

Arbitration Summary

UNION: Washington Federation of State Employees (WFSE)

AGENCY: Department of Labor and Industries

GRIEVANT: Michael Low

CBA: WFSE 2007-2009

ARBITRATOR: Eric B. Lindauer

DATE FILED: May 19, 2009

HEARING DATE: February 26, 2010

DATE OF AWARD: May 25, 2010

ARTICLE(S) GRIEVED:

Article 34 – Layoff and Recall

ISSUE STATEMENT(S):

Did the LNI violate Article 34 of the CBA by and between the State of Washington and the Washington Federation of State Employees by returning an exempt employee, Brian Criss, to his previous position and bumping Michael Low from his permanent ITS5 position and placing Mr. Low in an ITS3 position? If so, what is the appropriate remedy?

AWARD:

Based on the record in this case, the Arbitrator concludes the evidence failed to establish a contractual violation. Accordingly, the Union's grievance shall be denied. The grievance was denied because the agency followed the appropriate CBA with regards to placing the returning employee in a position for which he had the skills and abilities and which was occupied by the least senior employee.