



NATIONAL VETERANS AFFAIRS COUNCIL

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

NATIONAL GRIEVANCE NG-10/21/2022

Date: October 21, 2022

To: Denis Biaggi-Ayer
Executive Director
Office of Labor Management Relations
U.S. Department of Veterans Affairs
Denise.Biaggi-Ayer@va.gov
VALMRLitigation@va.gov
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 repudiation of the Master Agreement and local seniority agreements and past practices for impacted Locals in VISN 19.

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 repudiation of the Master Agreement and local seniority agreements and past practices for impacted Locals in VISN 19.

Specifically, the VA violated Articles 2 and 49 of the MCBA, local agreements, MOUs and past practices, 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

On September 29, 2022, Brian Hermeyer, Human Resources Employee/Labor Relations Specialist, sent an email to the Union seeking “assistance in clarifying Seniority for all BUEs in the [Clinical Contact Center].” Oscar L. Williams, Jr., 2nd Executive Vice-President of the Union and Chair of the Mid-Term Bargaining Committee, responded that “the [bargaining unit employees] would follow the seniority of their [AFGE local].” However, Mr. Hermeyer sent

additional emails, including one that stated, “We are proposing a change in seniority for BUE’s at the CCC as we believe it is not fair and equitable for the BUE’s to be on separate seniority lists across the CCC.” Another email from the Agency acknowledged that the Master Agreement provides that “seniority will be defined locally.” Nonetheless, the Agency insisted that the Union bargain the matter which is covered by the Master Agreement and local agreements and past practices.

Importantly, the impacted bargaining unit employees belong to different AFGE Locals within VISN 19. Instead of using the definition of seniority from each AFGE local as required by the Master Agreement, the Agency insisted that the Union bargain seniority nationally for all the affected AFGE Locals.

Violations

As already determined by the Federal Labor Relations Authority in a decision involving these Parties in *U.S. Dep’t of Veterans Affairs and AFGE, NVAC*, 72 FLRA 781 (2022), mid-term bargaining over matters covered by a collective bargaining agreement, that amend or change the Parties’ agreement, may only take place with mutual consent. By insisting that the Union bargain to change seniority at the national level, a matter that is covered by the Parties’ agreement, the Department violated, and continues to violate, the following:

- Article 2 of the MCBA: requiring compliance with all federal statutes and governmentwide regulations;
- Article 12, Section 1.D.5.: which requires that seniority be defined locally;
- Article 13, Section 1.F.: which requires that seniority be defined locally;
- Article 21, Section 3.H: which requires that seniority be defined locally;
- 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 making it an unfair labor practice for an agency to repudiate a negotiated agreement.; 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 return to the *status quo ante*;
- To make whole the Union and any employee affected by the Department’s violations;
- To pay reasonable attorney’s fees, if applicable; 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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cc: Alma L. Lee, President, AFGE/NVAC
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