

United States of America

BEFORE THE FEDERAL SERVICE IMPASSES PANEL

In the Matter of)
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)
DEPARTMENT OF THE TREASURY)
INTERNAL REVENUE SERVICE)
PARKERSBURG DISTRICT OFFICE)
PARKERSBURG, WEST VIRGINIA)
)
and) Case No. 90 FSIP 258
)
CHAPTER 64, NATIONAL TREASURY)
EMPLOYEES UNION)
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DECISION AND ORDER

Chapter 64, National Treasury Employees Union (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 (Statute) between it and the Department of the Treasury, Internal Revenue Service, Parkersburg District Office, Parkersburg, West Virginia (Employer).

After investigation of the request for assistance, the Panel determined that the impasse should be resolved pursuant to written submissions from the parties with the Panel to take whatever action it deemed appropriate to resolve the impasse concerning a 5-4/9 alternative work schedule (AWS). Written submissions were made pursuant to this procedure and the Panel has now considered the entire record.^{1/}

BACKGROUND

The Employer administers and enforces the Federal tax laws within West Virginia. It employs 192 persons who are part of a nationwide consolidated bargaining unit consisting of approximately 60,000 employees represented by the National Treasury Employees Union (NTEU). These employees are covered under a national collective-bargaining agreement (CBA) between the Internal Revenue Service and NTEU which is in effect until June 30, 1994.

^{1/} The Union did not submit a rebuttal statement of position.

The dispute arose during renegotiations of the May 1986, local AWS agreement, pursuant to Articles 23 and 47 of the CBA.^{2/} The dispute affects 22 employees who work as group secretaries, clerk-typists, and revenue officer aides.^{3/} Currently, under the terms of the parties' local AWS agreement, these employees have the option of working a flexitour schedule with credit hours.^{4/}

ISSUE AT IMPASSE

The parties disagree over whether these 22 employees should be permitted to work a 5-4/9 AWS, if they so choose.^{5/}

POSITIONS OF THE PARTIES

1. Employer's Position

The Employer proposes to maintain the status quo, and that

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- ^{2/} Article 22, section 2.B., states that "[t]his section establishes the framework within which local offices of the Employer and chapters of the Union may negotiate agreements concerning alternative work schedules and 'staggered work hours.'" Section 2.J. of this same article provides that bargaining over such agreements "will be conducted in accordance with the provisions of Article 47." Article 47, section 4, sets forth the procedure for local-level bargaining.
- ^{3/} The 14 secretaries, 3 clerk-typists, and 5 revenue officer aides work in the Examination and Collection and/or the Tax Service Divisions, and are stationed at one of six possible posts of duty: Bridgeport, Charleston, Huntington, Parkersburg, Sofia, and Wheeling, West Virginia.
- ^{4/} In essence, under a flexitour work schedule an employee is permitted to select, in advance, a fixed time of arrival at the work site. A credit hours scheduling option allows an employee, if the workload so justifies and management approves, to work more than the standard 8 hours on any given day. The extra hours worked would be "credited" to the employee who could accumulate not more than 24 hours every 2-week pay period; with management's approval, the employee could use the extra hours like annual leave.
- ^{5/} Under a 5-4/9 AWS, during a biweekly pay period, employees work 9-hour days for 8 days, 8 hours on 1 day, and have 1 day off.

the Union be ordered to withdraw its proposal. Currently, clerk-typists, group secretaries, and revenue officer aides may not elect a 5-4/9 AWS. The allocation of these positions among two organizational divisions, or segments thereof, at six posts of duty in different geographical locations makes them "one-of-a-kind" positions. In the case of the revenue officer aides, they have additional responsibility of providing coverage for tax service representatives in their absence. Furthermore, the Employer would lack the personnel to cover for these "one-of-a-kind" positions when the incumbent employees would be on their days off under a 5-4/9 AWS. The unavailability of these employees 1 out of every 10 workdays, therefore, could create staffing problems that may compromise service to West Virginia taxpayers. The Union's contention that permitting these employees to work a 5-4/9 AWS may increase morale, reduce absenteeism, and thereby increase productivity is "pure speculation."

The Employer agreed to allow employees in special procedures advisor/reviewer positions to elect to work a 5-4/9 AWS because these are not "one-of-a-kind" positions, unlike the 22 positions at issue. Finally, Article 23, section 2.B., of the CBA provides that AWS agreements be negotiated at the local level; this contemplates that the parties at the local levels may treat the same type of positions differently "depending upon what they deem to be appropriate under [their] circumstances." In this regard, the Employer contends that "there is no such thing as a 'norm' for alternative work schedule agreements, and the Union's argument on this point is irrelevant."

2. The Union's Position

The Union proposes that group secretaries, clerk-typists, and revenue officer aides be permitted to elect a 5-4/9 work schedule for a 6-month experimental period. Service to the public would be more efficient if these employees are allowed to work a 5-4/9 AWS because their morale would improve and, thus, they would be absent less often, which would increase their productivity. There also would be additional time for job training and cross training of these employees during "the same 40-hour week that they have always worked."

The Employer maintained during negotiations that these employees could not work a 5-4/9 schedule because their "absence at work would cause a deficiency in covering the phones and greeting the public;" only now does it argue that they hold positions that are "one-of-a-kind" and, therefore, should be barred from electing to work such a schedule. Group secretaries and clerk-typists, and revenue officer aides and

examiner aides, respectively, provide cross coverage in answering phones and greeting the public, as well as in other job functions. In this regard, the posts of duty have functioned effectively when one of these employees is absent; thus, they should be able to "function equally well" on employees' off days under a 5-4/9 schedule.

The Employer had earlier "offered to allow revenue officer aides to work a 5-4/9 work schedule except when they were required to do back-up duty for Taxpayer Service," thereby acknowledging that their duties are "not incompatible with a 5-4/9 compressed schedule for at least part of the time." Finally, group secretaries, clerk-typists, and revenue officer aides at the district offices in Aberdeen, Albuquerque, Austin, Cheyenne, Cincinnati, Dallas, Houston, Little Rock, Milwaukee, Pittsburgh, St. Paul, San Jose, and Wichita, are eligible to work a 5-4/9 schedule under the terms of their local AWS agreements.^{6/} The "norm" throughout the Internal Revenue Service, therefore, is that employees who hold these types of positions are allowed to work such a schedule. Accordingly, the Employer should follow suit.

CONCLUSIONS

Having considered the evidence and arguments on this issue, we conclude that the dispute should be resolved on the basis of the Union's proposal modified to provide for a 4-month test period. We find that there is no conclusive evidence that the nature of the duties performed by group secretaries, clerk-typists, and revenue officer aides is such that colleagues in other positions could not cover for them on their days off under a 5-4/9 AWS, as they would when on sick or annual leave, or scheduled use of earned credit hours, without jeopardizing the Employer's public-service-related functions. In our view, given the relatively small number of employees concerned, a 4-month test period should be sufficient time for the parties to (1) assess the actual effects of these employees' working a 5-4/9 AWS on service coverage and (2) determine whether their retaining the option of working such schedule would be feasible given such effects.

ORDER

Pursuant to the authority vested in it by section 7119 of the Federal Service Labor-Management Relations Statute and because of the failure of the parties to resolve their dispute during the course of the proceedings instituted under section

^{6/} The Union submitted a copy of each of these agreements.

2471.6(a)(2) of the Panel's regulations, the Federal Service Impasses Panel under section 2471.11(a) of its regulations hereby orders the following:

The parties shall adopt the Union's proposal modified as follows:

Group secretaries, clerk-typists, and revenue officer aides are to be allowed to work a 5-4/9 alternative work schedule on a 4-month trial period at the option of the employees.

By direction of the Panel.



Linda A. Lafferty
Executive Director

July 23, 1991
Washington, D.C.