

VERMONT LABOR RELATIONS BOARD

GRIEVANCE OF:)	
)	
VERMONT STATE EMPLOYEES)	DOCKET NO. 90-74
ASSOCIATION (RE: REFUSAL)	
TO PAY STANDBY PAY))	

FINDINGS OF FACT, OPINION AND ORDER

Statement of Case

On December 4, 1990, the Vermont State Employees' Association ("VSEA") filed a grievance against the State of Vermont, Department of Social and Rehabilitative Services, Division of Social Services ("Employer"), alleging that the Employer violated the contract article entitled "On Call, Standby Duty and Available Status" in the Non-Management Unit and Supervisory Unit collective bargaining agreements in effect for the period July 1, 1990 - June 30, 1992 (collectively referred to as the "Contracts"), by implementing a policy that treated employees on "available" status as if they were on "standby" status without compensation.

Hearings were held on October 10 and 24, 1991 before Labor Relations Board Members Charles H. McHugh, Chairman; Catherine L. Frank and Carroll P. Constock. Michael Seibert, Assistant Attorney General, represented the Employer. Jonathan Sokolow, VSEA Staff Attorney, represented VSEA. At the hearings, the Board indicated that it would incorporate in this grievance relevant Findings of Fact from the Board decision in VSEA v. State of Vermont, 13 VLRB 349 (1990). Pursuant to an arrangement established at the October 24 hearing, VSEA filed the affidavit of Anne Noonan on October 30, 1991, and the Employer filed the affidavit of Thomas Ball on November 4, 1991. The parties filed Memoranda of law on November 7, 1991.

FINDINGS OF FACT

1. The Contracts provide in pertinent part as follows:

Article 2 MANAGEMENT RIGHTS

...(S)ubject to terms set forth in this Agreement, nothing in this Agreement shall be construed to interfere with the right of the Employer to carry out the statutory mandate and goals of the agency, to restrict the State in its reserved and retained lawful and customary management rights, powers and prerogatives, including the right to utilize personnel, methods and means in the most appropriate manner possible...

Article 32 ON CALL, STANDBY DUTY AND AVAILABLE STATUS

SECTION 1. ON CALL

"On Call" is defined as a requirement that an employee remain confined, during off-duty hours, at the employer's premises, at the employee's home or at some other location designated by the employer in order to be able to report for duty immediately after being called (excluding normal commuting time between the employee's home of record and duty station). "On Call" duty is compensated as overtime worked under Article 29.

SECTION 2. STANDBY

"Standby" is defined as a requirement that an employee, during off-duty hours, be reachable by phone or "beeper" within one (1) hour of being called, and report for duty where needed within one (1) hour of being reached, OR normal commuting time between the employee's home of record and duty station, whichever is greater. "Standby" duty is paid at one-fifth (1/5) the regular hourly rate for each hour of such duty (rounded to the nearest whole cent)...

SECTION 3. AVAILABLE

"Available" is defined as a requirement that an employee, during off-duty hours, leave word at home or with the employer where the employee may be reached. Such employee is not subject to any other restriction specified under sections 1 and 2 and is neither "on call" nor on "standby" and shall not receive additional compensation therefore (Grievant's Exhibit 1 and 2).

History

2. Social workers employed by the Employer in Social and Rehabilitative Services (SRS) district offices are required to provide emergency services during the hours the office is not

open. The services provided include intervening in child abuse situations and domestic disputes, and transporting children taken into custody. At all times relevant prior to July 22, 1990, SRS district offices assigned social workers to be on "standby" status to provide these services during all hours the district office was not open. VSEA v. State of Vermont, 13 VLRB 349, 350, Finding #2 (1990).

3. In late 1987, the Employer instituted an Emergency Services Program ("ESP") which was designated to reduce the number of calls to social workers on "standby", reduce the number of times they would be called out to provide emergency services, and provide a more consistent after hours service. The ESP program has remained in place at all times since late 1987. Under the ESP program, all after hours emergency telephone calls to the 12 SRS district offices throughout the state have been referred, for screening, to the ESP central switchboard, staffed by trained social workers in Burlington, Vermont. The ESP worker attempts to resolve the situation, but if the ESP worker cannot handle the situation (for example, if the child must be taken into custody because of abuse), then the ESP worker will telephone a social worker on "standby" status (or since July 22, 1990, on "availability" status) in the pertinent district. That worker would then be "called out" in order to handle the particular emergency. VSEA v. State, 13 VLRB at 351-352, Finding #3.

4. In its first full fiscal year of operation, the ESP program reduced calls to social workers on "standby" status by 94

percent, and reduced "call outs" of such staff by 73 percent.

VSEA v. State, 13 VLRB at 352, Finding #4.

5. Beginning in 1989, after the success of the ESP program in reducing the workload of workers on "standby" status was fully realized, the Employer, under the direction of Division Director Stephen Dale, began looking for ways to reduce the cost of paying social workers in all 12 districts for being on "standby" status for all off-duty hours. VSEA v. State, 13 VLRB at 352, Finding #5.

6. In the Fall of 1989, management considered the idea of "regionalizing" after hours emergency services, whereby a social worker on "standby" status generally would cover two districts. This would have substantially reduced the number of social workers on "standby" status at any one time in the state. By November 3, 1989, management decided that "regionalization" was not a good plan for statewide implementation. VSEA v. State, 13 VLRB at 352, Finding #6.

7. After the "regionalization" idea was rejected, management considered the contracting out of after hours emergency services. At some point in the Spring of 1990, management decided that contracting out such services was not a realistic plan for statewide implementation. VSEA v. State, 13 VLRB at 353, Finding #7.

8. The State, during bargaining for the Non-Management Unit Contract to be effective July 1, 1990-June 30, 1992, proposed reducing the "standby" compensation from one-fifth to one-eighth the employee's hourly rate. However, the State and

VSEA eventually agreed that the rate remain at one-fifth the hourly rate. That contract was agreed upon in March or April, 1990. VSEA v. State, 13 VLRB at 353, Finding #8.

9. The Vermont General Assembly reduced the level of appropriations for the Employer for the 1991 fiscal year (i.e. July 1, 1990 - June 30, 1991). Dale decided that the cost of after hours emergency services would have to be reduced early in the 1991 fiscal year. On June 4, 1990, Dale wrote a memorandum to all district directors in which he suggested three options to reduce the level of spending on call out coverage and still ensure that the district would be able to respond to any call-out situation when the office was closed. Option #2 set forth in Dale's memorandum provided as follows:

Option # 2

Have staff on standby during the hours below (85 percent of all call-outs occur during these hours) and assure the availability of call-out service at all other times.

Standby Hours

Weekdays	6 p.m. to Midnight
Weekends	Noon to Midnight
Holidays	Noon to Midnight

VSEA v. State, 13 VLRB at 353-354, Finding #9

10. Most of the district offices implemented Option #2 set forth in Dale's memorandum. The effective date of implementation was July 22, 1990. Under this option, a social worker is on "standby" status in each district office during the "standby hours" set forth in the memorandum, and a social worker is assigned to "availability" status at all other times the office is not open.

11. "Available" status in each of the district offices implementing Option #2 included the following blocks of time:

Availability Hours

Weekdays	4:30 - 6:00 p.m.
Weekends	Midnight to noon
Holidays	Midnight to noon

12. Dale recognized in implementing this new policy that the employees assigned to "available" status might not be reachable and might not be able to respond.

13. During June and July, 1990, Dale discussed the new policy at district director meetings. Dale discussed with the district directors the specific differences between "standby" status and "available" status. In order to clarify "available" status, Dale sent a memorandum to all district directors on July 13, 1990, which stated in pertinent part:

A number of issues have been raised regarding "available" status for workers when we do not have a worker on official stand-by status. This memo is designed to clarify those issues.

- "Available" status is defined in Article 32 of the State Employees Non-Management Bargaining Unit Agreement.
- "Available" status is a status that the manager or supervisor places the employee in.
- It is expected that during the times when a district is not covered by a stand-by worker or an appropriately procured contracted service, a worker or workers will be designated as being "available" to provide emergency response capability.
- Ideally "available" workers would be volunteers who are given equal access to the status.
- If volunteers are not forthcoming, at least two workers should be designated as "available." This designation should be distributed equitably among social work staff on a rotating assignment.

- Per the contract, "available" workers must "leave word at home or with the employer where they may be reached." We would expect the assigned workers to let ESP know where they may be reached when leaving the office for the last time prior to the availability period.

- As a contingency, in the event an employee on available status cannot respond to a call-out situation, it is recommended that districts arrange for back-up call-out services with foster parents, sheriffs, other agencies, former workers, or others on a call-out by call-out basis. Payment for these call-outs must not exceed \$80.

- Please provide ESP a list of workers you have designated for "available" status and their phone numbers and a contingency number or numbers.

- Availability is not stand-by, so there is no specific response time, and the employee does not need to be able to guarantee accessibility to a phone, and there are no specific restrictions on employee travel or behavior. When you reach a worker, you can expect a timely response appropriate to the nature of the emergency and the employee's individual situation. Our expectations must be "reasonable" (Grievant's Exhibit 10).

14. Dale gave ESP special instructions regarding after hours emergency services as a result of the new policy. He instructed the ESP Chief that, whenever possible, employees should be called out to provide emergency services when they were on "standby" status, as opposed to "available" status. He so instructed the ESP Chief because a guaranteed response time existed under "standby" status, but did not under "available" status.

15. A social worker on "standby" status or "availability" status is paid a minimum of four hours wages at the overtime rate if called out to provide emergency services. This is done pursuant to Article 31 (entitled "Call-In Pay"), Section 1, of

the Contracts, which provides as follows:

When an employee is called in and required to work at any time other than continuously into his or her normally scheduled shift, he or she shall receive compensation at applicable overtime rates for all hours worked. In no case shall he or she receive less than four hours of compensation at the applicable overtime rate, in cash or compensatory time, as appropriate.

16. The Bennington, Brattleboro and St. Johnsbury district offices were among the district offices which implemented the new availability/standby policy. Each of these offices used an "available/standby" alternating schedule. That is, the worker assigned to "standby" for a weekday or weekend also was assigned to "available" status during the remaining hours of the day that there had to be emergency after hours coverage. Following is a specific discussion of the practice under this policy in the Bennington, Brattleboro and St. Johnsbury district offices.

Bennington District Office

17. Bennington District Director Charles Gingo discussed the new policy during staff meetings in June and July, 1990. Workers questioned whether a worker on "available" status was free to travel outside of the area, and thus not be reachable and/or not able to respond to an emergency. They questioned whether, if reached while on "available" status, they could refuse to respond for various reasons (e.g., they are not within an hour's drive of the office, they had consumed alcohol). They posed hypothetical situations in order to understand their responsibilities and obligations under "available" status as compared to "standby" status. One of the scenarios presented to Gingo by employees was what would happen if an employee on

"available" status went to Burlington - a three hours drive from Bennington - then was reached by an ESP worker and told that a child in Bennington needed immediate emergency services, but the worker could not respond in time to provide the emergency services. Gingo told the employees that, if they were reached and could not respond in such a situation, he would consider disciplining them.

18. Gingo sent a memorandum to Dale with a list of the questions that had come up with his staff. Dale responded to Gingo's inquiries with a memorandum on June 29, 1990, which stated in pertinent part:

...

2. What does the department define as "being available?"

Answer: When we use the term available we are referring to Article 32 in the contract.

3. What is the department requiring for response time on availability?

Answer: The response time is determined by the situation that is presented and a response that is responsible and reasonable to deal with the situation. The contract is silent on the issue, so a reasonableness standard must apply.

4. How is the department defining the first sentence [of Article 32 defining "available"?]

Answer: I believe the contract is reasonably clear. The individual will leave word at home or with an employer where he/she may be reached. One can reasonably assume that the person then may be reached at that place; however, the standby status does not restrict a person's mobility and they are not required to carry a beeper. So leaving word where one may be may indicate that person may be someplace that is not reachable. This option requires cooperation by staff.

5. What will specific consequences be for the following:

a. Not doing availability

Answer: Availability is the status that a person is placed on by the supervisor. The issue is do they comply with the exact wording of the contract. If not, disciplinary action would be same as for any other noncompliance.

b. Being unavailable to be reached when on availability

Answer: As stated above, availability does not restrict a person's mobility as does standby. Once again, a person could leave word that they are going to be in Fenway Park and thus may not be reachable.

c. Not responding quickly enough to a call from ESP or whomever.

Answer: Article 2 of the State Employees' contract outlines management rights. We can order employees to do work to deal with emergencies. There will always be a reasonableness standard, given the nature of the emergencies and the employee's excuse for a delayed response.

d. Refusing to leave one's home because one has had too many drinks.

Answer: The person requesting the call-out will have to make a reasonable judgment in this case. Availability status does not restrict a person's behavior in any way so if they in fact have had too many drinks to drive, this is probably a reason for not going out.

e. Refusing to be on standby/availability rotation

Answer: Management gets to decide who is on standby/availability for the rotation. Standby responsibility is crystal clear. Availability really will work only if there is a degree of cooperation and volunteerism.

. . . (State's Exhibit 5)

19. Gingo distributed this memorandum to staff. At no time subsequent to this memorandum did Gingo revoke his threat of considering disciplining an employee on "available" status if the employee was unable to respond to an emergency. In fact, on the first day of hearing in this matter, on October 10, 1991, Gingo indicated through his testimony that the possibility of discipline in such circumstances still existed (Grievant's

Exhibit 22). While Gingo attempted to retract his statements by his further testimony on October 24, 1991, by stating that the threat of discipline only existed prior to Dale sending Gingo the June 29, 1990, memorandum, we conclude that Gingo's retraction of his earlier testimony was not credible. As a result, social workers in the Bennington District Office reasonably have concluded, at all times the policy has been in effect, that they are not free to travel where they wanted while on "available" status. They have believed that they need to be sufficiently close to the Bennington area, where they can be reached and be able to respond to any emergency.

St. Johnsbury District Office

20. Unlike the Brattleboro and Bennington offices, the St. Johnsbury District Office has both a primary and backup person on "availability" and "standby" status during hours the office is not open. The St. Johnsbury District office staff discussed the new policy with District Director Harry Adamek and Social Services Supervisor Jim Huckins-Noss during staff meetings prior to, and subsequent to, the implementation of the policy. Social workers were provided with a copy of Dale's July 13, 1990, memorandum on the policy. Adamek and Huckins-Ross indicated at some point to the employees that, while on "available" status, they had to be able to be reached either by phone or by beeper, and that they had to be able to respond to any emergency situation.

21. In October, 1990, at a staff meeting, Adamek and Huckins-Ross reported to employees that they had met with members

of the St. Johnsbury Police Department, and that the police had requested that social workers respond immediately when they are called out to provide emergency services during hours the district office is not open. Adamek asked social workers to honor this request. An employee asked Adamek if he had explained to the police the difference between "available" and "standby" status, and that there was no guaranteed response time if an employee was on "available" status. Adamek responded in the negative. The employee then asked Adamek if this was because the expectation concerning response time was the same regarding availability and standby status. Adamek said "yes".

22. Adamek asked social workers for cooperation, and asked them not to put him in the position of having to decide whether to impose discipline on them while they were on "available" status. Based on their understanding of their obligations while on "available" status, workers have operated under the understanding that discipline would be a possibility if they cannot be reached and/or are unable to respond to a call-out when on "available" status. They do not feel free to travel where they cannot be reached and would not be able to quickly respond to a call out.

Brattleboro District Office

23. Brattleboro District Director John Schwartz circulated Dale's July 13, 1990 memorandum and held staff meetings prior to the implementation of the new policy.

24. Schwartz initially asked for volunteers for "available" status, but received none. He then instituted a rotating system

whereby the same employee assigned to "standby" for an evening, weekend or holiday would also be assigned to "available" status during the remaining after hours.

25. Schwartz responded to staff questions regarding "availability" and "standby" by referring to Dale's memorandum. Schwartz' stated expectations of employees have been that the employees follow the Contract. He has not equated "available" status with "standby" status. Schwartz has not indicated that there is any restriction on employees' travel while they are on "available" status. Schwartz has never told workers that they had to carry a beeper or be by a phone while they were on "available" status. Schwartz has never discussed with social workers the possibility of disciplining employees on "available" status.

26. In practice, because the social workers assigned to "available" status in the Brattleboro district office take very seriously their professional responsibilities to their clients, they have restricted their travel and made themselves able to be reached either by beeper or by phone while on "available" status. They have responded to emergencies while on "available" status once reached as if they are on "standby" status.

OPINION

VSEA contends that the Employer violated the "On Call, Standby Duty and Available Status" article of the Contracts through implementation of its after-hours emergency services policy. The policy provided that employees be placed on "standby" status for certain off-duty hours and "available" status for other off-duty hours. However, VSEA contends that the purported "available" status under the policy is, in fact, "standby" status without compensation in violation of the Contracts.

The "On Call, Standby Duty and Available Status" article of the Contracts distinguish between "standby" and "available" status with respect to compensation, ability to be reached and reporting for duty. An employee on "standby" duty during off-duty hours is compensated at one-fifth the regular hourly rate for each hour of such duty. An employee on "available" status during off-duty hours receives no additional compensation for such status. Under either status, a social worker is paid a minimum of four hours wages at overtime rates if actually called out to provide emergency services, pursuant to the "Call-In Pay" article of the Contracts.

Following from these differences in compensation are different levels of expectations under the Contract provisions concerning ability to be able to reach employees and reporting for duty. An employee on "standby" status must "be reachable by phone or 'beeper' within one hour of being called." On the other hand, an employee on "available" status is required to "leave word at home or with the employer where the employee may be

reached", and "is not subject to any other restriction specified" for employees on "standby" status. Since the employee on "available" status must only leave word where the employee "may" be reached and is not required to actually be reachable by phone or beeper in any specified time, we conclude that a necessary inference to be drawn from the Contract is that there is no requirement that employees on "available" status make themselves able to be contacted.

The Contracts further provide for a significant distinction between each status with respect to expectations on reporting for duty where needed. An employee on "standby" status is required to report for duty where needed within one hour of being reached, or the normal commuting time between the employee's home and the office, whichever is greater. The "On Call, Standby Duty and Available Status" article contains no explicit provision concerning employees on "available" status reporting for duty other than providing that the employee "is not subject to any other restriction specified" for employees on "standby" status. Since employees on "available" status are not required under the Contract to actually make themselves able to be contacted, it necessarily follows that there is no blanket requirement for such employees to report for duty.

However, the question arises as to the nature of the requirement to report, if any, once an "available" employee is actually reached. VSEA contends that since an employee on "available" status "is not subject to any other restriction specified" for employees on standby status, and one of the

restrictions placed on employees on "standby" status is the fact that they can be required to report for duty, it is plain that employees on "available" status may not be required to report to work.

We disagree with VSEA. It is true that employees on "available" status are not subject to "any other restriction specified" for employees on "standby" status. However, the specified restriction for "standby" employees is being required to report for duty within a specified time of being reached, not simply that such employees can be required to report for duty. The "Call-In" provision of the Contracts (i.e., Article 31), which applies to employees on "available" status, provides that an employee is entitled to overtime compensation when "called in and required to work". The very placement of an employee on "available" status, taken together with the "call-in" provision, results in the conclusion that the Employer may require an employee on "available" status to report to duty in appropriate situations and within a reasonable timeframe under the circumstances, while ensuring that such employees are not subject to the specified restrictions for "standby" employees.

We turn to discussing whether the Employer has violated the terms of the Contracts as we have interpreted those terms. In so deciding, it is necessary to first address whether the after hours emergency services policy as established at the Social Services Division level violated the Contracts, and then whether the policy as actually implemented in the various district offices violated the Contracts.

We conclude that the policy as established by Division Director Steven Dale did not violate the Contracts. Dale recognized in establishing this policy that employees assigned to "available" status may not be able to be reached and may not be able to respond to an emergency. In response to one District Director's inquiries, he indicated that an employee on "available" status could leave word that the employee was going to Fenway Park in Boston, travel to Boston, and that would not violate the Contracts. In a memorandum to all district directors prior to the implementation of the policy, Dale indicated that there was no specific response time while on "available" status, and that an employee in such status did not have to guarantee accessibility to a phone and further that an "available" employee had no specific restrictions on travel or behavior. He also stated in the memorandum that "when you reach a worker, you can expect a timely response appropriate to the nature of the emergency and the employee's individual situation", and that "our expectations must be reasonable." He impressed upon the ESP Chief that, whenever possible, employees should be called out to provide emergency services while on "standby" status, rather than "available" status, because a guaranteed response time existed only under "standby" status. We conclude that Dale's understanding of the policy and his communication of that policy to Division management were consistent with the Contract provisions concerning "available" employees' responsibilities with respect to ability to be reached and to respond to an emergency situation, as we have previously noted.

VSEA contends that the policy established by Dale violates the Contracts because the new, bifurcated system of standby/availability, by its very nature, unduly restricts workers during their hours of availability. We conclude that the bifurcated system as actually established by management does not restrict employees' freedom of movement while they are on "available" status so as to violate the Contract. It is true that an employee's freedom of movement is restricted to some extent towards the end of a block of time on "available" status since the employee must prepare to begin "standby" status. However, an employee's freedom of movement is always restricted to some extent just prior to beginning any period for which they are compensated, and the bifurcated schedule actually established by the Employer allows employees freedom of movement during the bulk of the time they are on "available" status.

VSEA further contends that the use of "available" status prevents the Employer from complying with its legal obligations to ensure that after hours emergency services can be provided. In making this contention, VSEA in essence is calling into question management's very right to place employees on "available" status. As the Board already decided in VSEA v. State of Vermont, 13 VLRB 349, 356-357 (1990), placing employees on "available" status for certain hours is within management's authority to unilaterally impose pursuant to the Contract. Thus, we will not abrogate or inhibit management's contractual right in this regard.

In sum, we conclude that the after hours emergency services policy as established by Division Director Steven Dale did not

violate the Contracts. However, the same cannot be said for the actual implementation of the policy in two of the District Offices: the Bennington District Office and the St. Johnsbury District Office.

Bennington District Director Charles Gingo, while distributing to staff a memorandum from Dale which set forth the Division policy consistent with the Contract, led employees to believe at all times relevant that he would consider disciplining an employee on "available" status if they were too far from the Bennington area to be able to respond to an emergency. As a result, social workers in the Bennington District Office reasonably have concluded, at all times the policy has been in effect, that they are not free to travel where they wanted while on "available" status. They have reasonably believed that they need to be sufficiently close to the Bennington area, where they can be reached and be able to respond to any emergency. This requirement, imposed on employees by their district director, clearly violates the Contract and the Division's own stated policy.

Similarly, the management of the St. Johnsbury District Office, while distributing to staff a memorandum from Dale which set forth the Division policy consistent with the Contract, indicated to staff that they had to be able to be reached either by phone or by beeper while on "available" status, and that they had to be able to respond to any emergency situation. Further, District Director Harry Adamek requested that employees honor a police department request that they respond immediately when they

are called out to provide after hours emergency services and, in responding to employee questioning on the matter, Adamak indicated that the response time was the same regardless whether employees were on "available" or "standby" status. Based on their understanding of their obligations while on "available" status as expressed to them by district office management, employees reasonably have concluded that they are not free to travel where they cannot be reached and would not be able to quickly respond to a call out. This requirement, imposed on employees by their district office managers, clearly violates the Contract and the Division's own stated policy.

In both Bennington and St. Johnsbury, employees essentially have been required, while they are on a purported "available" status, to be reachable and to be able to respond as if they were on "standby" status. This is in violation of the Contract's provisions distinguishing between "standby" and "available" status.

We also heard evidence on the implementation of the policy in the Brattleboro District Office. Contrary to management's actions in the Bennington and St. Johnsbury District Offices, the Brattleboro District Office Director implemented the policy consistent with the Contract provisions and the Division's stated policy. It is true that employees in the Brattleboro District Office have made themselves able to be reached, and have responded to emergencies once reached, while on "available" status as if they are on "standby" status. However, this has been self-imposed by employees due to the fact that they take very

seriously their professional responsibilities to clients, rather than a requirement imposed on them by management. Under such circumstances, we cannot conclude that management violated the Contract.

In determining what remedy to grant for the Employer's violation of the Contracts in the Bennington and St. Johnsbury District Offices, it is appropriate to place the employees in the position they would have been in had the Contract not been violated. Since we have determined that employees in those offices have been required, while they are on a purported "available" status, to be reachable and to be able to respond as if they were on "standby" status, then it is appropriate to retroactively compensate them for all hours of the purported "available" status since the implementation of the policy on July 22, 1990, by compensating them as if they were on "standby" status for such hours.

ORDER

Now therefore, based on the foregoing findings of fact and for the foregoing reasons, it is hereby ORDERED:

1. Employees in the St. Johnsbury and Bennington District Offices of the State of Vermont, Department of Social and Rehabilitation Services, Division of Social Services, shall be awarded back pay, plus interest, from July 22, 1990, until the date subsequent to this decision that the decision is fully complied with, for all hours such employees have been assigned to be on "available" status, by compensating them as if they were on "standby" status for such hours;
2. The interest due employees on back pay shall be computed on gross pay and shall be at the rate of 12 percent per annum and shall run from the date each paycheck was due that would have included the applicable payment for "standby" status, and ending on the date the employees actually receive such back pay;

3. The parties shall submit to the Board by April 13, 1992, a proposed order indicating the specific amount of back pay due each of the employees. If they are unable to come to an agreement on such proposed order, they shall notify the Board in writing on that date of the specific facts agreed to by the parties, specific areas of factual disagreement, and a statement of issues which need to be decided by the Board.

Dated this 18th day of March, 1992. at Montpelier, Vermont.

VERMONT LABOR RELATIONS BOARD

Charles H. McHugh
Charles H. McHugh, Chairman

Catherine L. Frank
Catherine L. Frank

/s/ Carroll P. Constock
Carroll P. Constock