

STATE OF WASHINGTON
BEFORE THE MARINE EMPLOYEES' COMMISSION

DISTRICT NO. 1, MARINE
ENGINEERS BENEFICIAL
ASSOCIATION on behalf of
PARÈ ABBOTT,

Grievant,

v.

WASHINGTON STATE FERRIES,

Respondent.

MEC Case No. 34-00

DECISION NO. 301 – MEC

ORDER OF DISMISSAL

Davies, Roberts and Reid, attorneys, by *Michael McCarthy*, appearing for and on behalf of District No. 1, Marine Engineers Beneficial Association (MEBA) and Parè Abbott.

Christine Gregoire, Attorney General, by *David Slown*, Assistant Attorney General, appearing for and on behalf of Washington State Ferries (WSF).

THIS MATTER came on regularly before the Marine Employees' Commission (MEC) on September 1, 2000, when District No. 1 MEBA filed a request for grievance arbitration on behalf of Parè Abbott. In its grievance arbitration request, MEBA alleged that WSF denied Pare Abbott opportunity to bump-up to Assistant Engineer on the Issaquah from August 2 through 4, 2000. MEBA maintains that Mr. Abbott was denied the bump-up because he had not been signed off by the Staff Chief Engineer as being broken-in on the boat; however, engineers were dispatched from the hall for those dates, with no ferry experience and no break-in period. MEBA asserted that if WSF was attempting to implement a fleet-wide break-in policy, it was in defiance of the Union's demand for bargaining. Further, MEBA asserted that if the Issaquah was the only vessel implementing the break-in policy, WSF was in violation of Rule 5.01, paragraph 2 of the contract.

MEBA certified that the grievance procedures in the pertinent MEBA/WSF collective bargaining agreement (CBA) had been utilized and exhausted. In addition, the union certified that the arbitrator's decision shall not change or amend the terms, conditions or application of said CBA and that the arbitrator's award shall be final and binding.

The MEC docketed the requested for grievance arbitration as MEC Case No. 34-00 and designated Commissioner John Sullivan to act as Arbitrator.

On September 22, 2000, MEBA Union Representative Mario Micomonaco requested that the MEC postpone scheduling a hearing to allow opportunity for additional settlement efforts. By phone on March 29, 2001, Mr. Micomonaco informed the MEC that the parties' settlement efforts had been unsuccessful. He requested that a hearing date be scheduled for sometime after the decision would have issued in MEC Consolidated Cases 1-01, 6-01 and 9-01.

A hearing date was set for November 27, 2001. On November 14, 2001, MEBA requested a continuance, noting that MEBA counsel was not available on the scheduled hearing date. MEBA also indicated that WSF and the Union were meeting on a regular basis with the U.S. Coast Guard concerning the familiarization program, at issue in this case. The hearing was continued to February 12, 2002.

On December 19, 2001, the MEC again continued the hearing, to May 21, 2002, in order to accommodate MEBA's request to delay action until after resolution of Consolidated Cases 1-01, 6-01 and 9-01. (A March 2002 hearing date had been rescheduled in the Consolidated Cases; however, the parties were continuing settlement efforts.)

On January 17, 2002, MEBA submitted to MEC a copy of the parties' signed settlement agreement resolving Case 34-00, (as well as Case 1-01, 6-01 and 9-01). MEBA's letter withdrawing the grievance accompanied the settlement. The parties' agreement is appended to and becomes a part of this Order by reference.

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ORDER

It is hereby ordered that the request for grievance arbitration, filed by District No. 1, MEBA on behalf of Parè Abbott, and docketed as MEC Case No. 34-00, be dismissed.

DATED this 25th day of January 2002.

MARINE EMPLOYEES' COMMISSION

/s/ JOHN NELSON, Chairman

/s/ JOHN SULLIVAN, Commissioner

/s/ JOHN BYRNE, Commissioner

**FAMILIARIZATION SETTLEMENT AGREEMENT
BETWEEN
WASHINGTON STATE FERRY SYSTEM
AND
DISTRICT NO. 1 MARINE ENGINEERS BENEFICIAL ASSOCIATION**

JAN 17 2002

MARINE EMPLOYEES COMMISSION
OLYMPIA, WA

Washington State Ferries ("WSF" or "the Ferries") and District No. 1 Marine Engineers Beneficial Association ("MEBA" or "the Union") hereby agree to settle three (3) Union unfair labor practice complaints against the Ferries (MEC Case Nos. 1-01, 6-01, and 9-01) and a Union grievance filed on behalf of MEBA member Pare Abbott, all of which arise out of issues surrounding "familiarization and dispatches from the MEBA Hiring Hall. This Agreement shall be a pilot project which will expire 180 days after it is executed by both parties, unless it is renewed by the parties. In furtherance of this settlement, the parties agree as follows:

1. Temporary vacancies in the Assistant Engineer classification shall be filled in accordance with Section 2.1 of the Licensed Collective Bargaining Agreement, Rule 21.10 of the Unlicensed Collective Bargaining Agreement, and this Settlement Agreement. To the extent that Section 2.1 and/or Rule 21.10 are inconsistent with this Settlement Agreement, this Settlement Agreement shall govern for the period it remains in effect and during any subsequent renewal period;
2. Engineers dispatched through the MEBA Hiring Hall for temporary Assistant Engineer vacancies must meet the familiarization requirements associated with vacancy set forth in this Settlement Agreement before they are dispatched or placed into the vacancy;
3. To be familiarized and "qualified" within the meaning of Section 2.1 of the Licensed Agreement and Rule 21.10 of the Unlicensed Agreement, an engineer dispatched through the MEBA Hiring Hall for an Assistant Engineer temporary vacancy must

complete a 12-hour Phase I Familiarization Program for the class of vessel to which the engineer seeks a dispatch (unless the Ferries has previously approved that engineer to fill temporary vacancies aboard that class). The Ferries will not pay such an engineer for attending this familiarization program, until he/she has met the requirements of the following paragraph.

4. After an engineer dispatched through the MEBA Hiring Hall has completed seven days of service aboard the class vessel for which he/she has attended the 12-hour Phase I Familiarization Program, the Ferries will pay that engineer an additional 12 hours straight-time pay at the Assistant Engineer rate.
5. The payment system set forth in the previous two paragraphs applies on a class-by-class basis. For example, if an engineer completes the 12-hour Familiarization Programs for both Jumbo Mark II and Issaquah Class vessels, he/she will receive 12 hours additional pay after completing seven days on Jumbo Mark II class vessels, and a second 12 hours additional pay after completing seven days on Issaquah Class vessels.
6. The Ferries will maintain and make available to MEBA engineers a 12-hour Phase I Familiarization Program in compliance with this Agreement. The precise content of this 12-hour Phase I Familiarization Program is subject to management discretion.
7. The Ferries, together with the Union, will seek and advocate approval of the 12-hour Phase I Familiarization Program required by this Settlement Agreement from the United States Coast Guard. If the Coast Guard does not give its approval, this Settlement Agreement is void, and the Ferries and the Union return to status quo ante. Should this occur, MEBA may re-file all unfair labor practice charges and grievances

agreed to be dismissed in this Settlement Agreement and the deemed filing date for these re-filed charges and grievances shall be the original date of filing.

8. All engineers dispatched through the MEBA Hiring Hall for temporary Assistant Engineer vacancies must maintain their facial hair in compliance with the Ferries' respirator protection policy.
9. Engineers dispatched through the MEBA Hiring Hall for temporary Assistant Engineer vacancies must actively work toward completion of Phase II of the Ferries' Familiarization Program, unless assigned other duties by the Chief Engineer.
10. If the Staff Chief Engineer or his/her designee declines to "sign off" on a MEBA engineer who has completed the 12-hour Familiarization Program set forth above, that engineer will be given the opportunity to attend an additional 12-hours of familiarization. If the engineer accepts this opportunity, the Ferries will provide such additional familiarization. Engineers who are "signed off" only after attending this additional 12-hours of familiarization will be provided additional pay in compliance with paragraphs 4 and 5, above, except that they will receive 24-hours additional pay, rather than 12. If the Staff Chief Engineer or his/her designee still declines to "sign off" on a MEBA engineer after the completion of 24-hours of familiarization, this refusal may be grieved under this Settlement Agreement and the applicable Collective Bargaining Agreement.
11. The Ferries will make familiarization opportunities reasonably available to interested MEBA engineers. The Ferries and the Union agree to work together in good faith to construct a procedure and/or a pre-determined schedule of familiarization opportunities in order to provide reasonable access.

12. The Union Hiring Hall will make its best efforts to ensure that it dispatches only engineers who have completed the required 12-hour Familiarization Program for the class of vessel upon which the temporary vacancy occurs. To assist the Hall in keeping this commitment, the Ferries will fax to the Union Hiring Hall a copy of each and every Staff Chief (or designee) "sign off" for engineers who have completed the 12-hour Familiarization Program (or 24-hour program, if that becomes necessary in an individual case). The Ferries will also immediately inform the Union Hiring Hall in writing if the Staff Chief or his/her designee has declined to "sign off," despite the completion of the required familiarization program.
13. The Ferries and the Union agree to work together in good faith to devise a reliable procedure for the payments required by paragraph 4, above.
14. If the MEBA Hiring Hall is unable to dispatch an engineer who has met the requirements of this Settlement Agreement, WSF may fill the temporary vacancy in compliance with the applicable sub-sections of Section 2.1 of the Licensed Agreement and Rule 21.10 of the Unlicensed Agreement.
15. The Ferries and MEBA jointly agree to develop an expanded computer based training program through the MEBA School. The purpose of this program is to:
 - a. Increase training opportunities for WSF/MEBA personnel;
 - b. Improve the effectiveness of all training; and
 - c. Provide greater access to WSF temporary assistant engineer vacancies for MEBA engineers referred through the MEBA Hiring Hall.
16. The Ferries agree to compensate engineers who were dispatched for temporary Assistant Engineer vacancies by the MEBA Hiring Hall since January 1, 2001, but

were not placed into the positions by the Ferries under the Ferries familiarization program, as set forth in Attachment A. MEBA will dismiss with prejudice all grievances filed on behalf of these individuals.

17. In return for the payment of 2 days to Pare Abbott, the parties agree to dismiss Abbott's pending grievance regarding temporary vacancies. This settlement of Abbott's grievance is on a non-precedent setting basis. It will not be cited by either party as evidence of past practice.
18. Temporary Assistant Engineers dispatched from the Hall to vessels in Anacortes will receive travel time and mileage daily.
19. This Agreement shall take effect January 7, 2002.
20. The Ferries will begin to identify familiarization opportunities for MEBA engineers within 14 days of the effective date of this Settlement Agreement.
21. Disagreements regarding the interpretation or application of Settlement Agreement shall be resolved pursuant to the grievance procedures of the applicable collective bargaining agreement.

DATED this 7th day of JANUARY, 2002.

WASHINGTON STATE FERRIES

DISTRICT NO. 1 MARINE
ENGINEERS BENEFICIAL ASSOCIATION

By: 

By: 

ATTACHMENT "A"

RELIEF FOR WSF

Date DeniedName

01/05/01

Jeff Jenkins

04/23/01

Joe Shea

04/27/01

Loraine Acosta

05/08/01

Dennis MacCumber

05/10/01

Justin Raby

05/30/01

Dennis MacCumber

05/31/01

Marvin Wells

06/13/01

Tom Hogan

06/20/01

Greg Kuijper

06/26/01

Tom Hogan



**Washington
State Ferries**

2911 2nd Avenue
Seattle, WA 98121-1012

Washington State
Department of Transportation

Douglas B. MacDonald, Secretary of Transportation

JAN 17 2002

MARINE EMPLOYEES' COMMISSION
OLYMPIA, WA

January 8, 2002

Mr. John McCurdy
M.E.B.A.
732 South Homer Street
Seattle, WA 98108

RE: FAMILIARIZATION SETTLEMENT AGREEMENT

Dear John:

I have signed the attached Familiarization Settlement Agreement. In so doing, I want to again make clear for the record that the references made throughout this Agreement to "12-Hour Familiarization" and "12-Hour Phase I" are in fact references to Part I of the Revised WSF Familiarization Program. The reference should in no way be taken to mean that Part I of the break-in process takes 12 hours to complete.

Part I was designed to meet minimum USCG requirements. We believe that it can be accomplished in 12 hours, but do not warrant this to be the case for every break in opportunity. The length of time required to complete Part I is determined by the progress made by the individual temporary engineer.

I know that we have discussed this on a number of occasions and there is agreement on the subject. I don't wish to alter the Agreement, but since it was your lawyer who drew up the Agreement, I think it is best that we cover this territory one last time.

Your efforts to work out a settlement are greatly appreciated.

Respectfully,

Mark E. Nitchman
Director of Maintenance

MN:bas
1082mm