

In Re the Arbitration of:

TEAMSTERS LOCAL UNION NO. 117,)
)
Union,)
)
)
and)
)
STATE OF WASHINGTON,)
DEPARTMENT OF CORRECTIONS,)
)
Employer.)
_____)

FMCS No. 070801-04106-8
Michael Azzinnarro/Vacation Relief

OPINION and AWARD

Date: December 31, 2008

Arbitrator
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OPINION

Background

Teamsters Local Union No. 117 (“Teamsters, Local 117” or “Union”) filed a grievance on behalf of Michael Azzinnarro (“Grievant”) alleging a violation of Article 5, Section 5.1, and Article 21, Sections 21.5, 21.6, and 21.7 of the 2005-2007 Collective Bargaining Agreement by and Between the State of Washington and Teamsters Local Union Number 117 (“the Agreement”). The parties were unable to resolve their dispute at the initial steps of the grievance procedure, and the grievance was submitted to arbitration pursuant to Article 9 of the Agreement. The arbitrator was selected through the Federal Mediation and Conciliation Service (“FMCS”).

The parties stipulated that there were no arbitrability or timeliness issues associated with the grievance. A hearing was held on February 28, 2008, at the Airway Heights Correction Center. Teamsters Local Union No. 117 was represented by Joseph Kuhn, Business Representative, and the State of Washington, Department of Corrections (“Employer” or “DOC”) was represented by Matthew Menze, Labor Relations Consultant. At the hearing, the testimony of witnesses was taken under oath and the parties presented documentary evidence. No formal record was made of the hearing and the arbitrator has relied on her notes. By mutual agreement, the date for the submission of post-hearing briefs was extended to November 3, 2008. The parties’ post-hearing briefs were timely received by the arbitrator on November 3, 2008.

Exhibits¹

- Jt. Exhibit 1 - 2005-2007 Collective Bargaining Agreement By and Between
The State of Washington and Teamsters Local Union No. 117
- Jt. Exhibit 2 - Grievance documents
- U Exhibit 1 - Authorized Leave Relief Schedule
- U Exhibit 2 - E-Mail from Jill Hanson
- U Exhibit 3 - E-Mail from Tana Little indicating the amount of authorized relief
For Sergeants at Airway Heights Correction Center
- E Exhibit 1 - E-Mails concerning 2006 Custody Roster Management Quality
Assurance Audit and AHCC Sergeant Position

¹ “U Exhibit” plus a number refers to Union exhibits, “E Exhibit” plus a number refers to Employer Exhibits, and “Jt. Exhibit” plus a number refers to joint exhibits. All of the exhibits were admitted into evidence.

Witnesses

The following witnesses testified at the hearing: Grievant Michael Azzinnarro, Sergeant Mark Hunley, Teamster Local 117 Business Representative Al Scamahorn, Superintendent Maggie Miller-Stout, Captain Ron Haynes.

Issues:

The parties agreed on the following statement of the issue:

1. Did the Department of Corrections violate articles 5.1, 21.5, 21.6 or 21.7 of the Collective Bargaining Agreement and, if so, what is the appropriate remedy?

Stipulation

The parties stipulated to the following facts:

The Custody Staffing Model is made up of several different formulas and calculations which, in the end, determine the total funded FTE's.

One calculation within the Model adds the total number of staff (per job class) for all shifts. Because many of the model's calculations typically round to the nearest tenth, it is necessary to have a final rounding step in order to determine the actual number of funded/allocated positions (whole number). This step is then followed by a calculation that adjusts overtime depending on how the rounding is applied (a decrease when rounding = an increase in Overtime; an increase when rounding = a decrease in Overtime). Adding the total funded positions and adjusted overtime is the final calculation which determines the total funded FTE's.

In the case of the current sergeant staffing at AHCC, the calculations are as follows:

Hol/Non-Hol Relief Factor	2.7
Total staff, all shifts	38.2
Total staff, rounded	38
Total O.T., adjusted	2.9
Total FTE's	40.9

Positions of the Parties

The Union contends the Employer failed to fulfill its obligation under Article 5, Section 5.1 of the Agreement by eliminating a sergeant position at Airway Heights Correction Center ("AHCC") without bargaining the impact on vacation scheduling. The Union further contends that AHCC violated Article 21 of the Agreement by assigning

vacation relief which is not in compliance with the allocated “authorized relief” as determined by the Department of Corrections Headquarters.

The Employer maintains that it did not violate Article 5, Section 5.1 of the Agreement as it did not have an obligation under the law to bargain over the elimination of a sergeant position at AHCC. The Employer also maintains that the Superintendent of AHCC discussed the elimination of the sergeant position and the resultant schedule changes with the Union. The Employer contends the evidence does not support a finding the Union requested bargaining over the impacts of the decision to eliminate a sergeant position or that the Employer refused to bargain over the issue. The Employer further contends that Article 21 does not require it to establish a certain level of vacation relief and does not create an entitlement for employees to schedule vacation, but provides the Employer with the discretion to balance the scheduling of vacations with its program needs and provides the necessary options for the Employer to respond to emergencies. The Employer maintains that Section 21.5 of Article 21 limits the number of employees that can schedule vacation at any one time and specifies that vacations must be scheduled within the limits of authorized relief. It points out that Section 21.5 does not define “authorized relief” or express a level of relief that the Employer is required to provide. The Employer also maintains that Section 21.6 establishes a procedure for employees to select their scheduled vacation, but does not commit the Employer to a certain level of relief for vacation scheduling. As for Section 21.7, the Employer maintains that this section allows employees to make supplemental requests for additional time off after the vacation schedule is published, but does not entitle an employee to approval for any particular request. According to the Employer, it did not violate the Agreement by its elimination of a sergeant position and its scheduling of vacations for third shift sergeants. The Employer maintains it was within its discretion when it denied the Grievant’s request for certain vacation days.

Relevant Provisions of Collective Bargaining Agreement

ARTICLE 3 MANAGEMENT RIGHTS

3.1 Management Rights

It is understood and agreed that the Employer possesses the sole right and authority to operate the institutions/offices and to direct all employees, subject to the provisions of this agreement and federal and state law. These rights include, but are not limited to the right to:

- A. Determine the Employer's mission, strategic plan, policies and procedures;
- B. Determine and control the Employer's budget;
- C. Plan, direct, control, and determine the operations or services to be conducted by employees;
- D. Determine the size, composition, and direct the work force;
- E. Hire, assign, reassign, evaluate, transfer, promote, or retain employees;
- F. Discipline or discharge for just cause;
- G. Effect a layoff;
- H. Make, publish, and enforce reasonable rules and regulations;
- I. Implement new or improved methods, equipment or facilities;
- J. Determine reasonable performance requirements, including quality and quantity of work;
- K. Determine training needs and methods of training, and train employees;
- L. Take and all actions as may be necessary to carry out the mission of the Department in emergency situations;
- M. Utilize non-permanent and on-call employees;
- N. Schedule days and hours of work and overtime as necessary;
- O. Determine the method, technological means, number of resources and types of personnel by which work is performed by the Department; and
- P. Establish, allocate, reallocate or abolish positions, and determine the skills and abilities necessary to perform the duties of such positions.

The Employer's non-exercise or any right, prerogative or function will not be deemed a waiver of such right or establishment of a practice.

...

ARTICLE 5
UNION/MANAGEMENT RELATIONS

5.1 Collective Bargaining Obligations

The Employer will satisfy its collective bargaining obligation under law before changing a matter that is a mandatory subject of bargaining.

ARTICLE 21
VACATION LEAVE

21.5 Relief Limitations

Vacations will be scheduled within the limitations of the authorized relief allocated for each shift. In those cases where the authorized relief is shared between shifts within a job classification, vacations will be scheduled based on seniority of all employees within the job classification.

21.6 Vacation Selection

Beginning January 2 of each calendar year, employees will be scheduled a time, based on seniority, to select up to three (3) segments of available vacation leave during the time period of April 1 through March 31. A "segment" is one (1) or more contiguous days of vacation leave. Any segment which begins on any day between June 1 and August 31 inclusive will not exceed more than ten (10) consecutive days of vacation leave, provided that an employee may select contiguous segments of vacation leave. Off-shift times to select a vacation will not be considered as "time worked" for purposes of computing call back or overtime. If an employee is unable to be present during their scheduled time they may make their choice by telephone, or another individual with written documentation of designation, may select a vacation segment(s) for the employee. If the employee fails to select their vacation during his/her assigned time, the Employer may proceed with scheduling. The employee will be provided an opportunity to select his or segment(s) at a later date when he or she is available. The Employer will publish the vacation schedule by March 1, after considering requests, as well as agency program needs.

21.7 Supplemental Requests

Nothing in the above paragraphs will preclude the right of an employee to request vacation leave or his or her personal holiday at any time. The Employer will consider said request in relation to the authorized relief, program needs and the existing published vacation schedule, all of which will take precedence. These requests will be resolved on a first-come, first-serve basis. Employees will complete

a Leave Request Form for any such vacation leave taken immediately upon his or her return to work.

Factual Background

The facts are largely undisputed. AHCC is a facility of the Department of Corrections housing minimum-security and medium-security offenders. The money to run the facility comes from the Department of Corrections headquarters which gets it from the Washington State Legislature. Testimony (“test.”) Miller-Stout. Staffing at AHCC is determined by the Department of Corrections Headquarters, in large part based on a Custody Staffing Model that was developed to justify staffing at correctional facilities to the Legislature. Test. Miller-Stout, Scamahorn. Custody staffing at AHCC is audited annually and a report is provided to the facility showing whether it is in or out of compliance with the Custody Staffing Model. Test. Miller-Stout.

In June of 2005, sergeant coverage for the minimum security units at AHCC was reduced from 7 days per week to 5 days per week. This change caused a reduction in relief allotments, reducing the total number of sergeants allotted to AHCC from 39 to 38. E Ex. 1, p. 1; stipulation. The reduction was not made immediately, however, and AHCC was over the Custody Staffing Model by .8 FTE² for a period of time. E Ex. 1, p. 2; test. Miller-Stout. The 2006 Custody Roster Management Quality Assurance Audit showed that AHCC was overstaffed by one relief sergeant on third shift. E Ex. 1. As a result, and despite her pleas to keep the position, in July 2006 Superintendent Miller-Stout was ordered to cut one relief sergeant position. E Ex. 1; test. Miller-Stout. After a discussion with Tana Little, Corrections Specialist with the Department of Corrections, the decision was made to eliminate the sick leave/training relief sergeant position as the loss of this position would have the least impact. Test. Miller-Stout; Haynes. The elimination left AHCC with three sergeants to provide relief for three shifts of sergeants.

The Grievance is a sergeant on the third (swing) shift and has the second highest seniority of the sergeants on the shift. On January 18, 2007, Grievant met with Roster Manager Jill Hanson for his annual vacation scheduling appointment and was not able to schedule vacation on all of the specific days he requested due to a senior sergeant having taken those days. Jt. Ex. 2, p. 3. He was then given alternate dates which he took. Test.

² “FTE” stands for full time equivalent.

Grievant. When Grievant inquired as to why he could not get all of the vacation days he had requested, since he had not experienced any problems in the past, he was told it was because one of the relief sergeant positions had been eliminated leaving only one annual leave relief sergeant for the third shift. Although he was not able to take his vacation entirely as he desired, Grievant was able to use all of his accrued leave

Grievant complained to the Union that the elimination of the sergeant position had directly changed his working conditions since he was not able to take all of the particular annual leave days he had taken in the past. Jt. Ex. 2, p.3. The Union then filed a grievance on his behalf claiming that the elimination of the sergeant position constituted “a violation of Article’s 5.1, 21.5, 21.6, and 21.7” of the Agreement. Jt. Ex. 2, pp. 1-3.

Burden of Proof

The general rule followed by arbitrators in nondisciplinary proceedings, such as the instant case, is that the grieving party bears the initial burden of presenting sufficient evidence to prove its contention. See *Fairweather’s Practice and Procedure in Labor Arbitration*, 192 (3rd Edition). As the grieving party, the Union bears the burden of showing by a preponderance of the evidence that the Employer violated the Agreement. See, e.g., *SGM-Van Andel Arena*, 111 LA 185, 190 (Brodsky, 1998) (In a dispute involving the interpretation of contract language, the union has the burden of proving that its interpretation is correct.).

Discussion

Article 5, Section 5.1

The Union contends that when management at the Department of Corrections Headquarters eliminated the sergeant position at AHCC they failed to notify the Union of the direct impacts of the decision. The Union points out that 16 sergeant positions on third shift at the facility were directly affected by the change. Jt. Ex. 2, p. 2.

Section 5.1 requires “the Employer to satisfy its collective bargaining obligation under law before changing a matter that is a mandatory subject of bargaining.” Jt. Ex. 1, p. 6. Yet, the Union did not show that eliminating a sergeant position at AHCC was a mandatory subject of bargaining.

The Washington law governing collective bargaining for State employees reserves decisions regarding staffing to the employer. Chapter 41.80.020 of the Revised

Code of Washington (“RCW”) provides that: “The employer and the exclusive bargaining representative shall not bargain over matters pertaining to management rights established in RCW 41.80.040.” RCW 41.80.020(5). RCW 41.80.040 provides, in pertinent part, that:

The employer shall not bargain over rights of management which, in addition to all powers, duties, and rights established by constitutional provision or statute, shall include but not be limited to the following:

...

(2) The employer’s budget and the size of the agency workforce, including determining the financial basis for layoffs;

RCW 41.80.040(2). As the elimination of a sergeant position at a facility would involve the employer’s budget and the size of the agency work force, this subject does not appear to be a mandatory subject of bargaining.

The right of management to determine the size and composition of the work force is also recognized in the Agreement at Article 3. In Section 3.1 of Article 3, the parties agreed that the Employer possesses the sole right and authority to determine and control its budget, to determine the size and composition of its work force, and to abolish positions. Section 3.1(B, D and P), Jt. Ex. 1, pp. 4-5. Thus, the Employer did not have a duty to bargain the elimination of a sergeant position at AHCC under the terms of the parties’ Agreement.

An informal meeting was held between AHCC Superintendent Maggie Miller-Stout and Teamsters Local No. 117 Business Representative Joseph E. Kuhn shortly before the sergeant position was eliminated. At this meeting, Superintendent Miller-Stout explained that based on the Custody Staffing Model, AHCC was overstaffed by .8 of a sergeant and it was necessary to eliminate one sergeant position which would have an impact on relief. She also discussed the schedule changes that were made to some sergeant positions. Test. Miller-Stout; Jt. Ex. 2, p. 4. The Union’s Post-Hearing Brief at page 3 stated that Superintendent Miller-Stout could not remember if the vacation relief subject was discussed when she met with Mr. Kuhn and that Business Representative Kuhn did not recall the subject being discussed.³ Yet, according to my notes of the hearing, Superintendent Miller-Stout testified that, in the presence of her assistant, she

³ Business Representative Joseph Kuhn did not testify at the hearing, and his statements in the Union’s Opening and the Union’s Post-Hearing Brief are argument not evidence.

discussed with Mr. Kuhn that a position had to be cut and it would have an impact on relief. Test. Miller-Stout. Superintendent Miller-Stout further testified, without rebuttal, that it was a common business practice for her and Mr. Kuhn to have informal discussions regarding issues that came up. Superintendent Miller-Stout also testified that if Mr. Kuhn asked for a formal meeting, they would have one. There is no evidence that any other meeting on the elimination of a sergeant position was ever requested.

Based on the testimony of Superintendent Miller-Stout, I find the Union was informed of the need to eliminate a sergeant position and that it would have an impact on relief. Even if there was no specific discussion of the particular impacts the loss of a sergeant position would have on relief, notification of the loss of a sergeant position would serve to inform the Union of the likelihood of an impact on relief.

Grievant testified that in the past there were two relief sergeants for third shift. The Authorized Leave Relief Schedule, which was posted on November 15 pursuant to Article 21, Section 21.4 of the Agreement,⁴ shows only one relief sergeant for third shift (Strong). Thus, as of November 15, 2006, following the elimination of the sergeant position, employees were notified by reason of this posting that there would likely be fewer days available for vacation scheduling due to the loss of one of the relief sergeants on third shift.

There is no evidence that the Union ever asked or the Employer ever refused to bargain the impact of the elimination of the relief sergeant position. The Union has not established the Employer violated Section 5.1 of the Agreement.

The Vacation Assignment System

Article 21 of the Agreement contains a vacation assignment system which is set forth in Sections 21.4, 21.5, 21.6 and 21.7. Jt. Ex. 1, p. 59. Section 21.4 requires the Employer to post a chart on November 15 of each calendar year that shows the number of employees within each job classification who may be approved scheduled leave for a given period of time. Section 21.5 provides that vacations will be scheduled within the limitations of the “authorized relief” allocated for each shift. The available vacation time is then assigned on the basis of seniority to those employees who wish to participate in

⁴ Section 21.4 provides that “The Employer will post a chart on November 15 of each calendar year that indicates the number of employees within each job classification who may be approved scheduled leave for a given period of time. ...” Jt. Ex. 1, p. 59; U Ex. 1.

the annual vacation assignment process beginning January 2nd of each calendar year. Article 21, Section 21.6. The Employer must then publish the vacation schedule by March 1, after considering requests, as well as agency program needs. *Id.* After the annual vacation selection process is complete and the vacation schedule posted, employees may request vacation leave or a personal holiday at any time. The Employer will consider such a request in relation to authorized relief, program needs and the existing published vacation schedule, all of which take precedence. Article 21, Section 21.7.

Section 21.5.

The Union claims the language of Section 21.5 is clear and unambiguous and requires the Employer to schedule vacations “within the limitations of the authorized relief allocated for each shift.” Jt. Ex. 1, p. 59. The Union also claims that the Department of Corrections has funded an authorized relief level for thirds shift sergeants at AHCC of 3.1 but AHCC, through the elimination of one sergeant position, has effectively reduced the authorized relief for third shift. Union’s Post-Hearing Brief at p. 6. In the grievance, the Union claims that Captain Ron Haynes informed Joseph Kuhn that the elimination of the sergeant position “caused the relief factor for annual leave to drop to .2 under what was authorized for 3rd shift.” Jt. Ex. 2, p.1, para. c. According to the Union, AHCC did not schedule vacations for third shift sergeants within the limitations of the authorized relief for that shift in violation of Article 21, Section 21.5.

I do not find the term “authorized relief” in Section 21.5 of the Agreement to be clear and unambiguous. The term is not defined in the Agreement and the parties are at odds as to its meaning, as evidenced by the instant grievance. The Union appears to equate “authorized relief” with the relief factor in the Custody Staffing Model, i.e., 3.1 FTE. The Employer, on the other hand, argues that the level of authorized relief is within its discretion and was set at 3 FTE. Based on the evidence, the Employer has the stronger position.

Where contract language is not clear and unambiguous, arbitrators look to rules of contract interpretation and then to extrinsic evidence to give meaning to the language. Within the rules of contract construction, there is preference for the specific over the general. If the parties to the Agreement intended for the authorized relief factor to be

governed by the Custody Staffing Model, they likely would have said so. They did not. With respect to extrinsic evidence, the Union has presented no evidence of bargaining history or of past practice supporting its claim that “authorized relief” is defined by the relief factor in the Custody Staffing Model.

The Custody Staffing Model is an important tool in requesting funding from the Washington State Legislature for the DOC’s operations. Test. Scamahorn. It does not set the staffing level at correctional facilities, however, that is done by the DOC based on the actual funding it receives from the legislature and the Department’s program needs.

Superintendent Miller-Stout and Captain Ron Haynes testified that the Custody Staffing Model allows for 3.1 FTE for annual relief for sergeants, meaning all sergeants at AHCC, not just 3rd shift sergeants. Captain Haynes also testified that he is not sure that what was attributed to him in the grievance on page 1, paragraph c. was what he said. He stated that the Quality Assurance Audit shows a factor of 1.4 for third shift relief and they staffed at 1. Captain Haynes additionally testified that the Quality Assurance Audit is based on the Staffing Model of 3.1, and that Headquarters Corrections Specialist Tana Little broke this down to 1.4 FTE for swing shift, 1.4 FTE for day shift and .3 FTE for night shift. U Ex. 3. He further stated that U Ex. 3 is accurate as to how the Staffing Model 3.1 relief FTE was broken down, but that the actual staffing was based on 3 FTE as determined by DOC Headquarters and there was nothing AHCC could do about it.

Superintendent Miller-Stout testified that she was budgeted for and received sergeant relief funding for only 3 FTE, and was not given additional money for overtime or temporary promotion to provide additional relief.⁵ Thus, there are only three sergeants available for annual leave relief. One (1) relief sergeant was assigned to cover vacation

⁵ Al Scamahorn, Business Representative for Teamsters Local No. 117, testified that he worked for the Department of Corrections for 32 years and helped create the Custody Staffing Model. He further testified that the Custody Staffing Model is a very complicated formula which has a relief factor built in. He stated that using the formula often results in a partial FTE. According to Mr. Scamahorn, the partial FTE figure is used to fund extra hours such as overtime or a temporary employee. Yet, Superintendent Miller-Stout testified that Mr. Scamahorn’s testimony regarding the funding is incorrect, and that partial FTE are not funded by the legislature. She further testified that her chain of command tells her what her funding is and what her FTEs are, and she is only funded for 3 FTE for sergeant relief. I found Superintendent Miller-Stout’s testimony on this topic more credible than that of Mr. Scamahorn. Mr. Scamahorn testified that he had input into the Staffing Model at McNeil Island and was not involved in developing a Custody Staffing Model at AHCC. He also gave no indication of having first-hand knowledge of the actual funding provided by the Washington Legislature to the Department of Corrections during the relevant period or of the funding provided by the Department of Corrections to AHCC.

on the third (swing) shift, one (1) relief sergeant was assigned to cover vacation for the second (day) shift, and one (1) relief sergeant was shared between second and first (night) shifts. U. Ex. 1. While it appears that pooling relief sergeants might be a more equitable way to provide vacation relief, experience suggests that because of the vacation selection process and the high level of seniority of the sergeants on the day shift, there would actually be fewer desirable vacation dates available for the third shift if relief sergeants were pooled. Test. Haynes.

As previously discussed, DOC has the management right to determine the size and composition of its work force and to abolish positions. It also has the management right to schedule days and hours of work and overtime as necessary. Article 3.1 (D, N and P). Based on the testimony of Superintendent Miller-Stout and Captain Haynes, I find that, at the time of the grievance, the “authorized relief allocated for each shift” was one relief sergeant for third shift, one relief sergeant for second shift, and one relief sergeant who was shared between first and second shifts. Furthermore, in accordance with Article 21, Section 21.4, the authorized relief allocated for each shift was posted well in advance of January 2nd when employees began scheduling their vacations. U Ex. 1.

The elimination of the relief sergeant position reduced the number of days third shift sergeants could use for vacation. Grievant testified as to the hardship that the reduction in available vacation time caused and how it lowered morale. Yet, Grievant was able to take all of his accrued leave.

Sergeant Mark Hunley also testified regarding the effect the reduction in available vacation time had on him. He stated that after the sergeant position was eliminated, he asked for a number of days off in 2007 but there was nothing open that he needed, so he did not take any time off. Sergeant Hunley also testified that in 2008, he needed time off in August to help with the harvest but could not get any vacation days consecutive with his regular days off or any days off that were not during the school year. Mr. Hunley further testified that he knows he cannot get 3 weeks off in August because he does not have the seniority, but he would like at least one week that he could spend with his family. From his testimony, it appears that Sergeant Hunley did not take time off because he could not get the vacation days he wanted due to a lack of seniority, not

because there were no days available. There is no evidence that he was not allowed to take his accrued leave each year.

There is nothing in the Agreement giving employees the right to a particular day or days for vacation with the exception of two shifts of accrued vacation time in any calendar year which will be granted to an employee with thirty calendar days written notification by the employee. *See* Article 21, Section 21.12; Jt. Ex. 1, p. 60. There is nothing to indicate that either Grievant or Sergeant Hunley, or any other sergeant, was denied the two shifts of accrued vacation time provided by Section 21.12.

The Union has not established the Employer violated Section 21.5 of Article 21 of the Agreement.

Section 21.6

Section 21.6 governs the vacation selection process and provides that beginning on January 2 of each calendar year, employees will be given a scheduled a time, based on seniority, to select segments of available vacation leave. There is no evidence of a violation of this section and the Grievant does not claim that he did not receive a scheduled time to select vacation days based on his seniority.

Section 21.7

Section 21.7 provides for supplemental requests for vacation leave or personal holiday and states that the Employer will consider each request “in relation to authorized relief, program needs and the existing published vacation schedule, all of which will take precedence.” There is no evidence of a violation of this section.

Summary

The Employer did not violate the Agreement by eliminating a relief sergeant position and thereby reducing the number of days available for vacation leave. The Employer had the management right to abolish a position. The Grievant was able to take all of his accrued vacation leave within the limitations of the authorized relief allocated for his shift, just not on all of the particular days he wished to take it. With the exception of two shifts of accrued vacation time not at issue here, the Agreement does not provide employees with the right to a particular day or a particular segment of vacation leave, only the right to obtain a scheduled time to select vacation days based on their seniority and the right to make supplemental requests for vacation leave or a personal holiday. The

evidence does not establish the Employer violated Article 5, Section 5.1, Article 21, Sections 21.5, 21.6, or 21.7 as claimed by the grievance.

AWARD

The Grievance is DENIED.

December 31, 2008


Carol J. Teather
Arbitrator