

VERMONT LABOR RELATIONS BOARD

GRIEVANCE OF:)	DOCKET NO. 86-17
)	
PROFESSOR PETER RASMUSSEN AND)	
THE VERMONT STATE COLLEGES)	
FACULTY FEDERATION,)	
AFT LOCAL #3180, AFL-CIO)	

FINDINGS OF FACT, OPINION AND ORDER

Statement of Case

On March 6, 1986, the Vermont State Colleges Faculty Federation, AFT Local 3180, AFL-CIO ("Federation") filed a grievance on behalf of Peter Rasmussen, Vermont Technical College ("VTC") Professor. The grievance alleged the Vermont State Colleges ("Colleges") violated Articles 3, 14 and 28 of the collective bargaining contract effective between the Federation and the Colleges for the period September 6, 1984 - August 31, 1986 ("Contract") by not granting a sabbatical to Rasmussen for the Fall 1985 semester.

A hearing was held on December 11, 1986, before Board members Charles H. McHugh, Acting Chairman; William G. Kemsley, Sr, and Catherine L. Frank. Dr. Stephen Butterfield, Federation Grievance Chairperson, represented the Federation. Attorney Paul Sutherland represented the Colleges. The Federation and Colleges filed briefs on December 18 and 19, 1986, respectively.

FINDINGS OF FACT

1. Article 28 of the Contract, entitled Faculty Development Funds, provides in pertinent part as follows:

A. for use in each year of the contract, each College shall grant a total of four semesters of sabbatical leave

at 75% of salary plus full fringe benefits to tenured faculty. Tenured faculty may be awarded one- or two-semester sabbaticals.

.....D. A tenured faculty member shall be eligible for a sabbatical after every five (5) full years or more of full-time teaching service.

1. Sabbatical proposals must specify how the planned sabbatical activities fit into the faculty member's overall plan of professional development and how it relates to the most recent, if any, five-year tenure review.

2. As part of the process for applying for a sabbatical, the faculty member shall meet with the department chairperson to review the benefit of the plan to the department and shall meet with the Dean to review the benefit of the plan to the College.

3. Following completion of any sabbatical, the faculty member shall again meet with the Dean and the department chairperson to review the sabbatical activities.

2. On February 1, 1985, Professor Rasmussen submitted a request to Harry Miller, VTC Dean of Academic Affairs, for a sabbatical leave for the 1985-86 academic year. In his request, Rasmussen indicated he would use his leave to seek a position in industry to give him practical experience to assist him in how best to present his teaching material. Rasmussen indicated that, if he was unable to find a position in industry, he would use a sabbatical to work on writing a textbook. (Federation Exhibit 1)

3. For the 1985-86 academic year, there were three applicants for sabbaticals, all from the Electrical Engineering Department. In addition to Rasmussen's request, Joseph Kittel requested a sabbatical for Fall 1985 and Peter Kawecky requested a sabbatical for the Fall 1985 and Spring 1986 semesters.

4. The Faculty Development subcommittee recommended the granting of all sabbatical requests, except it was recommended that Rasmussen only be granted a sabbatical for the Fall 1985 semester, not

the entire academic year. Dean Miller recommended to VTC President Robert Clarke that the subcommittee's recommendation be followed. In April, 1985, Clarke granted the four semesters of sabbatical as recommended. (Federation Exhibits 2, 3)

5. On May 16, 1985, Rasmussen requested that President Clarke change his sabbatical leave from the Fall 1985 semester to the Spring 1986 semester. He also requested that the President grant him an unpaid leave of absence for the Fall 1985 semester. (Federation Exhibit 4)

6. When he requested to change his sabbatical leave from the Fall semester 1985 to the Spring semester 1986, Rasmussen expressed to President Clarke personal discouragement with the past year at VTC and indicated that he might not return to VTC after the 1985/1986 academic year. He stated that if another employment opportunity presented itself during the 1985/1986 academic year, he might take it. Rasmussen told Clarke he wanted to change his sabbatical leave from the Fall 1985 semester to the Spring 1986 semester because if he found a job elsewhere during the Fall 1985 semester it would be unfair of him to accept sabbatical funds from the College, and then not return to teach.

7. On May 16, 1985, President Clarke granted Grievant's requests to switch his sabbatical to Spring 1986 and for an unpaid leave of absence for the Fall 1985 semester. (Federation Exhibit 5)

8. On or about November 19, 1985, after he had apparently learned from his Department Chairperson that the College was having difficulty staffing the Electrical Engineering Department for the Spring 1986 semester, Professor Kaweckl informed Dean Miller he would

be willing to teach a full time load during the Spring semester, 1986, and postpone the sabbatical leave previously granted to him for the Spring 1986 semester until the Fall 1986 semester (Federation Exhibit 6). On or about November 19, Kaweck and the College Administration reached an agreement whereby Kaweck would teach during the Spring Semester 1986 and his sabbatical would be postponed until the Fall 1986 semester and agreed this arrangement would not affect the contractual rights of VTC faculty members to four additional semesters of sabbatical leave during the 1986-87 academic year. There is no evidence that Dean Miller, President Clarke or any other person pressured Kaweck to change his sabbatical leave plans for the convenience of the College.

9. Rasmussen approached President Clark on December 4, 1985, shortly after he learned of the agreement with Kaweck, and asked that the fourth semester of sabbatical funds, unused by Kaweck for 1985-86, be applied toward Grievant's Fall 1985 semester of unpaid leave. The Fall 1985 semester had begun in late August and would end in December. Grievant had used the Fall Semester to work toward producing a textbook, not to look for employment elsewhere. He had decided that he would return to VTC. He offered to show President Clarke what he had been doing and Clarke declined to review his work. Shortly thereafter, President Clarke denied Rasmussen's request for sabbatical leave for the Fall 1985 Semester.

10. President Clarke granted four semesters of sabbatical leave for use in the 1986-87 academic year in addition to the semester used by Kaweck in Fall 1986. Thus, a total of eight semesters of

sabbatical leave are expected by the College to be used in the 1985-86 and 1986-87 academic years.

11. No evidence exists of sabbatical leave ever being granted retroactively at VTC or in the Colleges system.

OPINION

The issue before us is whether the Colleges violated Article 28 of the Contract in failing to grant Professor Rasmussen, for use in the Fall 1985 semester, the semester of sabbatical funds which were originally granted to Professor Kawecky but not used by him in that year.¹

In applying the pertinent provisions of Article 28 to the circumstances of the case, we find no contract violation. Article 28, Section A, provides that "for use in each year of the Contract, each College shall grant a total of four semesters of sabbatical leave..." VTC President Clarke adhered to this section when he granted, in April 1985, four semesters of sabbatical leave for intended use in the 1985-86 academic year.

The fact Professor Kawecky decided in 1985 to voluntarily not use his granted sabbatical leave for the Spring 1986 semester did not result in a contractual requirement to grant Professor Rasmussen's subsequent December 1985 request for retroactive sabbatical leave for the Fall 1985 Semester. Rasmussen's sabbatical leave request for the

¹The grievance filed with the Board alleged violations of Article 3 and Article 14 of the Contract, in addition to Article 28. However, the Federation has presented no evidence or argument on those articles as they relate to the denial of Rasmussen's request, and thus, we deem the alleged violations of those articles waived.

Fall 1985 semester had already been denied in conformity with the Contract in April 1985. There is no provision in the Contract which entitled him to a retroactive sabbatical leave for that semester if a granted semester of sabbatical leave was not used by another faculty member.

In fact, it is clear from Section D of Article 28 that retroactive grants of sabbatical leave are not appropriate under the Contract. Section D provides that "sabbatical proposals must specify how the planned sabbatical activities fit into the faculty member's overall plan of professional development" and requires the involved faculty member to "meet with the department chairperson to review the benefit of the plan to the department and ...meet with the Dean to review the benefit of the plan to the College." A faculty member cannot perform the planning activities mandated here after a leave period has already been substantially completed.

A contract must be construed, if possible, so as to give effect to every part, and from the parts to form a harmonious whole. In re Grievance of VSEA on Behalf of Certain Phase Down Employees, 139 Vt. 63, 65 (1980). It is not possible to give full meaning to Section D of Article 28 and at the same time to interpret Section A of that article to require retroactive sabbatical leaves where necessary to assure that four semesters of sabbatical leave each year are not only granted, but used. In giving effect to every part of Article 28, we construe the article as a whole to support President Clarke's denial of Professor Rasmussen's request for a retroactive sabbatical leave.

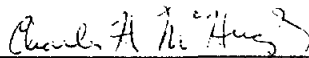
ORDER


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

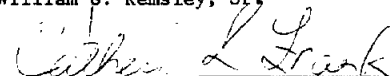
The Grievance of Professor Peter Rasmussen and the Vermont State Colleges Faculty Federation, AFT Local #3180, AFL-CIO is DENIED.

Dated this 20th day of January, 1987, at Montpelier, Vermont.

VERMONT LABOR RELATIONS BOARD


Charles H. McHugh, Acting Chairman


William G. Kemsley, Sr.


Catherine L. Frank