

Arbitrator tells Clark County to follow the union contract

OPEIU Local 11 wins redress after a worker loses out to a less qualified junior co-worker

By DON McINTOSH
Associate Editor

VANCOUVER — It may not be obvious, but the point of seniority rights in union contracts is not to give workers with seniority an advantage over their co-workers. Seniority rights are meant to promote co-worker solidarity and create a more dignified workplace for all. When promotions, layoffs, and choice of work assignment are driven by seniority in a workplace, there's less potential for management favoritism, and thus less incentive for workers to curry favor with bosses or

badmouth coworkers to management. But a contract is only as good as its enforcement.

In November 2012, the County Clerk's office in Clark County, Washington passed over a senior employee, Melissa McLachlan, and gave a sought-after promotion to a less-qualified worker whom she herself had trained. McLachlan immediately called Maureen Colvin, a union business representative at Vancouver-headquartered Office and Professional Employees International Union Local 11, to file a grievance. Colvin investigated, and working with Katelyn Oldham of Tedesco Law Group, put together a case when the grievance went to arbitration.

Local 11's contract with the County states that qualified employees may apply for open positions, and when two or more internal applicants are substantially equal in qualifications, knowl-

edge, skills and abilities, "seniority shall prevail."

McLachlan started at Clark County in 1988. By 2012, she was the most senior "judicial proceedings specialist" in her department, and she was the one routinely asked to train new hires. When a job as senior court assistant opened up, several supervisors encouraged her to apply. She submitted an application and cover letter, took a skills test and a practical exam, and received 91 percent, the highest test score among seven applicants. She was even asked to fill in several times as a senior court assistant.

But none of that mattered, County HR told arbitrator Katrina Boedecker, because all those things were treated as "pass/fail." The only part of the hiring process where applicants were ranked against each other was an oral interview, scored by a four-person panel of coworkers.

McLachlan had been uncomfortable during that interview, in which panelists took turns asking questions gathered from the Internet about "leadership." But they weren't making eye contact, or asking followup questions.

The panelists had signed a pledge that they would not be biased for or against any applicant. But one was the best friend of another applicant, and gave that person the top rating. Another had a relative who'd had a legal dispute with McLachlan over some construction work. A third panelist had encouraged another applicant to apply, and gave that person the top rating, and McLachlan a much lower score.

McLachlan was told by a manager that she lost the promotion because of her interview scores, even though she had the most experience and had scored the highest on the test. The promotion instead went to a coworker McLachlan had trained, who'd been at

the County since 2008, who'd listed less than half McLachlan's skills on a skill list, had never trained a coworker, and whose sole leadership experience was organizing volunteers during a college clothing drive.

Arbitrator Boedecker held a hearing Sept. 6 in Vancouver, and on Dec. 13 found in favor of the union, ordering the county to give McLachlan the promotion, pay the union's legal fees, and restore any pay and benefits McLachlan had lost since the day she was passed over.

"Seniority is a much cherished right of union members," Boedecker wrote. "A seniority preference clause curbs an employer's ability to make hiring decisions in an arbitrary manner ... [and] allows workers to gain job security rights based on length of service rather than favoritism."

"The employer did not rebut the union's record that McLachlan was superior ... in qualifications, knowledge, skills and abilities," Boedecker concluded. "It merely stood on its theory that it could rank the applicants solely on their interview scores. The plain language of [the union contract] does not support this theory."

Northwestern University football players petition to form union

EVANSTON, Ill. (PAI) — With virtually unanimous player support, and with Steelworker backing, football players at Northwestern University filed a formal petition and signed union recognition election cards with the National Labor Relations Board's (NLRB) Chicago regional office on Jan. 28.

If the players win the vote — which will occur only after NLRB hearings and rulings and possible appeals to the courts, they admitted — they would set a national precedent for recognizing college athletes, in football and men's basketball at Division I schools, as "employees" under labor law and eligible to be organized.

The new College Athletic Players Association (CAPA) contends that scholarships actually pay for the players' services, and the players in turn

earn their colleges millions of dollars. But labor law now doesn't cover the players, said Northwestern player Kain Colter and CAPA leader Ramogi Huma in a telephone press conference.

The organizing drive grew out of contacts college players at UCLA had with the Steelworkers Union more than a decade ago.

The union is backing a non-profit group to publicize the players' plight and agitate for public pressure on colleges to change their ways.

The colleges didn't listen, so the organizing drive started. It picked up steam when leaders of the National Collegiate Athletic Association — the organization representing colleges — said colleges "have no legal responsibility" for taking care of players who are injured.

That lack of responsibility and ques-

tions about college responsibility for injured players, especially football players who suffer permanent brain damage through on-field concussions, drove the organizing drive, Huma said.

Steelworkers International President Leo Gerard said that when the UCLA contact began, "we thought they had a good deal. But we heard story after story of them struggling to pay for basics like food and rent, or how they got cut off" of scholarships "by a coach's whim."

The Northwestern players were very

enthusiastic, as "they've been taught to think outside the box," Colter said. Their head coach told him, "If this is what the team feels, and there's a right way, then let it play out."

Huma said the players want to unionize so they "can have a seat at the table" on issues such as injury coverage, adequacy of their scholarships, post-injury care and establishment of an educational trust fund for players to let them finish college and graduate even after their athletic eligibility, and their scholarships expire.

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