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**Government of the District of Columbia  
Public Employee Relations Board**

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In the Matter of:	)	
	)	
District of Columbia Metropolitan Police Department,	)	
	)	PERB Case No. 15-A-13
Petitioner,	)	
	)	Opinion No. 1598
and	)	
	)	
Fraternal Order of Police/ Metropolitan Police Department Labor Committee (on behalf of Justin Linville),	)	
	)	
Respondent.	)	
	)	

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**DECISION AND ORDER**

**I. Introduction**

On June 22, 2015, the Metropolitan Police Department (“MPD,” or “Petitioner”) filed this Arbitration Review Request (“Request”) pursuant to D.C. Official Code § 1-605.02(6).<sup>1</sup> MPD seeks review of Arbitrator Sean Rogers’ Arbitration Award (“Award”) that sustained the grievance filed by the Fraternal Order of Police/Metropolitan Police Department Labor Committee (“FOP”) on behalf of Officer Justin Linville (“Grievant”). The Arbitrator found that MPD violated Article 12, Section 6 of the parties’ Collective Bargaining Agreement (“CBA”) referred to as the “55-day rule,” by failing to serve the Grievant with a Final Notice within the required time frame.<sup>2</sup> MPD seeks review on the grounds that the Arbitrator exceeded his jurisdiction and the Award is contrary to law and public policy.”<sup>3</sup>

For the reasons stated herein, the Board affirms the Award and denies the Request.

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<sup>1</sup> D.C. Code § 1-605.02(6) (2014).

<sup>2</sup> Article 12, Section 6 of the parties’ CBA states, in pertinent part, “The employee shall be given a written decision and the reasons therefore no later than fifty-five (55) business days after the date the employee is notified in writing of the charge or the date the employee elects to have a departmental hearing....”

<sup>3</sup> Request at 7; *See* D.C. Code § 1-605.02(6) (2014).

## II. Statement of the Case

On May 1, 2009, following an investigation, MPD issued a Notice of Proposed Adverse Agency Action to the Grievant, proposing to remove him based on charges alleging neglect of duty, conviction of a criminal or quasi-criminal offense, and conduct prejudicial to MPD.<sup>4</sup> In accordance with Article 12, Section 6 of the parties' CBA, on May 21, 2009, the Grievant requested a departmental hearing.<sup>5</sup> Under this provision, referred to as the "55-day rule," MPD is allowed 55 days from the date the grievant requests a departmental hearing to provide the grievant with a written decision.<sup>6</sup> On September 17 and 23, 2009, the Grievant appeared before the Adverse Action Panel ("Panel").<sup>7</sup> At the close of the Panel hearing, a Panel member noted the 55<sup>th</sup> day as being November 20, [2009].<sup>8</sup> Ultimately, the Grievant was found guilty of all three charges and specifications, and the Panel recommended termination.<sup>9</sup>

On November 2, 2009, MPD attempted to serve the Grievant with the Final Notice of Adverse Action ("Final Notice"), which stated that the Grievant's removal was to become effective on December 18, 2009.<sup>10</sup> Attached to the Final Notice was a return of service sheet ("Return").<sup>11</sup> However, the Final Notice was undated and the Return was incomplete.<sup>12</sup> At the bottom of the Return, a handwritten note stated, "No answer, left @ door."<sup>13</sup> There was no delivery address listed, which would have established where the Final Notice was delivered and the Return was not signed by the Grievant despite the wording of the return, "I admit personal service."<sup>14</sup>

The Grievant's termination became effective on December 18, 2009.<sup>15</sup> On January 12, 2010,<sup>16</sup> as a result of a phone call from MPD's Human Resources division, the Grievant learned that he was terminated.<sup>17</sup> The Grievant retrieved the Final Notice from MPD on January 15, 2010.<sup>18</sup>

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<sup>4</sup> Award at 8.

<sup>5</sup> *Id.*

<sup>6</sup> *Id.* at 3.

<sup>7</sup> *Id.* at 8.

<sup>8</sup> *Id.* at 10. Before the Arbitrator, FOP maintained that the 55<sup>th</sup> days was November 30, 2009. However, the Arbitrator found that the difference was "not material to the resolution of the issue whether the MPD violated the 55-day rule.

<sup>9</sup> *Id.* at 8. The Arbitrator noted that the Panel's Findings of Facts and Conclusions is undated.

<sup>10</sup> *Id.* The Arbitrator noted that the Final Notice is undated.

<sup>11</sup> *Id.* at 9.

<sup>12</sup> *Id.*

<sup>13</sup> Answer at 9. The Arbitrator noted that the Panel record establishes that the Grievant provided his address to MDP at the hearing on September 23, 2009.

<sup>14</sup> *Id.* at 10.

<sup>15</sup> *Id.*

<sup>16</sup> January 12, 2010 was 87 days after the Grievant requested for an Adverse Action Hearing.

<sup>17</sup> Award at 10.

<sup>18</sup> *Id.* The Arbitrator noted that "The Record is silent on Linville's duty status from December 18, 2009, the effective date of his removal, to January 15, 2010, the date he retrieved the Final Notice." (Award at 10).

On January 19, 2010, the Grievant timely filed an appeal with the Office of Employee Appeals (“OEA”).<sup>19</sup> FOP appealed his termination to the Chief of Police on January 20, 2010, which was denied on February 8, 2010.<sup>20</sup> On March 2, 2010, FOP demanded arbitration.<sup>21</sup> At this time, the Grievant had two appeals of his termination: one pending before OEA; and another pending for arbitration, pursuant to the parties’ grievance procedure. On November 26, 2012, the Grievant withdrew his OEA appeal.<sup>22</sup>

In its first submission to the Arbitrator, MPD challenged arbitrability.<sup>23</sup> MPD argued that Grievant’s initial appeal to OEA foreclosed him from pursuing an arbitration appeal.<sup>24</sup> In an Arbitrability Award dated November 19, 2014, the Arbitrator determined that the grievance was arbitrable.<sup>25</sup> Applying D.C. Official Code § 1-616.52(d), (e), and (f) to the “unique facts” and particularly, “the clear statutory language that a CBA challenge to an adverse action ‘shall take precedence,’” the Arbitrator found that the Grievant filed two timely appeals of his termination in order to protect his appeal rights.<sup>26</sup> Since one appeal, the CBA appeal, took precedence over the OEA appeal, the Arbitrator determined that the Grievant had the right to revoke his OEA appeal.<sup>27</sup>

As to the merits of the case, MPD contended that it properly served the Grievant by the 55<sup>th</sup> business day and that the termination must be affirmed.<sup>28</sup> MPD maintained that the date of service, November 2, 2009, falls within the 55-day period, and argued that FOP failed to establish that leaving the Final Notice at the Grievant’s door prior to the expiration of the 55-business days was a CBA violation.<sup>29</sup> MPD argued that since the Grievant gave MPD his address prior to the Final Notice being served, the Final Notice was served to the correct address.<sup>30</sup> Additionally, MPD noted that the Advanced Written Notice requirement has authorized exceptions for alternative service designed to effect actual notice of constructive service under MPD General Order 120.21.<sup>31</sup> Lastly, MPD asserted that the General Order states that the Final

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<sup>19</sup> Request, Ex. 9 at 7 (Arbitrability Award ). Under the Comprehensive Merit Personnel Act (“CMPA”), (DC Official Code § 1-616.52(b)), an appeal from a removal may be made to OEA. DC Code § 1-616.52(b) (2014),

<sup>20</sup> Award at 10. CBA Article 12, Section 7 “provides for an employee’s appeal of termination to the Chief of Police within ten (10) days of receipt of the *Decision* and, thereafter, FOP may file an appeal to arbitration pursuant to CBA Article 19.” (Request, Exhibit 9 at 7).

<sup>21</sup> Award at 10.

<sup>22</sup> Request, Ex. 9 at 7.

<sup>23</sup> Request, Exhibit 9 at 1-2. FOP first raised a timeliness challenge to MPD’s arbitrability dispute. In a *Procedural Decision*, which is not of record, dated October 17, 2014, the Arbitrator concluded that the CBA is silent on time limits to raise an arbitrability challenge. The Arbitrator also found that the clear language of CBA establishes that the arbitrator must rule on arbitrability as a threshold issue before ruling on the merits. (Request, Exhibit 9 at 9).

<sup>24</sup> *Id.* at 2.

<sup>25</sup> *Id.* at 9.

<sup>26</sup> *Id.* at 7.

<sup>27</sup> *Id.* at 11.

<sup>28</sup> Award at 11.

<sup>29</sup> *Id.* at 11-12; *See* D.C. Code § 1-616.53(d) (2014).

<sup>30</sup> *Id.* at 12.

<sup>31</sup> *Id.* at 11.

Notice must be served in compliance with DC Personnel Rules and regulations and the CBA Article 12, Section 6.<sup>32</sup>

FOP countered that MPD violated the 55-day rule when it failed to timely serve the Grievant with the Final Notice.<sup>33</sup> FOP contended that MPD's attempted service on November 2, 2009 by leaving the package at the door was ineffective as it did not meet the requirements of the General Order and violated the parties' CBA.<sup>34</sup> Accordingly, FOP argued that this was a "substantive violation" of the Grievant's rights, which consequentially required that the disciplinary action be rescinded and that the Grievant be reinstated with full back pay and benefits.<sup>35</sup>

### III. Arbitrator's Merits Award

The issues, as clarified by the Arbitrator, were as follows:

- (1) Whether MPD violated the 55-day Rule as set forth in Article 12, Section 6 of the Parties' applicable Collective Bargaining Agreement, when it failed to serve the Grievant with its Final Notice of Adverse Action within the required time frame?
- (2) Whether the evidence presented by the MPD was sufficient to support the alleged charges?
- (3) Whether termination is the appropriate remedy?

(Award at 6.)

Based on a review of the evidence before him, the Arbitrator sustained FOP's grievance, finding that MPD violated the 55-day Rule in Article 12, Section 6 of the CBA, by failing to serve the Grievant with a Final Notice within the required time frame.<sup>36</sup> Accordingly, the Arbitrator found that the termination must be rescinded and the Grievant must be reinstated with back pay and benefits.<sup>37</sup>

The Arbitrator determined that taken together, the DPM regulations, the General Order, the CBA, and the Return, establish that MPD was required to deliver the Final Notice to the Grievant 55 days after May 21, 2009, the date he requested an Adverse Action Hearing—and there is no proof that MPD did so.<sup>38</sup> First, the Arbitrator found that when read together, DPM §§ 1614.5 and 1614.6, "establish that acknowledged, personal service is the preferred method of

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<sup>32</sup> *Id.*

<sup>33</sup> *Id.* at 13.

<sup>34</sup> *Id.* at 14.

<sup>35</sup> *Id.*

<sup>36</sup> *Id.* at 15.

<sup>37</sup> *Id.*

<sup>38</sup> *Id.* at 16.

delivery of the Final Notice.”<sup>39</sup> The Arbitrator stated, “Together, the regulations’ clear intent is to ensure that the affected employee **receives** the Final Notice and that the agency can **prove** delivery to the affected employee.”<sup>40</sup> Additionally, the Arbitrator noted that the General Order requires that a Final Notice “**shall** be issued in compliance with D.C. Personnel rules and...the CBA.”<sup>41</sup> Furthermore, the Arbitrator noted that the parties’ CBA Article 12, Section 6 requires that an employee “**shall** be given” the Final Notice “no later than fifty-five (55) business days after...the date the employee elects to have a departmental hearing, where applicable.”<sup>42</sup> Finally, the Arbitrator noted that the “express, clear language” on the Return, which states, “I admit personal service...,” establishes that it was the intent of MPD that service of the Final Notice was to be “personal service.”<sup>43</sup> Taken together, in the current matter, this required MPD to deliver the Final Notice to the Grievant within 55 days after May 21, 2009.<sup>44</sup> Instead, the Arbitrator found that MPD left the Final Notice at the door of an “unknown, unnamed address” which violated the CBA, the General Order, and the requirements of the Return.<sup>45</sup>

The Arbitrator dismissed MPD’s arguments that since the Grievant provided his address at the close of the Adverse Action Hearing, the Final Notice must have been left at the door of that address on November 2, 2009.<sup>46</sup> The Arbitrator stated, “This argument is fatally flawed.”<sup>47</sup> There is no evidence proving at what address the notice was left or that the grievant received it. Further, the Arbitrator found no merit in MPD’s argument that the service requirements for the Final Notice are less stringent than service requirements of the Proposed Notice of Adverse Action.<sup>48</sup> The Arbitrator also found “unreasonable” MPD’s argument that the Grievant should have to prove that service of the Final Notice did not occur.<sup>49</sup>

The Arbitrator, finding that MPD’s failure to serve the Grievant with the Final Notice or to prove delivery and receipt, was a violation of a “bargained-for, significant, mandatory, procedural due process notice requirement of the collective bargaining agreement.”<sup>50</sup> Thus, the Arbitrator determined that MPD violated the 55-day rule and sustained FOP’s grievance.<sup>51</sup> To

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<sup>39</sup> DPM § 1614.5 requires that an employee when a Final Notice “is delivered shall be asked to acknowledge its receipt.” DPM § 1614.6 provides for the receipt of a Final Notice when an employee is not a duty status to include that “the notice of final decision shall be sent to the employee’s last known address by courier, or by certified or registered mail, return receipt requested.

<sup>40</sup> Award at 15. (Emphasis added by Arbitrator.)

<sup>41</sup> *Id.* (Emphasis added by Arbitrator.)

<sup>42</sup> *Id.* at 16. (Emphasis added by Arbitrator.)

<sup>43</sup> *Id.*

<sup>44</sup> *Id.*

<sup>45</sup> *Id.* Additionally, the Arbitrator determined that “the Record establishes that, to the present time, MPD has never served or delivered the Final Notice to [the Grievant] and cannot prove otherwise.” *Id.*

<sup>46</sup> *Id.* at 17.

<sup>47</sup> *Id.* at 17. “*Post hoc ergo propter hoc*” is a formula designating an error in logic that accepts as a cause something that merely occurred earlier in time. Dictionary.com, <http://www.dictionary.com/browse/post-hoc-ergo-propter-hoc> (last visited October 13, 2016).

<sup>48</sup> *Id.* at 17-18.

<sup>49</sup> *Id.* at 18.

<sup>50</sup> *Id.*

<sup>51</sup> *Id.*

remedy the violation, the Arbitrator rescinded the termination and reinstated the Grievant with back pay and benefits.<sup>52</sup> The Arbitrator did not review the merits of the Grievant's termination.<sup>53</sup>

#### IV. Discussion

The Board has limited authority to review an arbitration award. In accordance with D.C. Official Code § 1-605.02(6), the Board is permitted to modify or set aside an arbitration award in only three narrow circumstances: (1) if an arbitrator was without, or exceeded his or her jurisdiction; (2) if the award on its face is contrary to law and public policy; or (3) if the award was procured by fraud, collusion or other similar and unlawful means.<sup>54</sup>

Although MPD asserted before the Arbitrator on the merits that it had not violated the 55-day rule, it no longer makes that argument before PERB. MPD's Request is confined to a dispute over the Arbitrator's Arbitrability Award dated November 19, 2010. MPD concedes that "a mere disagreement with the Arbitrator's interpretation...does not make the award contrary to law."<sup>55</sup> MPD contends, however, that "the Grievant's claim was not arbitrable; by extension, the arbitrator exceeded his authority and his award is contrary to law and public policy."<sup>56</sup> The Board finds that MPD has not met the narrow test for setting aside the decision of an arbitrator by whom it has agreed to be bound.

MPD's first argument appears to imply that the Award should be set aside because the Arbitrator exceeded his jurisdiction. MPD first points to the CMPA, which provides that aggrieved employees that are covered both under the CMPA and a negotiated labor agreement, may in their discretion, raise their grievance before OEA or utilize the negotiated grievance procedure, "but not both."<sup>57</sup> Furthermore, the statute states that an employee is deemed to exercise his or her option to appeal under the CMPA or CBA based on "whichever event occurs first" in writing.<sup>58</sup> Here, MPD notes, the Grievant first filed an appeal with OEA, before withdrawing and proceeding with the negotiated grievance procedure.<sup>59</sup> MPD contends that although the Grievant's act of proceeding with the negotiated grievance procedure was "clearly prohibited by the statute," the Arbitrator "chose to circumvent the explicit requirements of the statute and render an award."<sup>60</sup> For support, MPD cites to *Brown v. Watts*, in which the D.C. Superior Court, in dicta, stated that a grievant must choose between the OEA process and the CBA process "at the outset of the appeal."<sup>61</sup>

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<sup>52</sup> *Id.*

<sup>53</sup> *Id.*

<sup>54</sup> *Fraternal Order of Police/D.C. Metro. Police Dep't Labor Comm. v. D.C. Metro. Police Dep't*, 62 D.C. Reg. 12587, Slip Op. 1531, PERB Case No. 15-A-10 (2015) (citing D.C. Code § 1-605.02(6)).

<sup>55</sup> Request at 10 (citing *MPD v. FOP/MPD Labor Comm.*, Slip Op. 933, PERB Case No. 07-A-08).

<sup>56</sup> *Id.* at 7.

<sup>57</sup> *Id.* at 9 (citing D.C. Code § 1-616.52).

<sup>58</sup> D.C. Code § 1-616.52(f).

<sup>59</sup> Request at 11.

<sup>60</sup> *Id.*

<sup>61</sup> *Id.* at 12; *See Brown v. Watts*, 993 A.2d 529, 533 (D.C. 2010).

The test the Board uses to determine whether an Arbitrator has exceeded his jurisdiction and was without authority to render an award is “whether the Award draws its essence from the collective bargaining agreement.”<sup>62</sup>

The Board has also held that by agreeing to submit a grievance to arbitration, it is the Arbitrator’s interpretation, not the Board’s, for which the parties have bargained.<sup>63</sup> The Board has found that by submitting a matter to arbitration, “the parties agree to be bound by the Arbitrator’s interpretation of the parties’ agreement, related rules and regulations, as well as the evidentiary findings on which the decision is based.”<sup>64</sup> Moreover, “[t]he Board will not substitute its own interpretation or that of the Agency’s for that of the duly designated arbitrator.”<sup>65</sup> A party’s disagreement with an arbitrator’s interpretation of a provision in the parties’ collective bargaining agreement does not mean that the arbitrator exceeded his jurisdiction.<sup>66</sup>

The Board finds that MPD’s request is merely a disagreement with the Arbitrator’s evidentiary findings and conclusions. MPD’s position is a reiteration of the argument presented before the Arbitrator and rejected in the Arbitrability Award issued on November 19, 2010.<sup>67</sup> As previously noted, the Arbitrator determined that Grievant’s claim was arbitrable as a threshold issue. In that decision, the Arbitrator rejected MPD’s reliance on *Brown*, stating, “The unique facts in [the Grievant’s] case are entirely different than in *Brown* such that *Brown* provides no precedent, but only useful dicta.”<sup>68</sup> MPD’s Request on this point is only a disagreement with the Arbitrator’s application of D.C. Official Code § 1-616.52(d), (e), and (f). This disagreement is not a basis for the Board to overturn the Award.

MPD’s final argument is that the Award is “contrary to law and public policy.” It cites the “well-defined public policy in favor of creating uniformity in personnel administration and preventing employees from forum-shopping when the employee has more than one means of redress” and argues that allowing the Arbitrator’s decision to stand “would nullify the purpose of

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<sup>62</sup> *DC Metro. Police Dep’t and Fraternal Order of Police, Metro. Police Dep’t Labor Comm.*, (OBO Charles Jacobs), 60 DC Reg. 3060, Slip Op. 1366, PERB Case No. 12-A-04 (2013); *See Metro. Police Dep’t and Fraternal Order of Police/Metro. Police Dep’t Labor Comm. (OBO Kenneth Johnson)*, 59 D.C. Reg. 3959, Slip Op. No. 925, PERB Case No. 08-A-01 (2012) (quoting *D.C. Pub. Schools v. AFSCME, Dst. Council 20*, 34 D.C. Reg. 3610, Slip Op. No. 156, PERB Case No. 86-A-05 (1987)). *See also Dobbs, Inc. v. Local No. 1614, Int’l Bhd. of Teamsters, Chauffeurs, Warehousemen and Helpers of America*, 813 F.2d 85 (6th Cir. 1987).

<sup>63</sup> *See UDC and UDC Faculty Ass’n*, 39 D.C. Reg. 9628, Slip Op. No. 320, PERB Case No. 92-A-04 (1992).

<sup>64</sup> *DC Metro. Police Dep’t v. Fraternal Order of Police/Metro. Police Dep’t Labor Comm.*, 47 D.C. Reg. 7217, Slip Op. No. 633 at p. 3, PERB Case No. 00-A-04 (2000); *DC Metro. Police Dep’t and Fraternal of Police, Metro. Police Dep’t Labor Comm. (Grievance of Angela Fisher)*, 51 D.C. Reg. 4173, Slip Op. No. 738 PERB Case No. 02-A-07 (2004).

<sup>65</sup> *DC Dep’t of Corr. and Int’l Bhd. of Teamsters, Local Union No. 246*, 34 DC Reg. 3616, Slip Op. No. 157 at p. 3, PERB Case No. 87-A-02 (1987).

<sup>66</sup> *DC Dept. Pub. Works v. AFSCME Local 2091*, Slip Op. 194, PERB Case No. 87-A-08 (1988).

<sup>67</sup> Request, Ex. 9 at 7.

<sup>68</sup> *Id.* at 11.

the CMPA.”<sup>69</sup> But while the Board does not dispute the importance of these governmental interests, the question remains whether it suffices to invoke the “extremely narrow” public policy exception to enforcement of arbitration awards.<sup>70</sup>

The U.S. Court of Appeals, District of Columbia Circuit, observed that “the Supreme Court has explained that, in order to provide a basis for an exception, the public policy question must be well defined and dominant,” and is to be ascertained “by reference to the law and legal precedents and not from general considerations of supposed public interest.”<sup>71</sup> The exception is designed to be narrow so as to limit potentially intrusive judicial review of arbitration under the guise of “public policy.”<sup>72</sup> Even where an employer invoked a “policy against the operation of dangerous machinery [by employees] while under the influence of drugs” a policy judgment “firmly rooted in common sense,” the Supreme Court reiterated “that a formation of public policy based only on ‘general considerations of supposed public interest’ is not the sort of thing that permits a court to set aside an arbitration award entered in accordance with a valid collective bargaining agreement.”<sup>73</sup>

MPD can point to no “law and legal precedents” preventing the Arbitrator in this case from interpreting D.C. Official Code § 1-616.52(d), (e), and (f) to allow the Grievant to withdraw his appeal at OEA, and proceed with the CBA appeal. MPD’s concern that the Arbitrator’s decision would “nullify the purpose of the CMPA,” is inadequate to set aside an award. A close reading of the Arbitrator’s decision here leaves doubtful that it would have a binding effect on subsequent cases, as the “unique facts and circumstances of this case” compelled the Arbitrator’s remedy.<sup>74</sup> As addressed in the Arbitrability Award, Grievant’s OEA filing was a “protective” maneuver to prevent a waiver of his OEA rights resulting from “MPD’s inadequate and haphazard service of the [Final Notice].”<sup>75</sup> In this regard, the Arbitrator found that Grievant did not know of his termination until seven days before his deadline for filing an appeal with OEA. His right to seek arbitration did not ripen until FOP timely learned of his termination, grieved it with the Chief of Police who denied the grievance. Under these particular circumstances, Grievant protected his rights to the extent allowed by law and the CBA. Following FOP’s appeal through the grievance/arbitration procedure of the CBA at the earliest allowable time, the Grievant withdrew his OEA appeal.<sup>76</sup> Further, the Arbitrator noted that D.C. Official Code § 1-616.52 does not state a grievant’s choice of an appeal forum is irrevocable.<sup>77</sup>

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<sup>69</sup> Request at 12.

<sup>70</sup> *Am. Postal Workers Union, AFL-CIO v. U.S. Postal Service*, 252 U.S. App. DC 169, 176, 789 F.2d 1, 8 (D.C. Cir. 1986).

<sup>71</sup> *D.C. Metro. Police Dep’t v. Fraternal Order of Police/ D.C Metro. Police Dep’t Labor Comm.*, 63 D.C. Reg. 4573, Slip Op. 1561, PERB Case No. 14-A-09 (2016) (citing *Am. Postal Workers Union*, 789 F.2d at 8).

<sup>72</sup> *Id.*

<sup>73</sup> *FOP/Dept. Of Corrections Labor Comm. v. D.C. Dept. of Corrections*, Slip Op. 1303, PERB Case No. 1303 (citing *United Paperworkers International Union, AFL-CIO v. Miso, Inc.*, 484 U.S. 29 (1987)).

<sup>74</sup> Request, Ex. 9 at 11.

<sup>75</sup> *Id.*

<sup>76</sup> *Id.*

<sup>77</sup> *Id.*

As previously stated, it is the Arbitrator's interpretation for which the parties have bargained. For these reasons, the Board finds no basis upon which to set aside the Arbitrator's Award.

## **V. Conclusion**

Based on the foregoing, the Board finds that the Arbitrator did not exceed his authority and that MPD has not cited any specific law or public policy that was violated by the Arbitrator's Award. The Board rejects MPD's arguments and finds no cause to set aside or modify the Arbitrator's Award. Accordingly, MPD's request is denied and the matter is dismissed in its entirety with prejudice.

## **ORDER**

### **IT IS HEREBY ORDERED THAT:**

- 1. The arbitration review request is hereby denied.**
- 2. Pursuant to Board Rule 559. 1, this Decision and Order is final upon issuance.**

### **BY ORDER OF THE PUBLIC EMPLOYEE RELATIONS BOARD**

By the unanimous vote of Board Chairperson Charles Murphy and Members Ann Hoffman, Yvonne Dixon, and Douglas Warshof.

October 20, 2016

Washington, D.C.

**CERTIFICATE OF SERVICE**

This is to certify that the attached Decision and Order in PERB Case No. 15-A-13, Op. No. 1598 was sent by File and ServeXpress to the following parties on this the 31st day of October, 2016.

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