

Arbitration Summary

UNION: Washington Federation of State Employees (WFSE)

AGENCY: Department of Social & Health Services

GRIEVANT: Steven Mack

CBA: WFSE 2007-2009

ARBITRATOR: Alan R. Krebs

DATE FILED: January 30, 2008

HEARING DATE: July 17, 2009

DATE OF AWARD: October 5, 2009

ARTICLE(S) GRIEVED:

Article 12 – Sick Leave

Article 12.2 – Sick Leave Use

Article 15 – Family and Medical Leave (FMLA) – Pregnancy Disability Leave

Article 15.9 – Parental Leave

ISSUE STATEMENT(S):

Did the Employer violate the Collective bargaining Agreement when it denied the Grievant's request to use his accrued sick leave to care for his healthy infant son during such time as he was on approved FMLA leave for that purpose?

AWARD:

The arbitrator, Alan R. Krebs, found that the Employer did violate the Collective Bargaining Agreement when it denied the Grievant's request to use his accrued sick leave to care for his healthy infant son during such time as he was on approved FMLA leave for that purpose. The arbitrator writes, "...Section 12.2.C provides that employees may use their accrued sick leave for "[q]ualifying absences for Family and Medical Leave (Article 15)." The Grievant had such qualifying absences for family and medical leave under Article 15, during such time as he qualified for and utilized FMLA leave to care for his son during the infant's first year of life." The Employer was ordered to allow the Grievant, during the period he was on approved FMLA leave, the option to substitute his accrued paid sick leave for other types of paid or unpaid leave that he took for absences which would also qualify for FMLA, under Article 15.