

VERMONT LABOR RELATIONS BOARD

GRIEVANCE OF:)	
)	
PETER KAWECKI AND THE)	DOCKET NO. 08-34
VERMONT STATE COLLEGES)	
FACULTY FEDERATION, UPV/AFT)	
LOCAL 3180, AFL-CIO)	

FINDINGS OF FACT, OPINION AND ORDER

Statement of Case

On August 26, 2008, the Vermont State Colleges Faculty Federation, UPV/AFT Local 3180, AFL-CIO (“Federation”) filed a grievance with the Vermont Labor Relations Board on behalf of the Federation and Peter Kaweck, a retired faculty member from Vermont Technical College. The grievance alleged that the Vermont State Colleges (“Colleges”) violated Article 35 of the collective bargaining agreement in effect when Professor Kaweck retired in 1995, by denying medical insurance coverage in 2007 to Tracey Kaweck, wife of Professor Kaweck.

The Labor Relations Board held a hearing on January 29, 2009, in the Board hearing room in Montpelier before Board Members Edward Zuccaro, Chairperson; Richard Park and James Kiehle. Attorney Nicholas DiGiovanni, Jr., represented the Colleges. Russell Mills, Federation Grievance Chairperson, represented Grievants. Grievants and the Colleges filed briefs on February 19 and 20, 2009, respectively.

FINDINGS OF FACT

1. The Colleges and Federation were parties to a collective bargaining agreement which was effective from 1994 to 1997. The dispute in this grievance centers on the following language in Article 35, Section G, of the 1994-1997 Contract:

On retirement of a faculty member . . . the Vermont State Colleges shall continue to pay medical and dental insurance for the family for one year, and for the employee for the rest of his/her life . . . except that for full-time employees with more than ten (10) years of continuous VSC service, medical and dental insurance shall also be paid for the employee's spouse for the remainder of his/her life.
(Joint Exhibit 1)

2. Professor Peter Kawecki was a faculty member at Vermont Technical College for 27 years prior to his retirement from that institution in 1996. At the time of his retirement, the terms of the 1994-1997 Contract were in effect and governed the benefits he would receive as a retiring faculty member.

3. Kawecki was married at the time of his retirement. His wife was covered by the Colleges' health insurance plan prior to and after his retirement. Kawecki and his wife continued to be covered by the Colleges' health insurance plans from 1996 to 2002.

4. Kawecki and his wife divorced in 2002. Kawecki notified the Colleges in August of 2002 that he was divorced. The Colleges removed Kawecki's former wife from coverage of the Colleges' health insurance plan at that time, and converted Kawecki to single person coverage. Kawecki's former wife told him of the termination of the coverage shortly after it occurred. Kawecki and the Federation did not file a grievance over the removal of Kawecki's former spouse from the health insurance plans in 2002.

5. In 2007, Kawecki remarried. Kawecki asked the Colleges at some point in 2007 to provide his new wife, Tracey Kawecki, with coverage under the Colleges' health insurance plans. The Colleges denied his request.

6. Jeff Higgins is a current faculty member at Vermont Technical College, and has been so employed continuously for 21 years. Prior to 2000, his wife was covered under the Colleges' health insurance plans. Higgins and his wife divorced in 2000, and she was

removed from coverage of the Colleges' health insurance plans. Higgins remarried in 2003, and his new wife was added to coverage of the Colleges' health insurance plans.

OPINION

The Federation and retired Lyndon State College Professor Peter Kawecki contend that the Colleges violated the Retirement provisions of the Contract by denying medical and dental insurance to the new wife of Professor Kawecki. The Colleges denied the request of Professor Kawecki, made eleven years after his retirement, to provide his new wife with medical and dental insurance.

Kawecki was married at the time of his retirement in 1996. His wife was covered by the Colleges' health insurance plan prior to and after his retirement. Kawecki and his wife continued to be covered by the Colleges' health insurance plans from 1996 to 2002. Kawecki and his wife divorced in 2002. The Colleges removed Kawecki's former wife from coverage of the Colleges' health insurance plan at that time, and converted Kawecki to single person coverage. Kawecki remarried in 2007 and contends that his new wife is entitled to medical and dental insurance coverage.

We disagree. Article 35, Section G, of the applicable Contract provides that "on retirement of a faculty member . . . the Vermont State Colleges shall continue to pay medical and dental insurance . . . for the employee for the rest of his/her life" and further provides that "medical and dental insurance shall also be paid for the employee's spouse for the remainder of his/her life." Under this provision of the Contract, the faculty member has a right to the Colleges continuing to pay the health and dental insurance coverage accrued by the faculty member at the time of his retirement. Grievance of Kelly and the

Vermont State Colleges Faculty Federation, AFT Local 3180, AFL-CIO, 19 VLRB 100, 105-106 (1996).

At the time of his retirement, Professor Kawecky had an accrued right to have the Colleges continue to pay health and dental insurance coverage for himself and his wife at that time. A continuation of spousal coverage for his new wife could not have accrued by the time that Professor Kawecky retired since she was not his spouse then. Kelly, 19 VLRB at 106.

The evidence presented with respect to Professor Higgins provides no aid to Grievants' case. It is true that the new wife of Professor Higgins was provided insurance coverage after his former wife was removed from such coverage. However, there is a crucial distinction between the situations of Kawecky and Higgins. Higgins' new wife was added to his coverage while he was still employed by the Colleges, while Kawecky seeks coverage for his new wife during his retirement. The right of an active employee like Higgins to coverage for a spouse under insurance plans differs from that of a retiree whose rights are established at the point of retirement.

Alternatively, Grievants contend that, if Professor Kawecky's new wife is not entitled to coverage, then his former wife is so entitled. We conclude differently. First, the Colleges removed Professor Kawecky's former wife from insurance coverage approximately six years prior to the time this grievance was filed, and Kawecky was aware at the time that this had occurred. The time for filing a grievance over any alleged violation of the Contract was at the time the Colleges removed his former wife from coverage. Article 14, Section D(1), of the contract in effect at the time provided that a grievance must be filed "within thirty (30) calendar days after the grievant could reasonably have been

aware of the alleged violation”. A grievance on that issue at this time is barred by the deadlines set forth in the collective bargaining contract for filing a grievance.

Further, even assuming *arguendo* that this issue is timely raised, the Contract provides a continuing obligation to provide insurance coverage for an “employee’s spouse for the remainder of his/her life”. This benefit is premised on the marital relationship. Once Kawecki and his wife divorced in 2002, she was no longer his spouse. Under the Contract, there is no obligation for the Colleges to provide insurance coverage for former spouses. The obligation of the Colleges to provide insurance coverage to Kawecki’s former spouse ended when she ceased to be his spouse.

In sum, we conclude that the Colleges did not violate the Contract by not providing health and dental insurance coverage to Professor Kawecki’s new wife or his former wife.

ORDER

Based on the foregoing findings of fact and for the foregoing reasons, it is ordered that the Grievance of Peter Kawecki and the Vermont State Colleges Faculty Federation, UPV/AFT Local 3180, AFL-CIO, is DISMISSED.

Dated this 17th day of April, 2009, at Montpelier, Vermont.

VERMONT LABOR RELATIONS BOARD

/s/ Edward R. Zuccaro

Edward R. Zuccaro, Chairperson

/s/ Richard W. Park

Richard W. Park

/s/ James C. Kiehle

James C. Kiehle