

GOVERNMENT OF THE DISTRICT OF COLUMBIA
PUBLIC EMPLOYEE RELATIONS BOARD

In the Matter of:

The University of the District
of Columbia,

Petitioner,

and

The University of the District of
Columbia Faculty Association/
National Education Association,

Respondent.

PERB Case No. 85-A-07
Opinion No. 132

DECISION AND ORDER

On August 23, 1985, the University of the District of Columbia (UDC), filed a "Request for Review and Reversal of Arbitration Decision" which had been issued by the Arbitrator on July 31, 1985. In that Award, the Arbitrator sustained a grievance filed by the University of the District of Columbia Faculty Association (UDCFA) on behalf of librarians and media specialists who were on the faculty of D.C. Teachers College (DCTC) prior to its merger into UDC. UDC is asking the Board to reverse the Arbitrator on the grounds that the Arbitrator did not have jurisdiction and that his Award is contrary to law and public policy.

On September 4, 1985, UDCFA filed a response opposing the request for reversal and contends that the defects raised by UDC are groundless. UDCFA requests that the Board affirm the Arbitrator's award and order UDC to implement it without delay.

The Arbitrator ruled that UDC violated Article 12A of its Master Collective Bargaining Agreement with UDCFA by increasing the work week of these librarians and media specialists from 35 hours to 42 1/2 hours from August 1981 through May 1985. As a remedy the Arbitrator ordered these employees to be compensated for seven weeks of work per year for the four years this practice took place or be given compensatory time off. He also ordered the parties to meet and work out an arrangement implementing this remedy and retained jurisdiction in case of further disagreement.

UDC contends that the Arbitrator did not have jurisdiction because the number of working hours is not specifically covered by the collective bargaining contract. It contends that Article 12A has nothing to do with working hours and was intended only to insure that librarians retain their status as faculty members and not be treated as administrative employees. UDC further contends that under the management rights clause of the Comprehensive Merit Personnel Act (D.C. Code Section 1-618.9) it has the authority to adjust the hours of its employees.

Section 502(f) of the CMPA authorizes the Board to consider appeals from arbitration awards pursuant to a grievance procedure only if it is determined that "the arbitrator was without, or exceeded his or her jurisdiction; the Award on its face, is contrary to law of public policy; or was procured by fraud, collusion or other similar and unlawful means.

In reviewing the Award, it does not appear, on its face, that it is contrary to law or public policy or that the Arbitrator did not have jurisdiction. The parties clearly agreed to submit the matter to arbitration and UDC never raised the issue of jurisdiction in presenting its case to the Arbitrator. UDC has already agreed to reduce the work week of these employees to 32 hours in the current round of bargaining.

In reaching his decision the Arbitrator considered the applicability of the management rights clause of the CMPA. UDC disagrees with his conclusion on the issue but such disagreement is not a sufficient basis for Review of Arbitration Awards under the CMPA. The Arbitrator's Award is based on a detailed analysis and cannot be said to be clearly erroneous or contrary to law or public policy.

O R D E R

IT IS ORDERED:

The Request for Review and Reversal of the Arbitration Award is hereby denied.

BY ORDER OF THE PUBLIC EMPLOYEE RELATIONS BOARD
February 27, 1986