workload permitting, to attend classes that are scheduled during their work time.
3. The Employer shall designate at least one outdoor smoking area which (a) is reasonably accessible to employees who work in Building 3650 and (b) provides a measure of protection from the elements.

By direction of the Panel.



Linda A. Lafferty  
Executive Director

October 7, 1992  
Washington, D.C.