

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. 3-09

DECISION NO. 557 - MEC

ORDER CLOSING
SETTLED COMPLAINT

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

Robert McKenna, Attorney General, by *Don Anderson*, Assistant Attorney General, appearing for the Washington State Ferries.

THIS MATTER came before the Marine Employees' Commission (MEC) on September 16, 2008, when the Inlandboatmen's Union of the Pacific (IBU) filed an unfair labor practice complaint, MEC Case 3-09, against the Washington State Ferries (WSF).

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.

IBU alleged that WSF had notified employees on medical leave—specifically including leave due to on-the job injuries—that their seniority would stop accruing as soon as they had been on medical leave for six months.

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. The MEC scheduled a settlement conference for February 3, 2009; Commissioner Patricia Warren was designated to serve as Mediator. Chairman John Swanson was appointed to act as Hearing Examiner and the hearing set for March 3, 2009.

The parties reached agreement during the February 3 conference. On April 22, 2009, IBU Business Agent Jay Ubelhart provided the MEC with a copy of the signed settlement agreement, which includes the IBU's withdrawal of the complaint. That agreement is appended to and becomes a part of this Order by reference.

ORDER

It is hereby ordered that the unfair labor practice complaint, filed by IBU against WSF and docketed as MEC Case 3-09, is closed in acknowledgement of the parties' settlement agreement.

DATED this 28th day of April 2009.

MARINE EMPLOYEES' COMMISSION

/s/ JOHN SWANSON, Chairman

/s/ PATRICIA WARREN, Commissioner

/s/ JOHN COX, Commissioner

SETTLEMENT AGREEMENT
MEC Case No. 3-09
Seniority Accrual

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. 3-09, do hereby agree as follows:

WSF Agrees:

1. That notwithstanding any prior notice to the contrary, Dena Thomas, Nora Taylor and Michael Zuarri shall each have their seniority restored to them, day-for-day, for the entire period each was on extended leave during 2008.
2. That in addition to the aforementioned employees, the IBU shall have thirty (30) days from the date of this Agreement to identify any other employees who, in 2008, were granted extended leave pursuant to Rule 30.6 of the Collective Bargaining Agreement (CBA) without receiving day-for-day seniority for the entire period.
3. That hereafter the WSF shall, upon an employee's timely application pursuant to Rule 30.06 of the Collective Bargaining Agreement, notify the IBU if the employer does not intent to agree to maintain the employee's seniority day-for-day.

IBU Agrees:

1. To the withdrawal of MEC Case No. 3-09. A signed copy of this agreement shall constitute a request for withdrawal, and may be presented by any party.

The Parties Mutually Agree:

1. That all WSF policies on extended leave remain in effect, and are not modified or amended in any way by this Agreement.

/s/ Paul A. Ganalon 4/22/09
Labor Relations Manager
WSDOT Ferries

/s/ Dennis Conklin 4/22/09
Regional Director
Inlandboatmen's Union

/s/ Jerry Holder 4/22/09
Labor Negotiator
OFM Labor Relations Office