

STATE OF WASHINGTON

BEFORE THE MARINE EMPLOYEES' COMMISSION

DISTRICT NO. 1, MARINE)	
ENGINEERS BENEFICIAL)	MEC Case No. 3-00
ASSOCIATION on behalf of FLOYD)	
MCLAUGHLIN,)	
)	DECISION NO. 243 – MEC
Grievant,)	
)	
v.)	ORDER DENYING PETITION
)	FOR RECONSIDERATION
WASHINGTON STATE FERRIES,)	
)	
Respondent.)	

Floyd McLaughlin, appearing for himself.

Mario Micomonaco and Parè Abbott, MEBA/WSF Union Representatives, appearing for and on behalf of District No. 1, Marine Engineers Beneficial Association and on behalf of Floyd McLaughlin.

Christine Gregoire, Attorney General, by David Slown, Assistant Attorney General, appearing for and on behalf of the Washington State Ferries.

THIS MATTER came before the Marine Employees' Commission when Floyd McLaughlin filed a Petition for Review and Reconsideration of Decision No. 238-MEC, dated June 28, 2000. Such petition was mailed on July 26, 2000 and received by the MEC on July 28, 2000. On August 17, 2000, the MEC received Mr. McLaughlin's supplemental material, including 53 pages of exhibits which he indicated supported his petition for Review and Reconsideration. On August 24, 2000 Mr. McLaughlin submitted additional information concerning his U.S. Coast Guard License and the endorsements he possessed at the time he was hired by WSF as an Oiler. Included in the August 24th information, Mr. McLaughlin now noted for the first time that his hire date is April 20, 1998, rather than April 28, 1998. Mr. McLaughlin claimed that all the information he submitted amounts to new evidence that will result in a decision in his favor.

It was the position of MEBA that the U.S. Coast Guard License as a Marine Engineer, held by Mr. McLaughlin at the time he was hired, entitled him to be placed on the Engineers Seniority List/Oilers Promotional Roster or List. The union based its position upon the Collective Bargaining Agreement (CBA) between MEBA and WSF, in force at the time of McLaughlin's hiring, specifically Rule 21.10.5(d).

Decision No. 238-MEC concluded that Mr. McLaughlin, at the time he was hired as an Oiler, did not qualify to be placed on the Engineers Seniority List/Oilers Promotional Roster or List because his USCG Marine Engineers License with his endorsement did not entitle him to serve as an Assistant Engineer on WSF vessels that carried Assistant Engineers.

The MEC has carefully reviewed all the material received on this matter, including the original charge, Decision No. 238-MEC, Mr. McLaughlin's request for Review and Reconsideration and all the exhibits or attachments and other information submitted by Mr. McLaughlin.

We find that the Petition for Review and Reconsideration was not timely filed, pursuant to RCW 34.05.470 Reconsideration.:

(1) Within ten days of the service of a final order, any party may file a petition for reconsideration, stating the specific grounds upon which relief is requested. The place of filing and other procedures, if any shall be specified by agency rule.

All the exhibits and information submitted by Mr. McLaughlin do not constitute "new evidence" as this was all available to the MEBA and WSF at the time of the hearing by the exercise of due diligence, and had the parties thought this information to be pertinent or likely to affect the outcome, there is no doubt it would have been produced at the hearing.

We make no ruling as to the possibility of any Judicial Review by Superior Court, under the Administrative Procedures Act, chapter 34.05 RCW.

ORDER

1. Mr. McLaughlin's Petition and Request for Review and Reconsideration of Decision No. 238-MEC is denied.
2. Wherefore, it is ordered herewith that said Decision No. 238-MEC, entered in MEC Case No. 3-00, should be and hereby is affirmed and validated in all respects and particulars.

DATED this 11th day of September 2000.

MARINE EMPLOYEES' COMMISSION

/s/ JOHN P. SULLIVAN, Arbitrator

/s/ DAVID E. WILLIAMS, Commissioner