

IN THE MATTER OF ARBITRATION BETWEEN

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)	
MINNESOTA STATE COLLEGES AND UNIVERSITIES,)	
North Hennepin Community College (NHCC))	
)	
Employer)	DECISION
)	AND AWARD
and)	
)	BMS Case
)	15PA0309
Minnesota State Employees Union, AFSCME Council 5,)	
AFL-CIO)	
)	
Union)	
)	
)	

Arbitrator:	David M. Biggar
Date of Hearing:	June 23, 2016
Place of Hearing:	AFSCME Office St. Paul, MN
Record Closed:	August 1, 2016
Date of Award:	September 1, 2016

APPEARANCES

For the Union:	For the Employer:
Sandra Curtis, Field Representative	Jeffrey O. Wade
AFSCME Council 5	Director of Labor Relations
300 Hardman Avenue South	MNSCU
St. Paul, MN 55075	30 7 th Street East, Suite 350
	St. Paul, MN 55101-7804

INTRODUCTION

Minnesota State Employees Union AFSCME Council 5, AFL-CIO (Union) and the State of Minnesota were parties to a collective bargaining agreement in effect from July 1, 2013, through June 30, 2015. (Jt. Ex. 1). The terms applied to employees of the Minnesota State Colleges and Universities (MNSCU) and its affiliate, North Hennepin Community College (NHCC), the Employer in this matter. The Union filed a grievance on June 10, 2014, charging that during the summer of 2014 employee Anna Thomas was denied her right to be offered temporary work she was qualified to perform after she was placed on seasonal layoff. (Jt. Ex. 2, tab 1). The parties agreed to move the grievance to the third step of the grievance procedure on about June 23, 2014.

On September 3, 2014, the Employer denied the Union's appeal at the third step. The matter was referred to arbitration on that same day. Under the provisions of Article 17 (Grievance Procedure) of the collective bargaining agreement, I was selected to serve as the arbitrator in March, 2016. The parties stipulated that the matter is properly before me and that I may issue a decision resolving the issue in this case.

On June 23, 2016, I held an arbitration hearing in St. Paul, Minnesota. Both parties were present and afforded a full opportunity to be heard and to call and cross-examine witnesses, all of whom testified under oath. The parties filed briefs on August 1, 2015, and the record was closed. I have read and considered the briefs filed by the parties.

ISSUE

The parties could not stipulate the wording of the issue. They agreed that the arbitrator could phrase the issue. The grievance alleges:

“Ms. Thomas was placed on seasonal layoff effective May 16, 2014. She signed and returned her form indicating she was interested in temporary employment during her layoff period in April, 2014. There is a position that she feels she is qualified for, which has a temporary employee assigned to it and she was not called back for temporary employment.”

The **Union** would phrase the issue as:

Did the Employer violate Article 15 of the contract between AFSCME Council 5 and the State of Minnesota when it declined to offer available summer hours to Anna Thomas and allow her to work?

The issue proposed by the **Employer** is more specific:

Did the Employer violate Article 15, Sections 5C and 5D of the 2013-2015 Master Agreement between AFSCME Council 5 and the State of Minnesota during the summer of 2014 when it did not appoint Anna Thomas to any temporary positions that were filled prior to her seasonal layoff date or any temporary positions extended beyond her seasonal recall date?

The grievance limits the period of time covered to the summer of 2014. This is clear from the record. The Union includes no time frame in its proposal. The Employer’s proposal limits the time period to the summer of 2014, and limits when temporary work or position was available to her in terms of when the work began or when it was to finish.

I look to the grievance for guidance. It makes no reference to when the temporary work being claimed either began or ended. It only referenced temporary work during Ms. Anna Thomas’ layoff period. She was laid off on May 16, 2014, and recalled on August 14, 2014. (Jr. Ex. 2, tab 14). The Employer has inserted a part of its defense to the grievance in its proposal. It is certainly allowed to use that defense. However, I will phrase the issue relying on the language of the grievance.

The **ISSUE** before the arbitrator is:

Did the Employer violate Article 15 of the Master Agreement between AFSCME Council 5 and the State of Minnesota during the summer of 2014 when it failed to

offer temporary employment to Anna Thomas during her layoff period? If so, what shall the remedy be?

RELEVANT CONTRACT LANGUAGE

ARTICLE 15 – LAYOFF AND RECALL

Section 5. Temporary or Emergency Positions. If a position is to be filled by a temporary or emergency appointment, the appointment shall be offered to employees in the following order prior to filling the position by any other means:

- C. Seasonal employees who are seasonally laid off if the position is in the same class and principal place of employment from which they were Seasonally laid off in the order of Classification Seniority (State Seniority For Units 4 and 6);
- D. Seasonal employees who are seasonally laid off if the position is in the Same principal place of employment from which they are seasonally laid off and the employee is determined to be qualified for the appointment by the Appointing Authority in the order of State Seniority.

In order to be eligible for emergency and temporary appointments, an employee must indicate in writing an interest to the Appointing Authority at the time of layoff.

ARTICLE 17 – GRIEVANCE PROCEDURE

Section 5. Arbitrator's Authority. The arbitrator shall have no right to amend, modify, nullify, ignore, add to, or subtract from the provisions of this Agreement. He/she shall consider and decide only the specific issue or issues submitted to him/her in writing by the parties of this agreement, and shall have no authority to make a decision on any other matter not so submitted to him/her. The arbitrator shall be without power to make decisions contrary to, inconsistent with, or modifying or varying in any way the application of laws, rules or regulations having the force and effect of law. The decision shall be based solely upon the arbitrator's interpretation and application of the expressed terms of this Agreement and to the facts of the grievance presented.

FACTUAL BACKGROUND

North Hennepin Community College (NHCC) is a member of the Minnesota State College and University System (MNSCU). MNSCU employs about 16,000 employees throughout its system, approximately 350 of whom are seasonal. Certain administrative

employees, including Ms. Anna Thomas, who originated the grievance in this case, are represented by AFSCME Council 5, AFL-CIO (Union). Their terms and conditions of employment were included in the 2013 – 2015 agreement (Jt. Ex. 1) between the Union and the Employer.

Anna Thomas began working for NHCC in July, 1997. She has held a variety of positions in different areas during her employment. At the time of the grievance, she was classified as an Office Administrative Specialist (OAS), intermediate. Her employment status was that of a part-time seasonal employee. The Employer describes “part-time seasonal” as one who works part-time within a specific period of months, but not the entire year. (Transcript or Tr. 16-17).

Ms. Thomas worked each year from 2003 – 2015. (Jt. Ex. 2, tab 13). During this period, she worked while school was in session, and was laid off during the summer months. Each year she received a notice advising her of the day of her layoff and the day that she would be recalled at the end of the summer. At the same time she could indicate in writing whether “I am interested in being recalled for available work for which I qualify during the summer” and return the statement to the Employer.

In 2013, 2014 and 2015, Ms. Thomas indicated at the time of her layoff that she was interested in being offered temporary work during the summer. She testified that she was called back to do some temporary work during the summers of 2013 (two days in June), 2014 (two weeks in June) and 2015 (two weeks in May-June). (Tr. 40-41). During this time (summer months) she noticed temporary workers performing temporary work. The temporary employees continued working after the work she was offered ended. (Tr. 52). She said this happened in the years 2013 – 2015. (Tr. 53). The

temporary workers she saw working during those summers were in positions she was qualified to perform.

On April 29, 2014, Ms. Thomas signed the form indicating that she would accept temporary employment in the summer of 2014. She was laid off on May 16, 2014. (Jt. Ex. 2, tab 13, p. 2). In June, 2014, the Union filed the grievance on her behalf claiming that she should have been offered the temporary work being performed while she was laid off.

There were temporary employees performing temporary work during the summer of 2014. Records submitted by the Employer reveal that at least eleven temporary employees performed work during the summer months of 2014 while Ms. Thomas was laid off. (Jt. Ex. 2, tab 16).

In addition to the 2014 grievance, Ms Thomas also initiated a grievance in 2015. (Un. Ex. 1). It is dated July 27, 2015, and claims that Ms. Thomas and Ms. Sue Swenson were laid off from their seasonal positions, had indicated an interest in temporary work during layoff, and were not offered temporary positions that were filled by temporary employees. The Employer does not agree that the 2015 grievance is a part of this proceeding.

POSITIONS OF THE PARTIES

The Union:

Seasonal employees, such as Ms. Thomas, have a right to be offered temporary work while on seasonal layoff. There were temporary employees performing temporary work during the period that Ms. Thomas was on layoff in both 2014 and 2015. Based on records provided by the Employer before the hearing, the Union prepared a matrix

showing the months during which temporary employees were employed by the Employer in 2014 and 2015. (Jt. Ex. 2, tab 15). The evidence set forth on the matrix shows that temporary employees Yang, Kiser, Davis and Clark worked during the summer months in 2014 when Ms. Thomas was laid off. Section 5 of Article 15 provides that temporary or emergency appointments are to be offered to seasonally laid off employees under the terms of paragraph C or D. The Employer is not managing its work to accommodate permanent seasonal employees like Ms. Thomas. The use of temporary employees to perform the work reserved for seasonally laid off employees violates Section 5 of Article 15 of the collective bargaining agreement.¹

In the 1977-79 contract, there was language added giving laid off seasonal employees a preference for temporary work “established during a period of seasonal layoff.” (Jt. Ex. 3, tab c). In the 1985-87 agreement, the language limiting options to temporary work “established during a period of seasonal layoff” was eliminated. (Jt. Ex. 2, tab 4, p. 14). This was the last reference in any agreement that referred to when the temporary work was to be established or performed in order for a laid off employee to have preference. Seasonally laid off employees should be offered temporary work that had begun before they were laid off. There are no qualifiers that limit a laid off employee’s right to be offered the temporary work. The work must be offered to them if they have indicated an interest in such work. This right flows from Section 5 of the agreement.

¹ The Union has suggested that the Employer has increased the use of temporary employees to avoid paying contractual benefits, which laid off employees would receive if they performed the work. (Union Post Hearing Brief, p. 4, Tr. 130). The issue in this case is not whether the Employer is misusing the right to use temporary employees to perform bargaining unit work. This case deals with the rights of one employee who was not offered temporary employment.

This is not a case about bumping rights. Ms. Thomas was not trying to bump into the temporary positions. The Union does not claim that seasonal employees have bumping rights. What they have is the right to the temporary work.

The July 27, 2015, grievance, in the record as Union Ex. 1, should be considered by the arbitrator. It presents the same issue during the same period of time (summer months), but in 2015 rather than 2014. It is a continuing violation of the collective bargaining agreement by the Employer. It is properly before the arbitrator.

The Employer

Seasonally laid off employees must be available to be offered temporary work. During the summer of 2014, Ms. Thomas was offered the temporary work that she was available for and which her seniority entitled her to.

A seasonal employee's right to be offered temporary work during their layoff period arises at the time of their seasonal layoff – the date their name appears on the seasonal layoff record. A laid off employee must be available in order to qualify for temporary work. An employee is not available if the temporary work is in progress at the time of their layoff. Nor is the employee available and entitled to be offered temporary work, no matter when it starts, if the work will not be finished at the time of the employee's recall from seasonal layoff. The temporary work they must be offered is that which begins after the employee's seasonal layoff and will be finished before the employee's recall from seasonal layoff.

The history of the layoff language in the contract supports this view. The term "laid off" was used as far back as the 1977-1979 agreement to signal that certain rights had matured – the right to recall and preferential hiring for temporary jobs. It is written

in the past tense, supporting the view that the employee must be seasonally laid off and also not have been recalled to their seasonal position for the next season. (Post Hearing Brief p. 10). A seasonal employee is not available for temporary work when they are still working in their seasonal job.

The parties did not intend for seasonal employees to be able to bump or displace temporary employees once the seasonal employee is laid off. This would lead to disruption in the Employer's operation. Employees would be displacing one another making it difficult for the Employer to provide services.

Anna Thomas was laid off on May 16, 2014. She was to return to work for the beginning of the 2014-2015 academic year on August 18, 2014. (Jt. Ex. 2, tab 14, p.2). There were eleven positions occupied by temporary employees during the summer of 2014. Ms. Thomas was only available for one of the eleven. The others involved positions or work that either began before Ms. Thomas was laid off, or extended beyond the date she was scheduled to be recalled from seasonal layoff. The one position she was eligible for was filled by a laid off seasonal employee with more seniority than Ms. Thomas.

The Employer opposes the Union's effort to consolidate the July 27, 2015, grievance (Un. Ex. 1) with the present case. This was not proposed or discussed prior to the hearing. The Employer has never agreed to combine the two grievances. The Union has not appealed the 2015 grievance to arbitration. There was no evidence or testimony introduced about the facts and circumstances that existed with regard to temporary employment during the summer of 2015. The Employer did not call any

witnesses to defend its position. The only grievance that is the subject of this arbitration proceeding is the one filed on behalf of Anna Thomas on June 14, 2014.

ANALYSIS AND DISCUSSION

The July 27, 2015 Grievance

The Union contends the 2015 grievance should be consolidated with the original 2014 grievance. The 2015 grievance does appear to present the same issue and involve the same parties (with the exception of Ms. Swenson, Ms. Thomas's co-worker, who was included in the 2015 grievance). However, there is no evidence that the Employer had any expectation that the Union would argue that the second grievance, filed more than a year after the first, should also be considered at the hearing with the 2014 grievance. The parties agreed on all exhibits before the hearing. The 2015 grievance was not included among them. It was not considered at a third step meeting scheduled for that purpose in September, 2015. It was never appealed to arbitration. The Employer did not call any witness to testify about the circumstances present during the summer of 2015. There was no signal to the Employer that it should be prepared to defend the 2015 grievance until it came up during the hearing.

The Employer has a due process right to be put on notice of the claims it must defend. I cannot ignore this right. It was not given an opportunity to defend the 2015 grievance. There is no evidence in the record of the nature, amount, start date or end date for any of the temporary work being performed in the summer months of 2015. To allow the 2015 grievance to be considered would violate the Employer's right of due process. For this reason, I will not permit the 2015 grievance to be consolidated with this case.

Laid off Seasonal Employee's Right to be Offered Temporary/Emergency Work

Under the terms of Section 5, the Employer has the right to use temporary employees for temporary or emergency work.² Temporary employees are used in cases of medical, maternity or education leave, or to perform short term jobs. An example is a position created on a short-term basis with temporary funding. In some if not most instances of leave, the timing is beyond the Employer's control. When it intends to use temporary employees for temporary work the Employer must first consider seasonally laid off employees before it obtains temporary workers from outside sources. Such employees are given preference to be offered the temporary work. There is no evidence of the frequency with which the Employer has used such employees in the past.

The parties agree that the language of Article 15, Section 5 subsections C and D of the collective bargaining agreement are the contract provisions applicable to the dispute. In a nutshell, the Union claims that the bargaining history and contract language support the position that Section 5 requires that seasonally laid off employees must be offered temporary work being performed during the period of their layoff. The Employer summarizes the same bargaining history and concludes that Article 5 provides that a laid off employee is not entitled to an offer of temporary work until the employee is laid off at the end of the season and available to perform the work. According to the Employer, a laid off employee would not be available and not entitled to an offer of temporary work if the work extended beyond the date the employee is recalled from layoff.

A brief review of the contractual history is in order. I rely on the collective bargaining agreements themselves and the summary (Jt. Ex. 3, pp. 1-6) prepared by Mary

² While I have used the term "temporary" work throughout this decision, this also includes "emergency" work.

Nadeau, a labor relations department employee of MNSCU who researched past agreements dealing with the language in question. The 1977-1979 agreement first established a preference to temporary jobs for laid off seasonal employees. The language in question was:

Section 7. RECALL...Seasonal employees shall be recalled in the same order in which their names appear on the seasonal layoff list for the bargaining unit and principal place of employment from which they were laid off *and shall have preference for any temporary jobs in the principal place of employment in their class which are established during period of seasonal layoff*.....

The italicized language above was removed during negotiations of the 1985-1987 agreement. In its place the order for offering temporary positions was established:

Section 11: recall....

If a temporary position is established, the temporary position shall be offered in the following order prior to filling the position by any other means:...

3. Seasonal employees who are seasonally laid off if the temporary position is in the same class and principal place of employment from which they were seasonally laid off in the order of Classification Seniority;
4. Seasonal employees who are seasonally laid off if the temporary position is in the same principal place of employment from which they were seasonally laid off and in a class for which the employee is determined to be qualified by the Employer in the order of State Seniority.

Since the 1985-1987 agreement (above) the right of seasonally laid off employees to be offered temporary work or positions has not changed substantially. It has morphed into Section 5 (Temporary or Emergency Positions), paragraphs C. and D. of the 2013 – 2015 agreement, set forth earlier. The Union argues that there is no reference in the agreement to the temporary work being created during the layoff period. This would permit employees to move into temporary positions for which they were qualified as soon as they were laid off. The Employer contends that the language written in the 1977-1979

agreement is in past tense (“laid off”). This demonstrates an intent that the employee’s right to temporary work matures when the employee is laid off and not been recalled for the next season. (Er. Post Hearing Brief, p. 10). The use of past tense continues to appear in the present agreement indicating that they still have the same meaning – that the rights of a laid off employee mature when the employee is laid off.

There is no question but what the parties intended that temporarily laid off seasonal employees would have preference in being offered temporary work during their layoff. That is what Section 5 provides. It is clear. The disagreement centers on when the right arises. Is it the day an employee who has expressed interest in temporary positions is laid off, as the Union contends? Is the temporary work that a laid off employee must be offered only that which will begin after the date of the employee’s layoff and be finished before the date of the employee’s recall, as the Employer contends?

The language in paragraphs C. and D. of Section 5 talk about “Seasonal employees who *are* seasonally laid off...” when stating the right of laid off employees to be offered temporary work. To the arbitrator, this indicates an intent that the right to be offered temporary work does not ripen until the employee is laid off. The words “are seasonally laid off” speak of a present status. Employees “are seasonally laid off” on the day of their layoff. At that time they have the right to be offered temporary work.

A seasonal employee could not leave their seasonal job before they were laid off to perform temporary work that would begin before the employee is laid off. There is no language in the agreement that would suggest that employees have this right. The right to be offered temporary ripens only on the day of the seasonal employee’s lay off.

In summary, Section 5 obligates the Employer to offer temporary work or positions to laid off seasonal employees. It applies and can be exercised only when the seasonal employee is actually laid off.

Can Seasonal Employee Displace Temporary/Emergency Employees?

In the Union's view, if the temporary work belongs to the laid off employees, they have the right to be offered temporary work that is being performed at the time of their layoff. It claims employees are entitled to be offered temporary or emergency work during their period of layoff. Although the Union hasn't said this, it would follow that they could bump or displace the existing temporary employee performing the work in progress at the time of the layoff.

In the Employer's view, if laid off seasonal employees are permitted to displace employees so they can perform the work, it could create a series of vacancies. It would have disruptive effects on its operation.

I do not agree that the right of laid off seasonal employees to be offered temporary work includes the right to displace a temporary employee and perform work that had been in progress. If this were to happen, the laid off employee would displace the temporary employee, who would be laid off. If the work extended beyond the recall date of the laid off employee, a temporary employee would have to be recalled to finish the temporary work. The Union states that it is not claiming that seasonal employees have the right to bump. Whatever it is called, a laid off employee would have the right to move into the positions held by temporary employees, who would be displaced. I will not infer such intent without some evidence to support that conclusion. If the parties had

intended to give rights this specific in certain situations they would have provided so with specific language. There is none.

Further, Section 5 provides “.....if a position *is to be filled* by temporary or emergency appointment.....” This suggests that the right to be offered the work can be exercised only when there is a temporary position to be filled and the employee has been laid off. A position already in progress at the time of layoff is not a position that *is to be filled*. Employees could not bump into such positions at the time of their layoff.

I find that the Section 5 right of laid off employees to be offered temporary work does not extend to work already in progress at the time of layoff. The employee would not be laid off when the position was filled and the work began. They would not have been available for the work. Had the parties intended to allow the laid off employees to bump temporary employees, language to that effect would appear in the agreement.

Temporary/Emergency Work in Progress When Seasonal Employees Recalled

I’ve concluded that Section 5 does not give a laid off employee the right to bump into temporary positions or work in already in progress at the time they are laid off. This leaves the question of temporary work that begins after the seasonal employee is laid off but is still in progress when the seasonal employee is recalled to work at the end of the layoff period.

As discussed above, the language indicates that for the laid off employee’s right to be offered temporary position to mature, there must be a position to be filled. Further, the employee must have been laid off and be available at the time the temporary position is to be filled and must have indicated an interest in temporary work. However, there is no language in the agreement that refers to the duration of the temporary or emergency

work that is to begin after the employee is laid off. Must laid off employees who have expressed an interest in temporary positions be offered such positions even if the position or work extends beyond the date of the employee's recall?

There is no contract language that supports the Employer's view that laid off employees are not available if the work in question will extend beyond the date of the laid off employee's recall. In Article 5 the parties express their desire to make temporary work available to laid off employees during the period of their layoff. For this to be meaningful, there must be some opportunity for laid off employees to be able to perform the temporary positions the Employer is required to fill.

If a laid off employee is offered and accepts a temporary position that will extend beyond the employees recall date, the Employer would then have the right to obtain a temporary employee to finish this work if necessary.

This construction of Section 5 would enhance the opportunities for laid off employees to perform temporary work. This was the intent of the parties in crafting the language in Section 5. This interpretation would also permit the Employer to utilize its right to obtain temporary employees from any source to perform temporary or emergency work. This was the intent of the parties when they included provisions giving preference for temporary/emergency work to seasonally laid off employees.

I find that Section 5, Subparagraphs C. and D. should be construed so as to include the right of a laid off employee to be offered a temporary position or work that begins after the employee is laid off, regardless of when the temporary position or work is expected to be finished. Temporary positions or work of this nature must be offered to laid off seasonal employees who have expressed an interest in temporary work. There is

no language that suggests a different intent by the parties. Such an interpretation could increase the amount of work available to seasonally laid off employees. This is consistent with the intent to give laid off employees' opportunities to perform temporary work.

Construction of Section 5, Paragraphs C. and D.

In my effort to ascertain the meaning of the language and provisions of Section 5, I have given considerable weight to the purpose or intent of the parties expressed in the language they used. I have considered the bargaining history, the evidence in the record and the arguments of the parties. I conclude, for the reasons I have stated, that Section 5 gives preference to laid off employees who have expressed an interest in performing temporary work during their layoff. When there is a temporary appointment or position to be filled, Section 5 imposes the following conditions:

1. A seasonal employee must have been laid off before the Employer must offer the employee temporary positions or work. The right does not mature until the employee is laid off.

2. A seasonal employee does not have the right to bump or displace a temporary employee who is performing temporary work in progress at the time of the employee's layoff. The laid off employee's right to be offered temporary work does not mature until the employee is laid off. At that time if a position has been filled and the work has started, there is not a position to be filled.

3. The Employer must offer interested seasonally laid off employees any temporary position or work that is scheduled to begin during the period of the employee's layoff, regardless of the duration of the temporary or emergency work in question.

Application of Section 5, Paragraphs C. and D. to the Facts of the Grievance

The grievance covers the period of time during the summer of 2014 when Ms. Anna Thomas was available to perform temporary work. It does not name similarly situated employees. Ms. Thomas was laid off on May 16, 2014. She was recalled to perform some temporary work of a short duration.

The record contains evidence of 11 employees who filled temporary positions and performed temporary work during the period of Ms. Thomas' layoff in 2014. (Jt. Ex. 2 tabs 16). Temporary employees Clark, Davis, Ibahim, Ives, Kiser, Koska, Osman, Swenson and Williams performed work in positions that began before Ms. Thomas was laid off. She had no right to be offered any of those positions because she was not available at the time those positions were filled.

The other two temporary positions were filled by temporary employee Stiele on May 19, 2014 (scheduled to end on October 7, 2014), and by temporary employee Yang on June 18, 2014 (scheduled to end on October 3, 2014). Ms. Thomas was available and had indicated an interest in temporary work at the time these two positions were filled. It does not matter whether these positions were to continue after her recall. She should have been offered either of these two positions, according to the provisions of Section 5. The Employer violated Section 5 of the agreement when it failed to offer Ms. Thomas this temporary work. She should be made whole for this denial of her contractual rights.

DECISION AND AWARD

The Grievance is sustained in part and denied in part.

1. The Employer did not violate Section 5 of Article 15 (Layoff and Recall) of the agreement when it failed to offer temporary positions or work to Anna Thomas that were

in progress at the time of Ms. Thomas' May 16, 2014 seasonal layoff. The grievance is denied and dismissed to the extent it makes such claim.

2. The Employer did violate Section 5 of Article 15 when it failed to offer temporary positions or work to Anna Thomas that were filled after her May 16, 2014 layoff. To the extent the grievance makes this claim, it is sustained.

The Employer should have offered Ms. Thomas the temporary positions that were filled after her layoff. It is directed to make her whole for the work and benefits she lost as a result its failure to offer the work to her in May, June, July and August, 2014. She is entitled to be compensated for only one of the two positions filled while she was available. This is presumably the position that began on May 19, 2014. The make whole period extends to her recall in the fall on August 18, 2014.

Dated this 1st day of September, 2016 at Minneapolis, Minnesota.

/s/ David M. Biggar
David M. Biggar
Arbitrator

