

STATE OF WASHINGTON
BEFORE THE MARINE EMPLOYEES' COMMISSION

INLANDBOATMEN'S UNION
OF THE PACIFIC on behalf of
FRANKY CARASKA,

Grievant,

v.

WASHINGTON STATE FERRIES,

Respondent.

MEC CASE NO. 16-06

DECISION NO. 505 - MEC

ORDER CLOSING
SETTLED GRIEVANCE

Schwerin, Campbell, Barnard and Iglitzin, by *Robert Lavitt*, Attorney, appearing for the Inlandboatmen's Union of the Pacific and Franky Caraska.

Rob McKenna, Attorney General, by *David Slown*, Assistant Attorney General, appearing for the Washington State Ferries.

THIS MATTER came on regularly before the Marine Employees' Commission (MEC) on January 11, 2006, when the Inlandboatmen's Union of the Pacific (IBU) filed a request for grievance arbitration, docketed as MEC Case No. 16-06. The IBU's grievance alleged that Washington State Ferries (WSF) violated Rule 8.05 of the contract when it denied Franky Caraska wages after he was assaulted by a passenger on the ferry Klahowya while on duty June 4, 2001. Mr. Caraska sustained injuries that required surgery and seven months recovery. WSF Human Resources maintained that \$35/day maintenance was all the employer was allowed to pay.

Chairman John Swanson was appointed to serve as Mediator for the settlement conference scheduled on May 12, 2006. Commissioner John Sullivan was designated to act as Arbitrator and a hearing scheduled for July 20, 2006.

Mr. Caraska was not present for the May 12 settlement conference; the issue was not resolved. The parties agreed to schedule a second conference at a time when Mr. Caraska could participate. The settlement conference was continued to October 3, 2006.

The July 20 hearing was continued several times, first to November 14, 2006, then January 17, 2007 and finally to March 29, 2007. When the parties arrived for the hearing on March 29, they requested time to continue settlement discussions. They were successful in reaching an agreement.

On April 2, 2007, the MEC received a copy of the signed settlement agreement, which constitutes withdrawal of the grievance. That agreement is appended to and becomes a part of this Order by reference.

ORDER

It is hereby ordered that the request for grievance arbitration, filed by the IBU and docketed as MEC Case No. 16-06, is closed in acknowledgement of the parties' settlement agreement.

DATED this 5th day of June 2007.

MARINE EMPLOYEES' COMMISSION

/s/ JOHN SWANSON, Chairman

/s/ JOHN SULLIVAN, Commissioner

/s/ ELIZABETH FORD, Commissioner

SETTLEMENT AGREEMENT
By and Between
Inlandboatmen's Union of the Pacific and Washington State Ferries
Re: MEC Case No. 16-06 (Frankie Caraska)

Washington State Ferries (WSF) and the Inlandboatmen's Union of the Pacific (IBU) in full settlement of MEC Case No. 16-06, do hereby agree as follows:

1. Frankie Caraska was injured while on duty during an unprovoked assault and battery by an intoxicated and disorderly passenger boarding at Fauntleroy on June 4, 2001. Mr. Caraska sustained a serious injury to his shoulder and subsequently required surgery.
2. As a result of this injury, Mr. Caraska was unfit for duty and unable to work from June 4, 2001 until March 5, 2002.
3. During that time Mr. Caraska received maintenance under the Jones Act in the amount of \$35.00 per day.
4. Under the IBU-WSF collective bargaining agreement §8.05 Mr. Caraska was entitled to "regular straight time rate of pay, including all fringe benefits, less the applicable...maintenance and cure provisions under the Jones Act. Such payments shall continue only for the period of time that the employee is considered unfit for duty and such disability is a result of any unprovoked assault, burglary, or robbery that occurred during the course of work while on duty."
5. It is the parties' intention to resolve this case by applying the foregoing provision to Mr. Caraska. To that end WSF will remit to Mr. Caraska straight time hourly pay (at the rate of \$20.49, which was the rate under the IBU contract in effect on July 1, 2001) for nine hundred seventy (970) hours, less normal payroll deductions. WSF will credit 287.6 hours to his annual leave (vacation) account, 20.2 hours to his sick leave account, and 98.3 hours to his compensatory time account. As a consequence of the foregoing payment of straight time wages Mr. Caraska will accrue fringe benefits (e.g. annual, sick, comp. time leaves) as if he'd been working during that time period.
6. WSF will take all steps necessary to ensure that Mr. Caraska will receive pension credit for the entire period as described in paragraph No. 2 above.
7. The WSF agrees to remit payment as described herein by May 11, 2007.
8. Submission of this Agreement to the MEC by either party shall constitute withdrawal of MEC Case No. 16-06.

For the Washington State Ferries
/s/ David J. Slown
Dave Slown, WSBA #24943
Assistant Attorney General

Date: 3/29/07

For the Inlandboatmen's Union
/s/ Margaret Pelland
Margaret Pelland
Passenger Industry Patrolperson,
IBU/Puget Sound Region
Date: 3/29/07

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