

STATE OF WASHINGTON  
BEFORE THE MARINE EMPLOYEES' COMMISSION

DISTRICT NO. 1, MARINE	)	MEC CASE No. 22-95
ENGINEERS BENEFICIAL	)	
ASSOCIATION on behalf of	)	
HERBERT J. SWAN	)	
	)	
Grievant,	)	DECISION NO. 150 - MEC
	)	
v.	)	ORDER OF DISMISSAL
	)	
WASHINGTON STATE FERRIES,	)	
	)	
Respondent.	)	
	)	

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THIS MATTER came before the Marine Employees' Commission (MEC) on November 21, 1995 when District No. 1, Marine Engineers Beneficial Association (MEBA) filed a request for grievance arbitration.

In its grievance arbitration request, MEBA asserted that Herbert Swan was terminated without just cause in violation of Section 30 Management Clause and Section 5 of the Licensed Engineers' Collective Bargaining Agreement. WSF's termination of Mr. Swan was based on the alleged fact that Mr. Swan failed a urinalysis test. Further, MEBA asserted, "[T]o the extent that the WSF relies upon newly enacted drug testing policies and procedures which it unilaterally implemented (and which are the subject of the pending unfair labor practice charge), MEBA believes that said policies are void and of no effect herein."

This matter was docketed as MEC Case No. 22-95. Commissioner David E. Williams was assigned to act as arbitrator. He requested that MEBA submit a more detailed statement of the facts to MEC. That information was received on December 12, 1995. A prehearing/settlement conference was scheduled for February 1, 1996; hearing was scheduled for February 21, 1996.

ORDER OF DISMISSAL - 1

By facsimile on February 16, 1996, MEBA Attorney Ken Pedersen notified MEC that the parties had reached a settlement in principle. He requested a two-week continuance of the hearing, allowing the parties time to complete the written agreement.

By letter dated April 25, 1996, Ken Pedersen advised the MEC that the parties were successful in reaching a settlement in this matter and requested withdrawal of the grievance. A copy of the Settlement Agreement signed by WSF and District No. 1, MEBA is attached hereto.

ORDER

It is hereby ordered that the request for grievance arbitration filed by MEBA and docketed as MEC Case No. 22-95 is dismissed.

DONE this 8<sup>th</sup> day of May 1996.

MARINE EMPLOYEES' COMMISSION

/s/ HENRY L. CHILES, JR., Chairman

/s/ JOHN P. SULLIVAN, Commissioner

/s/ DAVID E. WILLIAMS, Commissioner

## **SETTLEMENT AGREEMENT**

District No. 1 MEBA (“MEBA”) and the Washington State Ferry System (“WSF”) hereby enters into this Agreement resolving the grievance filed by MEBA on behalf of Herbert Swan in MEC Case No. 22-95 as follows:

1. The WSF’s termination of the employment of Herbert Swan is rescinded, and converted instead to a thirty (30) day suspension commencing upon the date of his termination in this case.

2. Swan’s absence from work during the period commencing with his first scheduled work day following the suspension referenced in paragraph 1, and ending as described below will be considered by the WSF and MEBA to be a voluntary leave of absence without pay. The WSF records will be adjusted to reflect Swan’s status during this period.

3. The WSF and MEBA understand that Swan is currently contesting the revocation of his engineer’s license and related documents in proceedings before the United States Coast Guard. Should Swan prevail in those proceedings and thereby obtain the return of his licensing documents, or otherwise comply with Coast Guard required procedures and hence have his licenses and other documents restored to him, MEBA and the WSF agree that Swan may be returned to work by the WSF without loss of seniority, and without back pay or benefits.

4. Should Swan be returned to work under this Agreement, the WSF will require him to sign a “Return to Work” Agreement consistent with the settlement reached in Unfair Labor Practices Cases No. 8-95 through 19-95.

5. MEBA hereby withdraws the grievance filed on behalf of Swan relating to his termination from employment.

DATED this \_\_\_ day of March, 1996.

WASHINGTON STATE FERRY SYSTEM

/s/ Jim Yearby 4/1/96

Director of Human Resources

DISTRICT NO. 1, MEBA

/s/ Bud Jacque 4/18/96

Branch Port Agent