

VERMONT LABOR RELATIONS BOARD

GRIEVANCE OF:

KAREN SAUDEK
and
HOWARD FISHER

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DOCKET NO. 79-56S

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ORDER

On January 23, 1980, the Employer, Community College of Vermont, filed a motion to amend the Findings of Fact, Opinion and Order of the Grievance of Karen Saudek and Howard Fisher 3 VLRB 6 (1980), issued by this Board on January 10, 1980. On March 3, 1980, the Grievants filed a reply and a "Motion to conform evidence to the pleadings."

In its motion, the Employer urges us to amend the Findings to reflect that Grievants raised no objection to the payment of their accumulated vacation leave during the hiatus between the 1978-1979 and 1979-1980 contracts. On these facts, the Employer suggests the Board should order Grievants be reimbursed for the number of days lost without pay, less accumulated leave paid to them upon separation.

We deny the Employer's motion to amend the Grievance of Karen Saudek and Howard Fisher, supra, as ordered, for to do so would fail to provide Grievants with an equitable remedy. Had they been given notice of layoff in accordance with the provisions of the Vermont State Colleges Staff Handbook, Grievants would have been afforded the opportunity to separate from Community College of Vermont with not only a lump sum payment of their accumulated vacation leave, but also sufficient notice to seek new employment.

In our opinion, while the scheduling of employee vacations is ultimately at the discretion of the Employer, the remedy ordered in this instance is the only available means to make Grievants whole for their abrupt loss of employment, however temporary.

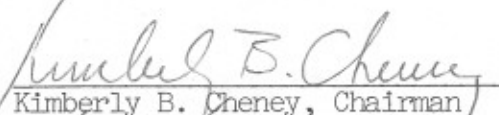
We have also reconsidered our analysis of the applicability and interpretation 3 V.S.A. §902(5)(F); 3 V.S.A. §902(18) and 3 V.S.A. §906 in light of 16 V.S.A. §2179(2). There is no obvious legislative intent to extend this aspect of managerial designations to the State Colleges, nor are we persuaded to reverse our earlier opinion. Whatever else is true, it appears Ms. Saudek was not managerial under 3 V.S.A. §902(5)(D), and it is that statute we deem controlling here.

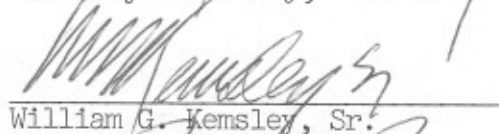
Grievants motion to amend its pleadings is denied as unnecessary. The variance here, if any, was not prejudicial. VLRB Rules §11.18

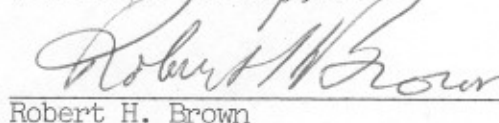
For the foregoing reasons, Respondents request to amend Findings of Fact, Opinion and Order is hereby DENIED. Grievants motion to amend pleadings is hereby DENIED.

Dated this 7th day of March, 1980, at Montpelier, Vermont.

VERMONT LABOR RELATIONS BOARD


Kimberly B. Cheney, Chairman


William G. Kemsley, Sr.


Robert H. Brown