



NATIONAL VETERANS AFFAIRS COUNCIL

American Federation of Government Employees, Affiliated with the AFL-CIO

NATIONAL GRIEVANCE NG-12/12/18

Date: December 12, 2018

To: Steven Novy
Acting Executive Director
Department of Veterans Affairs
Office of Labor-Management Relations
810 Vermont Avenue, NW
Washington, DC 20420
steven.novy@va.gov
Sent via electronic mail only

From: Thomas Dargon, Jr., Staff Counsel, National Veterans Affairs Council (#53) (“NVAC”), American Federation of Government Employees, AFL-CIO (“AFGE”)

RE: National Grievance against the Department of Veterans Affairs for failing to satisfy bargaining obligations concerning the Fingerlakes Healthcare System merger

STATEMENT OF CHARGES

Pursuant to the provisions of Article 43, Section 11 of the Master Agreement Between the Department of Veterans Affairs and the American Federation of Government Employees (2011) (“MCBA”), American Federation of Government Employees/National Veterans Affairs Council (“the Union”) is filing this National Grievance against you and all other associated officials and/or individuals acting as agents on behalf of the Agency for failing to satisfy bargaining obligations with the Union concerning the Fingerlakes Healthcare System merger. To date, the VA has failed to remedy this violation, and as such, continues to violate the MCBA and federal law.

Specifically, VA violated Articles 2, 3, 47, and 49 of the MCBA, 5 U.S.C. §7116(a), and any and all other relevant articles, laws, regulations, and past practices not herein specified.

STATEMENT OF THE CASE

Background

Historically, the Bath VA Medical Center and the Canandaigua VA Medical Center operated as independent medical centers within Veterans Integrated Service Network – 2 (“VISN 2”). The Agency later decided to merge these facilities into a single facility, known as the Fingerlakes Healthcare System, effective October 1, 2018. On August 29, 2018, AFGE/NVAC submitted a written demand to bargain with Joan E. McInerney, Network Director of VISN 2, requesting that the Agency cease and desist any changes to conditions of employment until the

Agency satisfied bargaining obligations. On September 4, 2018, Alma L. Lee, President of AFGE/NVAC, provided Ms. McInerney with the names and titles of the Union's bargaining team and requested a briefing on the Agency's decision to merge the Bath and Canandaigua facilities. On October 1, 2018, Bruce Tucker, Acting Medical Center Director for both the Bath VAMC and Canandaigua VAMC, provided written notice to AFGE Local 491 that the merger would take place that same day, October 1, 2018, and stated that the Agency agreed to bargain with the Union. At that point, the Agency had not provided a briefing, and bargaining had not yet commenced.

In refusing to notify, consult, and negotiate in good faith with the Union prior to implementing the Fingerlakes merger, the Agency committed an unfair labor practice under 5 U.S.C. §7116(a)(1) and (a)(5). Further, in notifying and bargaining with the Local 491, the Agency bypassed the national Union's designated representatives in violation of 5 U.S.C. §7116(a). Additionally, Article 2 of the MCBA requires that the Agency comply with applicable federal statutes and regulations in the administration of matters covered by the MCBA. Therefore, in violating 5 U.S.C. §7116, as set forth above, the Agency also failed to comply with Article 2. Further, Article 3 encourages the parties to maintain a cooperative labor-management relationship that is based on mutual respect, open communication, consideration of each other's views, and minimizing collective bargaining disputes. By failing to notify, consult, and negotiate with the Union prior to implementing the Fingerlakes merger, the Agency renounced its commitments under Article 3 of the MCBA and necessitated further collective bargaining disputes. Finally, the Agency violated Article 47, Section 2, and Article 49, Section 4, which set forth the Parties' responsibilities regarding mid-term bargaining at the national level.

Violation

By failing to fulfill its obligations, the VA violated, and continues to violate, the following:

- Article 2 of the MCBA: requiring the Agency to comply with federal law and regulations;
- Article 3 of the MCBA: requiring the Agency to maintain an effective, cooperative labor-management relationship with the Union;
- Articles 47 and 49 of the MCBA: requiring the Agency to comply with agreed-upon procedures for mid-term bargaining;
- 5 U.S.C. §7116(a)(1) and (a)(5): requiring the Agency to consult and negotiate in good faith with the Union;
- Any and all other relevant articles, laws, regulations, customs, and past practices not herein specified.

Remedy Requested

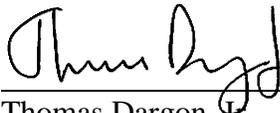
The Union asks that, to remedy the above situation, the VA agree to the following:

- To cease and desist the further implementation of the Fingerlakes merger;
- To return to the *status quo ante* until bargaining obligations are met;
- To fully comply with its contractual obligations under Articles 2, 3, 47, and 49 of the MCBA and its statutory obligations under 5 U.S.C. §7116(a);

- To make-whole any bargaining unit employee adversely affected by the Fingerlakes merger;
- To agree to any and all other remedies appropriate in this matter.

Time Frame and Contact

This is a National Grievance, and the time frame for resolution of this matter is not waived until the matter is resolved or settled. If you have any questions, please contact the undersigned at AFGE Office of the General Counsel. The undersigned representative is designated to represent the Union in all matters related to the subject of this National Grievance.



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cc: Alma L. Lee, President, AFGE/NVAC
Mary-Jean Burke, Chairperson, Grievance and Arbitration Committee, AFGE/NVAC
Ibidun Roberts, Supervisory Attorney, AFGE/NVAC