

STATE OF WASHINGTON
BEFORE THE MARINE EMPLOYEES' COMMISSION

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| GARY HUNT; and INTERNATIONAL |) | |
| ORGANIZATION OF MASTERS, |) | MEC Case No. 8-90 |
| MATES AND PILOTS, |) | |
| |) | |
| Grievants, |) | DECISION NO. 61 |
| |) | |
| v. |) | |
| |) | ORDER OF DISMISSAL |
| WASHINGTON STATE FERRIES, |) | |
| |) | |
| Respondent. |) | |
| |) | |

Captain David Boyle, Vice President, International Organization of Masters, Mates and Pilots, appearing for and on behalf of the grievants.

Kenneth Eikenberry, Attorney General, by Patricia K. Nightingale, Assistant Attorney General, appearing for and on behalf of Washington State Ferries.

INTRODUCTION AND BACKGROUND

Gary Hunt is employed by Washington State Ferries (WSF) as a Mate. He is a member of the International Organization of Masters, Mates and Pilots (MM&P) and a member of the collective bargaining unit comprised of the WSF licensed deck officers.

On June 5, 1990 Washington State Ferries filed a request for arbitration of a grievance which had reached impasse status. A partial description of the grievance follows:

On October 14, 1987 WSF Port Captain D.R. Schwartzman notified Gary Hunt that a complaint had been filed with the Affirmative Action Officer of the Department of Transportation alleging that the complainant had been "unlawfully subjected to a hostile working environment by reason of derogatory racial statements made by you on February 17, 1987 over the . . . intercom." Captain

Schwartzman alleged that, "following investigation of this matter, it was determined that certain offensive racial remarks were, in fact, publicly expressed over the intercom, but that there was no discriminatory impact on the complainant's terms and conditions of employment . . ." Schartzman warned Hunt that, although there was no finding of discrimination per se, Hunt's remarks were offensive, "unacceptable and damaging to your relationship with other employees of your vessel. Do not engage in any further such inappropriate conduct."

On July 8, 1988 Gary Hunt filed a grievance, asking that the foregoing Schartzman notice be removed from Hunt's personnel file and alleging that the reported statements "never took place."

On March 26, 1990 Elton Eilert, WSF Employee Relations Director, notified MEC that WSF was filing the request for arbitration by mutual agreement with MM&P.

The Marine Employees' Commission appointed Commissioner Louis O. Stewart to act as Arbitrator in accordance with WAC 316-65-070. On June 13, 1990 Arbitrator Stewart notified all parties that a hearing on this matter would be held on September 12, 1990. Stewart did convene the hearing as scheduled, but offered the parties an opportunity to confer once more to attempt to reach agreement, and recessed the hearing accordingly.

The parties did reach agreement. That agreement included a request that the following order contain the elements of their agreement.

ORDER

- I. Washington State Ferries shall remove the notice from Port Captain Schwartzman, dated October 14, 1987, from the personnel file for Gary Hunt, Mate, on October 14, 1990.
- II. Following removal of the Schwarztman notice from Hunt's personnel file, neither the notice nor the incident referred

to therein shall be used as a basis for discipline or in any other way and shall be as if they had never existed.

III. This Commission recognizes Gary Hunt's continued denial of the incident described in the aforesaid Schwartzman notice. The foregoing provisions of this order do not and are not intended to indicate that the incident alleged by Captain Schwartzman did or did not occur.

Dated this 15th day of October, 1990.

MARINE EMPLOYEES' COMMISSION

/s/ DONALD E. KOKJER, Commissioner

/s/ LOUIS O. STEWART, Commissioner