

STATE OF WASHINGTON
BEFORE THE MARINE EMPLOYEES' COMMISSION

CHRISTOPHER JOHNSON,

Complainant,

v.

MARINE ENGINEERS' BENEFICIAL
ASSOCIATION and WASHINGTON
STATE DEPARTMENT OF
TRANSPORTATION, FERRIES
DIVISION,

Respondents.

MEC CASE NO. 19-10

DECISION NO. 601 - MEC

ORDER CLOSING
SETTLED COMPLAINT

Younglove and Coker, by *Gregory Rhodes*, Attorney, appearing for Christopher Johnson.

Reid, Pedersen, McCarthy and Ballew, by *Thomas Leahy*, Attorney, appearing for the Marine Engineers' Beneficial Association.

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

THIS MATTER came before the Marine Employees' Commission (MEC) on May 17, 2010 when Christopher Johnson (Johnson) filed an unfair labor practice complaint, MEC Case 19-10, against the Marine Engineers' Beneficial Association (MEBA) and Washington State Department of Transportation, Ferries Division (WSF).

Johnson's complaint charged MEBA with engaging in unfair labor practices within the meaning of RCW 47.64.130(2) by restraining or coercing employees in the exercise of the rights guaranteed by chapters 47.64 RCW and 316-45 WAC. Johnson'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.

Johnson alleged that MEBA breached its duty of fair representation in handling his grievance contesting a 21-day suspension and that WSF participated in the act.

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

John Swanson was assigned as Mediator and a settlement conference scheduled for September 30, 2010. Commissioner John Cox was designated to act as Hearing Examiner and a hearing scheduled for February 23, 2011.

The parties participated in a settlement conference with Chairman Swanson on September 30, 2010 and continued discussions thereafter, but were unable to resolve the dispute. At MEBA's request, the February 23, 2011 hearing was continued to March 24.

Answers to the complaint were timely filed by MEBA and WSF. On March 23, 2011, MEBA also filed a Pre-Hearing Memorandum.

On March 24, 2011, the parties gathered for a hearing; however, it was not convened. The parties chose to engage in further settlement discussion and fully resolved the issue.

On March 25, 2011, WSF provided the MEC with a signed copy of the parties' settlement agreement. That agreement is appended to and becomes a part of this Order by reference. By letter from Attorney Gregory Rhodes on March 31, Christopher Johnson withdrew his complaint.

ORDER

It is hereby ordered that the unfair labor practice complaint, filed by Christopher Johnson against MEBA and WSF and docketed as MEC Case 19-10, is closed in acknowledgement of the parties' settlement agreement.

DATED this 13th day of April 2011.

MARINE EMPLOYEES' COMMISSION

/s/ JOHN SWANSON, Chairman

/s/ JOHN COX, Commissioner

SETTLEMENT AGREEMENT AND RELEASE

cc: MEC

MAR 25 2011
MARINE EMPLOYEES' COMMISSION
OLYMPIA, WA

The Washington State Ferries ("WSF" or "Employer"), the Marine Engineers' Beneficial Association ("MEBA" or "Union"), and Christopher Johnson (Johnson) enter into the following Settlement Agreement and Release (Agreement).

A. EMPLOYER agrees:

1. To amend Johnson's November 24, 2009 disciplinary letter to reflect a seven (7) work day instead of a fourteen (14) work day unpaid suspension, and to pay Johnson the difference, minus any applicable federal and state withholdings, between the reduction in pay set forth in the November 24, 2009 disciplinary letter and the aforementioned amended disciplinary action.
2. To remove Johnson's November 24, 2009 disciplinary letter and attachments from his personnel file, and replace it with an amended disciplinary letter dated May 24, 2011 reflecting the amended disciplinary action set forth herein, and Employer will only release said amended disciplinary letter, with or without the Union's and Johnson's authorization, for purposes of litigation, payroll audit, or applicable laws governing disclosure of public documents.
3. To remove from Johnson's personnel file the written warning dated April 29, 2009, effective immediately.

B. THE UNION and JOHNSON agree:

1. That EMPLOYER will amend the November 24, 2009 disciplinary letter to reflect a seven (7) work day instead of a fourteen (14) work day unpaid suspension, and will pay Johnson the difference, minus any applicable federal and state withholdings, between the reduction in pay set forth in the November 24, 2009 disciplinary letter and the aforementioned amended disciplinary action.
2. That EMPLOYER will remove Johnson's November 24, 2009 disciplinary letter and attachments from his personnel file, and replace it with an amended disciplinary letter dated March 24, 2011 reflecting the amended disciplinary action set herein, and Employer will only release said amended disciplinary letter, with or without the Union's and Johnson's authorization, for purposes of litigation, payroll audit, or applicable laws governing disclosure of public documents.
3. That the disciplinary letter dated March 24, 2011 shall remain in Johnson's personnel file and shall be effective for purposes of progressive discipline for one year from the date hereof, after which said letter shall be permanently removed from his personnel file.
4. That EMPLOYER will remove from Johnson's personnel file the written warning dated April 29, 2009, effective immediately.

C. JOHNSON agrees:

1. To immediately withdraw Unfair Labor Practice Complaint MEC Case No. 19-10, with prejudice.
2. That Johnson has read the MEBA Collective Bargaining Agreement, Section 33.01(a) Safety/Firefighting and Washington State Ferries Safety Management System ENG SAFE 0130 Respiratory Protection Program, and Johnson agrees to comply with Employer's requirements in connection therewith.
3. To accept a seven (7) day unpaid disciplinary suspension, as set forth elsewhere herein;
4. To accept reimbursement of the equivalent of seven (7) days of gross salary minus any applicable federal and state withholdings, said sum being the difference between the reduction in pay set forth in the November 24, 2009 disciplinary letter and the aforementioned amended disciplinary action.
5. That Johnson, his heirs, assigns, or other successors in interest, agree to release the State of Washington, the WSDOT, WSF and their officers, employees, and contractors from any and all claims and/or causes of action based upon actions taken in their official capacities that arise out of or relate to the circumstances underlying and resulting from MECA Case No. 19-10. This includes, but is not limited to any and all grievances, unfair labor practice complaints, claims arising under the Washington State Against Discrimination ("WLAD"), the Americans with Disabilities Act, the Family Medical Leave Act, and the Fair Labor Standards Act, lawsuits, civil or otherwise, and all other statutory, common law, and tort claims, whether known or unknown as they arise out of or relate to the circumstances underlying and resulting from MEC Case No. 19-10.
6. That Johnson releases MEBA, its affiliates, successors, assignees, partners, agents, officers, board members, employees, associates, and representatives, and former partners, agents, officers, board members, employees, associates, and representatives (collectively, the "Released Parties") of and from any and all actions, lawsuits, grievances or claims, whether known or unknown, connected with or in any way related to or arising from Johnson's employment, the suspension related to this case, and/or MEBA's representation of Johnson during the processing of the grievance related to Johnson's suspension. This release includes, but is not limited to, any and all claims Johnson may have under any express or implied contract (including the collective bargaining agreement between the Employer and MEBA); claims of discrimination under local, state or federal law; claims of breach of the duty of fair representation; claims under state or federal law governing the payment of wages; claims for attorney fees and costs relating to the recovery of wages; and claims based on any common law or tort theory. This Agreement is in full settlement and satisfaction of any and all such claims.
7. That if Johnson fails to comply with the Employer's requirements in connection with MEBA Collective Bargaining Agreement 33.01(a) and Washington State Ferries Safety Management System ENG SAFE 0130 Respiratory Protection Program, the Employer may take appropriate disciplinary action against Johnson.

D. MEBA agrees:

1. MEBA regrets that Johnson feels that he wasn't communicated with properly during the grievance process.
- ~~2. MEBA affirms its committed to communicating with grievants during the grievance process~~

E. THE PARTIES FURTHER agree:

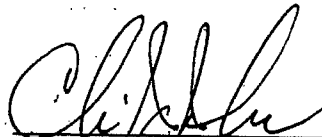
1. This Agreement constitutes full and final settlement of all legal and equitable claims that the Johnson may have or may have had against the State of Washington, WSDOT, WSF and MEBA, their officers, agents and employees arising out of or relating in any way to the issues raised under MEC Case No19-10.
2. This Agreement and the mutual obligations under this Agreement do not constitute an admission by any party as to the validity of any claims or defenses of any other party.
3. This Agreement is not precedent setting and does not establish a practice.
4. The parties acknowledge that they have read this Agreement and fully understand and agree to the terms and conditions contained herein. The parties further declare that they have had a full and fair opportunity to obtain any advice that they deem necessary prior to signing this Agreement.
5. Each party is responsible for its own attorney's fees and costs.

By signing this Agreement, the parties agree that they have read this Agreement, have had an opportunity to seek legal or other advice, and understand the terms of this Agreement. This Agreement shall become effective on the date of the final signature of their parties and/or their authorized representatives and constitutes full and final agreement of the parties and resolution of all disputes that may exist between the parties in relation to the grievance described herein.

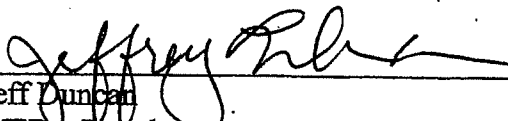
Signed this 24th day of March, 2011.



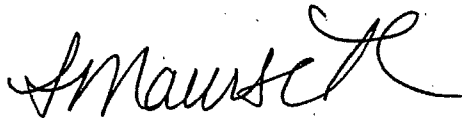
Gregory Rhodes
Attorney for Chris Johnson



Chris Johnson
Employee



Jeff Duncan
MEBA Patrolman



Leah Maurseth
WSDOT/WSF Labor Relations Manager

Don L. Anderson

Don L. Anderson
AAG, Attorney for the Employer
