

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
PUBLIC EMPLOYEE RELATIONS BOARD

In the Matter of: )

Irene H. Wilkes, )

Petitioner, )

PERB Case No. 86-A-07

Opinion No. 161

and )

The District of Columbia  
Public Schools, )

Agency. )

DECISION AND ORDER

On September 12, 1986, Irene H. Wilkes, an individual, filed an Arbitration Review Request with the District of Columbia Public Employee Relations Board (Board) seeking review of an arbitration award issued and served on the parties on August 29, 1986. The parties to the arbitration proceeding were the District of Columbia Public Schools (DCPS) and the Washington Teachers' Union, Local 6 (WTU) on behalf of the grievant, Ms. Wilkes.

In denying the grievance, the arbitrator concluded that Ms. Wilkes' termination from employment as a pre-kindergarten teacher with the DCPS was for just cause and not motivated by any anti-union animus toward the grievant because of her affiliation with the union or for any of her activities on behalf of the union.

In her arbitration review request, Ms. Wilkes contends that the Arbitrator's decision contains "discrepancies and conjectures," demonstrates a lack of comprehension of the teacher appraisal process and represents a denial of due process and breach of the collective bargaining agreement resulting from the Arbitrator's failure to remand the issue of an unsatisfactory performance rating to the appropriate levels of the negotiated grievance procedure.

On September 26, 1986, DCPS filed an "Opposition to the Arbitration Review Request," arguing solely that the Complainant's mere disagreement with the Arbitrator's interpretation of the collective bargaining agreement "is insufficient grounds to disturb the Award."

The threshold issue before the Board is whether an individual, who is a grievant in an arbitration proceeding, has standing to request an arbitration review.

The Comprehensive Merit Personnel Act of 1978, D.C. Code Section 1-605.2(6) and Board Rule 107.1 authorize the Board to consider appeals from arbitration awards pursuant to a grievance procedure provided that such awards demonstrate that the arbitrator was without, or exceeded his or her jurisdiction; the award on its face is contrary to law and public policy, or the award was procured by fraud, collusion or other similar and unlawful means.

The Board's Interim Rule 100.10 defines a "party" as "[A]ny person, employee, group of employees, organization, agency, or agency subdivision initiating a proceeding or named as an opponent in a proceeding or whose intervention in a proceeding has been granted or directed under authority of the Board." The provisions under Board Rule 107.2 state that the filing of a request for the review of an arbitration award is to be made by "any party to an arbitration proceeding who is aggrieved by the arbitration award..." Based on the record presented in this appeal, WIU and DCPS were the parties to the grievance-arbitration proceeding from which this review request was filed. Although Ms. Wilkes, as the grievant, is clearly aggrieved by the arbitration award which denied her grievance, WIU was her designated representative in the arbitration proceeding and thus appropriately assumed the status as a "party" for purposes of invoking the arbitration review jurisdiction of the Board.

In concluding that Ms. Wilkes has no standing as a party to invoke the Board's jurisdiction, the Board notes an analogous decision by the Connecticut Court of Appeals. Housing Authority of the City of Hartford v. AFSCME, et. al., Connecticut Court of Appeals, Case No. 2306 (January 3, 1984), states in relevant part, the following:

[U]nless a collective bargaining agreement provides for a personal right to seek arbitration, an employee subject to the agreement is not a party to the arbitration under the general statutes and thus has no standing to apply or confirm the award. If an employee lacks standing to apply whether to confirm or to vacate an award, it follows that she lacks standing to appeal from a judgement vacating an award.

Similarly, the Federal sector has addressed the jurisdictional issue of an individual grievant's standing to challenge an arbitration award. In Veterans Administration Center, Richmond, 8 FLRA No. 82, (1983) the Federal Labor Relations Authority dismissed exceptions to an award filed by the grievant in the case, concluding that only the union and the agency may file exceptions to arbitration awards, as they are the parties to the arbitration process.

In the instant case, the collective bargaining agreement between the D.C. Board of Education and the Washington Teachers' Union, Local 6, set forth the provisions for arbitration in Article VI. Although either employee or the union may raise a grievance, Article VI-B(2) provisions explicitly state at subsection (g) under Step 4 of the grievance process that no individual employee may invoke arbitration.

Therefore, Ms. Wilkes had no standing to invoke an arbitration proceeding pursuant to the provisions of the collective bargaining agreement and consequently does not have the requisite standing as a party to that proceeding to seek a review of an arbitration award under the Board's Rules.

Accordingly, based on the foregoing analysis and findings the Arbitration Review Request is denied.

ORDER

The Arbitration Review Request is hereby denied on the basis that the grievant does not have standing as a party to an arbitration to invoke the arbitration review process.

BY ORDER OF THE PUBLIC EMPLOYEE RELATIONS BOARD  
May 15, 1987