



NATIONAL VETERANS AFFAIRS COUNCIL

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

NATIONAL GRIEVANCE NG-5/11/2022

Date: May 11, 2022

To: Denis Biaggi-Ayer
Executive Director
Office of Labor Management Relations
U.S. Department of Veterans Affairs
Denise.Biaggi-Ayer@va.gov
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Sent via electronic mail only

From: Ibidun Roberts of Roberts Labor Law and Consulting, L.L.C., on behalf of National Veterans Affairs Council (#53) (“NVAC”), American Federation of Government Employees, AFL-CIO (“AFGE”)

RE: **National Grievance against the Department of Veterans Affairs for its improper collection of debts due to systemic retirement coding errors and failure to bargain over the change in conditions of employment.**

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” or “Master Agreement”), 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 agent on behalf of the U.S. Department of Veterans Affairs (“VA,” “Agency,” or “Department”) for its improper collection of debts due to systemic retirement coding errors and failure to bargain over the change in conditions of employment.

Specifically, the VA violated Articles 2, 47, and 49 of the MCBA, 5 U.S.C. §7116(a)(1) and (5) and any and all other relevant articles, laws, regulations, customs, and past practices not herein specified.

STATEMENT OF THE CASE

Background

The Federal Government has four different retirement systems.

- Civil Service Retirement System. Employees entering federal service between August 1, 1920 and January 1, 1987 pay 7, 7.5, or 8% contributions. This retirement system is a defined benefit, contributory retirement system.

- Federal Employee Retirement System (FERS). Employees entering federal service on or after January 1, 1987, but before December 31, 2012, were required to contribute 0.8% of their salary to the retirement plan. This retirement plan provides benefits from three different sources: a Basic Benefit Plan, Social Security and the Thrift Savings Plan (TSP)
- FERS-Revised Annuity Employee (FERS-RAE). In the Middle Class Tax Relief and Job Creation Act of 2012, Congress increased the employee contribution from 0.8% to 3.6% for employees entering federal service on or after January 1, 2013, but before January 1, 2014.
- FERS-Further Revised Annuity Employee (FERS-FRAE). In the Bipartisan Budget Act of 2013, Congress increased the employee contribution from 3.6% to 4.4% for employees entering federal service on or after January 1, 2014.

Depending on the timing of entry into Federal employment, the employee is coded for their respective retirement contribution. There are certain exceptions that are not applicable here.

On a continuing and ongoing basis, the Department has failed to code employees correctly in their applicable retirement system, specifically FERS-FRAE. This failure has resulted in VA sending debt collection letters to AFGE bargaining unit employees. Some employees have received debt collection letters reflecting eight years of incorrect withholdings, resulting in thousands of dollars of debt. Additionally, employees are being told that the debt created over eight (8) years, through no fault of their own, must be repaid within three (3) years.

The Union has preliminarily identified over 100 employees, spanning multiple AFGE Locals in New York affected by the error and change. However, the Union reserves the right to include all bargaining unit employees affected by this error.

Violations

The Department failed to provide the Union with any notice concerning the mass error. Additionally, VA failed to provide the Union an opportunity to negotiate over the correction of the error. Through no fault of their own, employees have received debt letters causing a significant change to their conditions of employment, including devastating financial impact and emotional distress.

By failing to fulfill its contractual and statutory obligations, the Department violated, and continues to violate, the following:

- Article 2 of the MCBA: requiring compliance with all federal statutes and governmentwide regulations;
- Article 49 of the MCBA: which requires that the parties have due regard for the obligations imposed by 5 U.S.C. Chapter 71;
- 5 U.S.C. §7116(a)(1) and (5): requiring the Agency to consult and negotiate in good faith with the Union; and,
- Any other law, rule, regulation, or Master Agreement provision not herein specified.

Remedies Requested

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

- To cease and desist further violations of the MCBA and the FSLMRS;
- To post a notice to all AFGE bargaining unit employees via electronic mail signed by the Secretary;
- To grant debt waivers to all affected AFGE bargaining unit employees;
- To reimburse any bargaining unit employees that have already had their salary offset due to the creation of the debt;
- To make the appropriate retirement contributions on behalf of the impacted bargaining unit employees;
- To make whole the Union and any employee affected by the Department's violations; and,
- 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. Ibidun Roberts of Roberts Labor Law and Consulting, L.L.C., is the designated representative for this National Grievance. If you have any questions regarding this National Grievance, please contact her at (202) 235-5026 or iroberts@robertslaborlaw.com.

Submitted by,



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Enclosure

cc: Alma L. Lee, President, AFGE/NVAC
Bill Wetmore, Chairperson, Grievance and Arbitration Committee, AFGE/NVAC
Thomas Dargon, Supervisory Attorney, AFGE/NVAC