

STATE OF WASHINGTON
BEFORE THE MARINE EMPLOYEES' COMMISSION

INLANDBOATMEN'S UNION
OF THE PACIFIC,

Complainant,

v.

WASHINGTON STATE DEPARTMENT
OF TRANSPORTATION, FERRIES
DIVISION,

Respondent.

MEC CASE NO. 18-08

DECISION NO. 566 - MEC

ORDER CLOSING
SETTLED COMPLAINT

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

Robert McKenna, Attorney General, by *Don Anderson*, Assistant Attorney General, appearing for Washington State Department of Transportation, Ferries Division (WSF).

THIS MATTER came on regularly before the Marine Employees' Commission (MEC) on April 18, 2008, when the Inlandboatmen's Union filed an unfair labor practice complaint, MEC Case No. 18-08, against the Washington State Department of Transportation, Ferries Division.

IBU's complaint charged WSF with engaging in unfair labor practices within the meaning of RCW 47.64.130(1) by interfering with, restraining or coercing employees in the exercise of rights; and by refusing to bargain collectively with representatives of employees. Specifically, IBU alleged that WSF unilaterally changed terms and conditions of employment for IBU members when it discontinued the past practice of allowing employees on medical leave to continue benefit coverage through designation of eight hours per month of paid time such as accumulated sick leave, vacation or comp time.

Following review of the IBU's complaint, the Commission determined that the facts alleged may constitute an unfair labor practice, if later found to be true and provable.

Commissioner John Sullivan was assigned as Mediator for the settlement conference scheduled on July 21, 2008. Commissioner Patricia Warren was designated to act as Hearing Examiner and a hearing scheduled for October 14, 2008.

During the July 21, 2008 settlement conference, the parties did not fully resolve the issue, but intended to continue discussions later. Due to an unexpected conflict for Hearing Examiner Warren, the October 14, 2008 hearing was continued to February 11, 2009.

On February 6, 2009, IBU and WSF requested that the MEC convert the February 11 hearing to another settlement conference. Examiner Warren granted the request. The parties indicated they would not need the assistance of a MEC mediator for that session. IBU and WSF met on February 11; they continued to work to finalize an agreement over the next few months.

During MEC's public meeting on September 25, 2009, the parties reported this matter has been settled. The IBU provided MEC with a copy of the signed settlement agreement, which constitutes withdrawal of the complaint. That agreement is appended to and becomes a part of this Order by reference.

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ORDER

It is hereby ordered that the unfair labor practice complaint, filed by IBU against WSF and docketed as MEC Case 18-08, is closed in acknowledgement of the parties' settlement agreement.

DATED this 29th day of October 2009.

MARINE EMPLOYEES' COMMISSION

/s/ JOHN R. SWANSON, Chairman

/s/ PATRICIA WARREN, Commissioner

/s/ JOHN COX, Commissioner

SETTLEMENT AGREEMENT BETWEEN WSDOT-WSF & IBU
MEC Case No. 18-08
Medical Benefit Coverage

SEP 25 2009
MARINE EMPLOYEES' COMMISSION
OLYMPIA, WA

The Washington State Department of Transportation, Ferries Division (WSF), and the Inlandboatmen's Union of the Pacific (IBU), in full and complete settlement of MEC Case No. 18-08, do hereby agree as follows:

The parties have mutual concern over establishing rules for leave use by IBU-represented employees while on extended leave *due to non-job-related illness or injury*. This agreement shall only apply to such situations. The parties agree that it shall not apply to extended leaves for personal reasons, nor to extended leaves due to job-related illness or injury.

The term "leave" as used in this agreement shall refer, unless further qualified, to sick leave and vacation leave. The parties understand and agree that use of accrued comp time during any period of extended leave, for any reason, is allowed only when mutually agreed between the employee and the employer, under the terms of the collective bargaining agreement. Nothing in this agreement shall alter or amend any term of the parties' collective bargaining agreement.


WSF Agrees:

1. When an IBU-represented employee is granted leave for an extended period due to a non-job-related illness or injury, WSF representatives will be allowed to charge the employee's leave balances in accordance with the terms of the parties' collective bargaining agreement. HOWEVER, WSF agrees to limit the drawdown of leave balances to ensure that:
 - A. The employee will be able to use the minimum amount of leave per month to preserve medical benefit eligibility, during the length of the approved extended leave period, Provided that,
 - B. At the end of an approved medical leave period the employee will have a balance of at least sixty (60) hours of leave, unless the employee chooses to use that leave during the original approved extended leave period; AND,
 - C. The above limitations shall not apply if, at the time of application for extended leave, the employee does not have sufficient accrued leave to meet those requirements.
 - D. In accordance with WAC 357-31-435, if the employee requests and is eligible for shared leave, all accrued leave on the books must be exhausted prior to using shared leave.

IBU Agrees:

Settlement Agreement
MEC 18-08
Page 1 of 2

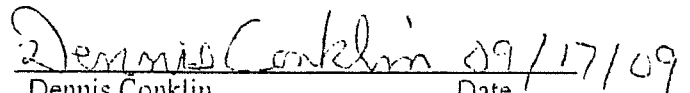
1. That WSF may require employees to use leave during extended leave for non-job-related illness or injury, consistent with the terms of the parties' collective bargaining agreement and this agreement.
2. To the withdrawal of MEC Case No. 18-08. A signed copy of this agreement shall constitute a request for withdrawal, and may be presented by either party.



Paul A. Ganalon
Labor Relations Manager
WSDOT Ferries

9-22-09

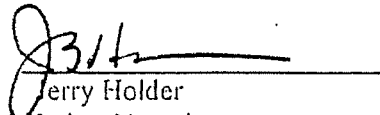
Date



Dennis Conklin
Regional Director
Inlandboatmen's Union

09/17/09

Date



Jerry Holder
Labor Negotiator
OFM Labor Relations Office

9/22/09

Date