

2016 Arbitration Awards - Minnesota B.M.S.

December 18, 2020

Summary of Arbitration Awards listed on the Bureau of Mediation Services' web site (<http://www.mn.gov/bms/arbitration/awards/>).

"Sustained" means the grievance prevails overturning the original action. "Denied" means the original action prevails.

December, 2016

BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
FMCS	Dairy Farmers of America Teamsters Local 471	Latimer, George	Termination	Milk plant employee exceeded allowable points in no-fault attendance policy.	Denied	20 year ee. Mitigation re regulating medication for depression rejected due to consistent application of policy.
16PN0662	Hennepin County (Interest Award) Hennepin County Sheriff's Deputies	Befort, Stephen	Interest	Deputies. Parties agreed to wages based on pattern:'16-1.5% to steps, 2.5% to top step; '17-1.5% steps, 2.5% top step;'18 2.5% across the board. Market adjstmnt-1% across the board each year-u (e-0%).	2016 - 3.5% 2017 - 3.5% 2018 - 3.5%	Turnover is 7.73% vs county wide norm of 4.25%. Pay is low vs 7 county area.
16PN0726	Marshall, City of (Interest) Law Enforcement Labor Services, Inc.	Ogata, Harley	Interest	Officers. Limit Arbitrator authority-n-u; Limit time of effect of Arb award-n-u; Bar class action grievances-n-u; Prohibit just cause for probationary ees-n-u; Prohibit grievances for probationary ees-n-u; Increase shift pay-n-e; Remove list of uniforms provided-n-u; Eliminate severance n-u; Pay holidays v day off-n-u; Duration-3y	2016 - 3% 2017 - 3% 2018 - 3.25%	Proposed language changes failed to offer any compelling reason for change. They are issues more suitable to give & take of bargaining. Wages - external, losing ground to market average. Duration - 1st year finished, 3years adds to stability of relationship.
16PA0550	Public Housing Agency of St. Paul AFSCME Council 5	Bognanno, Mario	Timeliness Termination	Ee failed to report to work for 5 days w/o notice-considered a voluntary resignation. Step 4 grievance not filed within 10 days. ER refused to arbitrate due to timeliness.	Denied	U went to District Court where arbitration was ordered to determine timeliness. Mitigation not considered - consistent application of timelines.
16PA0975	Richfield, City of Law Enforcement Labor Services, Inc. See Court of Appeals reversal, April 2018 See Richfield, City of - Supreme Court reversal, February 2019	Neigh, Charlotte	Termination	Officer tagged a Somali driver, told him to leave area; he returned on foot w friends, was passively resistant. Officer used coarse language, slapped driver's head & shoved him to leave area. Failed to write use of force report.	3 day susp.	10yr ee with one oral reprimand. Accusing group of lying, who are lying, is not basis for concluding racial bias. Use of force not unreasonable. Lack of report is basis for discipline.
16PN0928	St. Louis Park, City of Law Enforcement Labor Services, Inc.	Dunn, Richard	Interest	Sergeants.Wages '16-2.75%-u (e-2.5%) '17-2.75%-e (u-3%); Mrkt. '16-2.5%-u (e-0%), '17-2.75%-u (e-\$.20/hr.). Uniform cleaning language-y-u.	2016 - 5.25% 2017 - 5.5%	Wages - internal pattern not compelling. Award accounts for Sgts predicted pay under pay equity & ranking in external market. Unifrms-limited to contamination.

November, 2016

BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
16PN0461	Anoka County (Interest Award) Law Enforcement Labor Services, Inc.	Ogata, Harley	Interest	Deputies.2 yr-u (e-1y); Wages:'16-0%-e (u-2.5%),'17-0%-e (u-2.75%); Mrkt Adj. '16-2.5%-u (e-0%, u-asking \$1.50), 2017-2.5%-u (e-0%, U withdrew request but 2.5% is approx 1/2 of \$1.50); Merit-2% & 2%-both; changes to wage schedule-n-u;	2016 - 2.5% 2017 - 2.5%	2 years for stable labor relations. Wages-0% for 2016 is the non-rep pattern. Mrkt adjstmnt-Sheriff testified 10% vacancies (9 deputies) that he is unable to fill due to wages; 2.5% market & 2% merit increases the range by 4.5% & is how

				Range max-'16-4.5%, '17-4.5%-u (e-0%); Change LOA on evaluations-n-u.		it was handled for 10 years except for 2013
16PN0668	Anoka County (Interest Award) Law Enforcement Labor Services, Inc.	Dunn, Richard	Interest	Dispatchers. 2y-u (e-1y);Wages-'16-0% e (u-2%),'17-0%-e (u-2.75%): Merit '16-2.5%-u (e-2%),'17-2.5%-u (e-2%); Market adj.-no-e(u-\$.75/h); changes to wage schedule-n-u;	Merit increase two years.	2 years-deputies award & only 1 month left in year. Wages-internal pattern. Merit .5% more than pattern deals with "restrained progression". Market - no problm hiring.Schedule-should negotiate.
16PA0932	Isanti, City of Law Enforcement Labor Services, Inc.	Jacobs, Jeffrey	40 hr. suspension Fitness for Duty	Off-duty officer stopped a car for traffic offense after Lt told him to call dispatch. Self reported PTSD sytoms. Dr he selected found him unfit. 2nd Dr found him fit. City sent him back to 1st Dr who now found him fit.	8 hour susp. Denied	Insubordination, 14 years of Service with no discipline. Union claims city guilty of delays and should have put ee back to work after 2nd Dr.'s fitness report. City's actions not barred by contract nor policy.
16PA0773	Minnesota Colleges & Universities AFSCME Council 5	Crump, Harry	Termination	Bookstore coordinator at Fergus Falls sold books to vendor & kept the cash.	Denied	Case based on circumstantial evidence. No criminal charges but diffrrnt standard. of proof from criminal prosecution.
16PA0850	St. Paul, City of St. Paul Police Federation	Toenges, Rolland	Military Training Pay	MOU provides city will cover any loss of pay upon call up for active military service. Seeking pay for 106 day call up for BLOC training.	Denied	MOU excludes training - intended for active duty in Middle East & elsewhere. Contract provides for making up pay for 15 day annual training.
14PA0655	Waite Park, City of Teamsters Local 320	Crump, Harry	10 day suspension Arbitrability	Officer lied to county attorney that he didn't 'receive a court notice. Contract requires ee sign step 1, Union BA signed step 1 and it was refused.	3 day susp. Arbitrable	15 years with good record. 10 days not consistent with progressive discipline. Signature not a defect as to substance. No comment re 29mo. delay before Arb.
16PN0950	Winona County (Interest) AFSCME Council 65	Jacobs, Jeffrey	Interest	County attorney's. Should ees pay 15% toward single health insurance-n	Union's Position	All other ees pay 15%. Internal pattern ignored due to 2 prior arb awards on this issue w/o a quid pro quo for the change.

October, 2016

BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
16PN0484	Anoka County (Interest Award) Law Enforcement Labor Services, Inc.	Vernon, Gil	Interest	Work Release.1 yr-e (u-2y); Wages-2% (e-0%, u-5%); Merit-3%-u (e-2%); new wage system-u.	2016 - 2.0%	9th arbitration since 1990, all over same issue-WRO vs Det Deputy pay. Creates more reasonable wage relationship.
15PA0922 16PA0161	Blaine, City of Law Enforcement Labor Services, Inc.	Befort, Stephen	40 hr. suspension 12 hr. suspension	Officer didn't reply truthfully when asked for his location by a supervisor. Failed to respond to 2 calls in a timely manner & failed to submit 12 call reports.	24 hr. susp. Denied	No financial profit by sandpapering the truth. 24 hrs similar to 2 other arbs. 3 prior inattention to duty verbal reprimands.
16PA0797	Cottonwood County AFSCME Council 65, Local 578	Yaeger, Thomas	Step Increase	Did MOA raising pay for HEO's require step on anniversary plus one on Jan.1st.	Denied	Ambiguous language between MOA & contract. Union wrote MOA language.
16PN0817	Dakota County (Interest) Teamsters Local 320	Bognanno, Mario	Interest	Corrections. Parties agreed to wages. Scheduling for training-n-u; Uniforms '16-\$600-u (e-\$525); '17-\$550-e (u-\$600) Full cost if uniforms changed again?-n-e. Market pay adjustment-n-e.	2016 - 2.5% 2017 - 2.5%	Wages-pattern. Scheduling-"If it ain't broke, don't fix it". New uniforms for 2016. Mrkt adjustment-situation differs from other who received adjustment. Arbitrator discussed approach to cases.

17PA0139	ISD 727, Big Lake School Service Employees Local 284	Ver Ploeg, Christine	Summary Disposition	ER pursuant to 572B.15(b) of Uniform Arb act seeking to bar U from arbitration. 1. Subcontracting right not arbitrable 2. Grievances not ripe. 3. If ripe, untimely.	Arbitrable Not ripe Timely	Statue contrary to labor relations tradition of evidentiary hearings. Court-New Ulm-based inquiry required. Parties still mediating new contract. Days refer to working days by statue.
15PA0725	MN, State of, Dept of Military Affairs AFSCME Council 5	Jacobs, Jeffrey	Timeliness	Timeline for arbitration fell on a Sunday, the request was sent on Monday. Was grievance timely?-yes,	Sustained	Ruling relied on state laws & regulations governing computation of time. If last day is a Sat. Sun. or Holiday it isn't counted.
16PA0851	Metropolitan Council, Metro Transit Amalgamated Transit Union Local1005	Gordon, Paul	Record of Warning	Bus driver failed to make the proper stop at a railroad crossing.	Denied	Mitigation, ie a full vs a rolling stop would block traffic, was considered but denied.
16PA0941	Metropolitan Council, Metro Transit Amalgamated Transit Union Local1005	Neigh, Charlotte	20 day suspension	Bus driver used his cell phone to notify dispatch that his MDT wasn't working.	Denied	18y ee. Clear policy enforced uniformly. Could have stopped to make call.
16PA0574	Metropolitan Council, Metro Transit Amalgamated Transit Union Local1005	Remington, John	Assigning work	Mechanic delivered a part to an outside vendor vs. a storekeeper delivering it.	Sustained	Requirement to "maintain the following job classifications", limits mangmt rights.
None listed	Minneapolis, City of Police Officers Federation of Mpls.	Befort, Stephen	Termination	Unreasonable use of force; failing to report per policy; inappropriate language. Prior discipline regarding use of force.	40 hr. susp.	Pushed a woman twice, she fell down - force unnecessary but wasn't a take down so no report required. Language not proven. Prior discipline can't be used pending Arbitration on matter.
16PA0431	Minnesota, State of SEIU Healthcare Minnesota	Yaeger, Thomas	Union Dues	A fiscal intermediary didn't withhold Union dues when PAC's told them they hadn't signed cards. U provided info - back dues collected & sent to U. U - dues must be collected monthly; money sent back to members, asked State to pay dues.	Sustained	Fiscal intermediary not party to contract so can't be ordered to pay. Failure to collect dues monthly created a hardship on members. State ordered to pay amount of dues Union returned to members.
16PA0957	Ramsey County Law Enforcement Labor Services, Inc.	Vernon, Gil	Termination	Off-duty K9 officer was drunk and beat his dog. Pled guilty to Animal Cruelty misdemeanor.	7 mo. Susp.	20 year ee, no prior discipline, enrolled & completed treatment, worked for 4 1/2 months before being fired. Last chance returned with no back pay.
16PA0740	West St. Paul, City of SEIU Local 284	Abelsen, James	Termination	School bus driver drove into fast food parking lot in violation of policy striking a parked vehicle. Prior discipline.	Denied	Common law of the business from the Steelworker Trilogy used to determine just cause.

September, 2016

BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
16PN0637	Blaine, City of (Interest Award) Law Enforcement Labor Services, Inc.	Ogata, Harley	Interest	Officers:1 yr-e (u-2y); 2016-3%-u (e-2%); 2016 - 3% Wage schedule modification-n-e; 2nd tier wage plan-n-u; Insurance-\$70-u (e-\$30); Detective pay increase-n-e; Directed Operations Group uniforms-n-e.		Duration-lack of data for 2nd yr. Wages-internal (e-officers received more in last contract); Changes to pay plan-rarely awarded. Insurance-no pattern-50% of increase awarded; Detective pay & D.O.G. lack compelling reasons.
16PN0429	Blue Earth County (Interest Award) MN Public Employees Association	Jacobs, Jeffrey	Interest	Jailers:2 yrs-e (u-3y); wages-both agree; Market increase-n-e; hazard pay-n-e;	2016 - 2.5% 2017 - 2.5%	Mrkt increase-high turnover but, reasons other than wages, few if any arbitrators

				Change retention schedule on rprmds-n-u; Vac payout only if in good standing-n-u Boot allowance incr-y-u. Shift pay incr-y-u; Lunch break-n-e; FTO pay-n-e.		have awarded mkt increases. Issues not awarded lacked compelling rational. Increases awarded to fixed \$ amounts. Discussed why Attorney's court case doesn't apply.
16PA0307	Faribault County Law Enforcement Labor Services, Inc.	Befort, Stephen	Termination	Failed to take control of pills after he encouraged civilian to trade for them at a bar. Pointed his loaded weapon at other deputies on 6 occasions.	Denied	Gun pointing is serious conduct not requiring progressive discipline. Bar incident wouldn't have led to termination. In Washington Co. 05PA0599 (Befort '05) reduced termination to 30 days for gun pointing due to ER failure to warn.
16PA0721	ISD 152, Moorhead Education MN Moorhead	Orman, Anthony	Preparation period	ER was assigning work during teacher's preparation period. U-must seek volunteers.	Sustained	Dispute over meaning of work assign. Language & past practice.
16PA0280	ISD 319, Nashwauk-Keewatin AFSCME Council 65	Befort, Stephen	Timeliness	ER did not receive request for Arbitration within 10 days. U claimed it was sent.	Denied	No evidence the letter was sent. Even if sent didn't request arbitration as required.
16PA0492	ISD 2184, Luverne Luverne Education Association	Yaeger, Thomas	Lane Advancement	Teacher with 17 graduate credits hired at BA+10. Seeking BA+20 after earning 3 more credits-denied for lack of prior approval.	Sustained	After accepting 10 credits when hired, ER failed by not notifying ee the other 7 credits could not be used.
15PA0729 15PA0741	Lakes-Area Police Department Law Enforcement Labor Services, Inc.	Lundberg, James	Overtime	2 officers seeking OT for working the annual "Karl Oskar Days" due to short notice & past practice.	Denied	No past practice. No contract violation.
16PA0897	MN Judicial Branch AFSCME Council 5	Altman, Robert	Termination	Sr. Court Clerk hid 350 orders he hadn't completed, used Judge's approval stamp on orders not approved & fraudulently coded events in MNCIS system.	Denied	19yrs. service, no prior discipline, but egregious nature of actions & damage to courts reputation & integrity made return impossible.
None listed	Minnesota Department of Corrections Middle Management Association	Lundberg, James	10 day susp.	Lt. failed to write a report after viewing a video of a security violation that occurred in the jail five days earlier.	1 day susp.	35 year employee with good record. Deputy present at time of incident given written. Warden recommended 1 day.
15PA0309	MN State Colleges & Universities No Hennepin Community College AFSCME Council 5	Biggar, David	Temporary Work during Layoff	Seasonal employee's rights to temp job during layoff denied because job started before layoff or ended after recall.	Sustained	Right to temp job begins after seasonal ee laid off - no bumping right for temp job. Can't deny temp job during layoff period even if it extends beyond ee's recall.
FMCS	New Brighten Health & Rehabilitation UFCW Local 1189	O'Toole, Carol Berg	Schedule Change	ER had trouble filing different shift so created a new schedule w/o Union input.	Sustained	ER claimed management right but rights were limited by Hours of Work language.
None listed	Port Group Homes SEIU Healthcare Local 113	Beens, Richard	Timeliness Termination	Filed for Arbitration 1 year after step 3. ER moved to waive mediation. Privacy violation-counselor sought personal info from resident after warnings.	Sustained Denied	ER provided a timeline waiver. If no letter from ER a different result warranted Violated policy and direct order.
FMCS	Zup's of Aurora UFCW Local 1189	Remington, John	Severance Pay Seniority rights	Store closed, ees denied severance, because they were offered jobs at a store in a different city. Senior ee not offered work given junior employee because she wasn't qualified.	Sustained Sustained	waiver of timeline. Contract required employment if new ownership or a different store under the same contract. Neither applied. Never trained as a cashier, but had cashier experience w different employer.

August, 2016

BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
16RA0598	Cemstone Teamsters Local 120	Jacobs, Jeffrey	Seniority	Junior drivers at Lakeland allowed to work on a rain day while senior drivers at other locations sent home.	Denied	Contract language. Past practice arguments fail. Discussion on Past Practice.
16HA0805	Douglas County Hospital IUOE, Local 70	Befort, Stephen	Starting Pay Timeliness	Personal care attendants paid above starting pay based on experience. Untimely, been practiced since 1999.	Denied Denied	Start means start, but practice since 1999 rules. Can negotiate change. Pay is ongoing-grievance can be filed after any pay date. Retro is not timely.
16PA0754	ISD 544, Fergus Falls Fergus Falls Education Association	Lundberg, James	Insurance Contribution	Wife wanted ER to pay her insurance benefit into her husbands family plan.	Sustained	No past practice - situation hasn't arisen. Contract language & Wrenshall case BMS 14PA0752 (June 2014). MS 363A bars marital status discrimination.
16PA0697	Itasca County Itasca County Employees Association	Biggar, David	Termination	Lt. told ee outside his chain of command to see him if she needed to talk, Used squad car for personal business.	30 day susp.	24 yrs. Ee with excellent record. Case involves charges & counter charges w outside agencies investigating.
16PA0738	Mahnomon, County of Law Enforcement Labor Services, Inc.	Paull, David	Termination	4th DUI, failed to take breath test, barred from driving w/o interlock system, lied on job application, Brady-Giglio impaired.	Sustained but w LCA	3 yr. tenure, no prior discipline. N. Dakota DUI not listed on job app was discovered after termination. Difficulty in attracting & retaining officers.
None listed	Metropolitan Council Rodney Pierre - Veteran	Jacobs, Jeffrey	Termination - V.P.	Bus driver failed to pass his CDL test.	Denied	Policy allows 2 attempts to pass test. 2nd fail disqualifies employee.
16PA0713	Pennington County IUOE Local 49	Daly, Joseph	Termination	"Last Straw" discharge - 11 priors. EE drove a seriously overloaded trailer & sarcastically asked supervisor, "is that enough dirt for you?"	Denied	Misconduct that alone is not cause for discharge is sufficient based on number of chances given in progressive discipline See ISD 282, Kircher, June 2012.
16PN0659	Three Rivers Park District (Interest) Law Enforcement Labor Services, Inc.	Daly, Joseph	Interest	Officers. Wage reopener-3%-u (e-1%).	2016 - 3%	External comparison to Stanton 5 & 6. Internal pattern is 1%.

July, 2016

BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
16PN0469	Benton County (Interest Award) Law Enforcement Labor Services, Inc.	Miller, Richard J.	Interest	Deputies: 2 yrs (u-3, e-1); 2016-1%Jan, .25%July-e (u-3%); 2017-3%-u (e-2%). Shift pay-\$.15incr to \$.75-e(u-\$1&change hours);Remove 288 hr. cap on Vac till end of yr. vs quarterly-u; Insururance-50% of increase each year-e (u-total cost of increase. FTO pay-\$1.50-u (e-.50, 1.00)	2016 - 1.25% 2017 - 3%	Duration-lack of settlements for"18. Wages-'16 internal,'17external (\$4 below top pay of comps). Out of compliance w pay equity but ER failed to provide data & next report is 2019. Shift hrs-intrn, amt external. Vac bank will exceed pattern. Insurance pattern. FTO-market.
16PA0092	Columbia Heights, City of Law Enforcement Labor Services, Inc.	Lundberg, James	Timeliness Termination	Case bifurcated, timeline challenged first. New secretary unfamiliar w process.	Denied	Parties have never deviated on timelines. Clear contract language.
16PA0266	ISD 108, Norwood Young America Central Education Association	Beens, Richard	Timeliness Timeliness	Arbitrator selection required in 10 days. Submit info to Arbitrator within 5 days.	Denied Denied	ER's inaction constitutes a waiver. No prejudice to employer.

			Retiree Insurance	Retired teacher told he would receive free coverage for 10 years.	Denied	Payroll clerk not authorized to promise benefit. Contract provides a limit.
None listed	Minneapolis, City of Police Officers Federation of Minneapolis	Jacobs, Jeffrey	Termination	Officer used profane language & made racist comments during an arrest. Violated new chief's code of conduct.	Denied	24 yr ee with numerous awards. 1 prior discipline that was pending at time of arb. Chief entitled to set standards.
16VP0806	Minneapolis Public School, SSD #1 Individual Grievant	O'Toole, Carol Berg	Termination	Inappropriate communication, rude & unprofessional behavior, data violations, insubordination & inefficiency in teaching.	Denied	10 year ee. Progressive discipline. Refused Union representation. Acted as her own counsel.
None listed	MN, State of, Dept. of Human Services MN Assoc.of Professional Employees	Befort, Stephen	Termination	Supplemental Order to March 2016 award. Ee was returned to his position as Chaplain, but position was eliminated prior to his return. He was laid off and informed of other positions.	Union's position	Grievant did not pursue other positions. ER free to reorganize, but original award modified from no back-pay to 40 days back-pay. See March 2016.
16PN0318	Minnesota, State of (Interest Award) MN Government Engineering Council	Wallin, Gerald	Interest	Engineers. Wages 2015-2.5% + 1% to top step-u (e-2.5%), 2016-2.5% + 1% to top step-u (e-2.5%), Move ESS from grade 7 to 8-n-e. Increase Def. comp match-n-e.	2015 - 3.5% 2016 - 3.5%	Pattern is 2.5%. 1% added to top, MS 43A.18 Subd.8(b) requires a reasonable relationship to outside jobs. Grade incr.&Def. Comp-not compelling.
16PA0859	Red Wing, City of IAFF, Local 2078	Jacobs, Jeffrey	24 hour susp. & Written Reprimand	Firefighter used the stations PA and called a Captain, "a piece of shit".	Denied Ltr amended.	Violated City Policy. Common sense does not need to be codified.
15PA0950	University of Minnesota Teamsters Local 320	Abelsen, James	1 day suspension	Building/Grounds worker failed to return building keys at end of her shift.	Denied	Mitigating circumstances discounted. Clear policy & prior discipline re keys.
16PA0165	Wabasha County AFSCME Council 65	Gallagher, Sharon	Written Reprimand	Bringing union rep per Weingarten for a non-disciplinary meeting when told it wasn't disciplinary is insubordination. No prior discipline.	Verbal warning	No prior discipline. Daugherty's 7 tests for just cause challenged by Dunsford's conclusions they are misleading in substance & distracting in application.

June, 2016

BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
16PA0021	Anoka County Law Enforcement Labor Services, Inc.	Toenges, Rolland	Right to reduce shift.	.25 hr. early start for shift change briefing eliminated. U challenged loss of OT using "past practice" argument.	Denied	Issue of practice arises when practice is inconsistent w contract. Contract doesn't bar ER establishing work schedules.
None listed	ISD 593, Crookston Crookston Education Association	O'Donnell, John	Error in Contract Language	Retiree definition removed from contract. Teacher retired - denied benefits, due to failure to meet the retiree definition in the previous contract. ER claimed they did not agree to remove the language. Language restored to the contract by Arbitrator.	Denied	ER drafted contract, but Union told the secretary to remove language. Contract requires:"manifestation of mutual assent" & "certainty of terms". Each subsequent offer repudiates the prior offer. No agreement to remove language.
15PN0916	Ramsey County (Interest Award) Law Enforcement Labor Services, Inc.	Miller, Richard J.	Interest	Dispatch. Wages-agreed to pattern 2%, 2.5% & 2.6%. Mkt Adjustmnt. '15-0%-e (u-2.9%),'16-0%-e(u-2.9%), '17-2%+2.6% 2017 - 4.6% pattern-u (u seeking 2.9% ea yr.; e-0%). Call back & OT liquidation language - n-e.	2015 - 2% 2016 - 2.5% 2017 - 4.6%	Market adjustment-follows market based awards given to Commanders & Deputies. Call back & OT liquidation-union failed to meet burden necessary for change.

May, 2016

BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
15PA0671	Blaine, City of Law Enforcement Labor Services, Inc.	Jacobs, Jeffrey	Past Practice Insurance Opt Out	City has 20 yr. practice re paying for opt outs. Union repudiated practice, seeking full pay, but did not negotiate new language.	Denied	Contract silent, paymnts rely on practice. Expansion requires new language. Discussion on Past Practice.
15PA0696	Dakota County MN Public Employees Association	Jacobs, Jeffrey	Written Reprimand	Jail Lt. failed to notify his supervisor SRT Unit was called out. Also failed to report and investigate use of force.	Denied	U claimed SRT corporal should have made use of force report - but, Lt. is responsible to see that report was written
AAA	Xcel Energy, Inc. IBEW Local 23	Daly, Joseph	Temporary Vacancies	ER failed to fill 2 vacancies at its garage due to vacation & illness. U seeking OT.	Denied	Staffing is a management right. Union claimed past practice but no evidence.

April, 2016

BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
FMCS	Boise White Paper LLC United Steelworkers Local 159	Beens, Richard	Temp assignment below class.	EE temporarily assigned to lower job to fill in for vacations. Received regular pay.	Denied	Management right. Neither contract nor practice prohibits assignments.
15PA0346	Goodhue County Law Enforcement Labor Services, Inc.	Dunn, Richard	Injury on Duty Past Practice	Failure to pay difference between Work comp & regular pay. ER charged sick account to make up difference.	Sustained	Relied on past practice. Union repudiated practice. Discussion on practice and how to repudiate.
None listed	Minneapolis, City of Police Officers Federation of Mpls	Befort, Stephen	Bid Assignment	Officers coming off admin leave not returned to previous bid assignments.	Denied	Specific vs general contract language. Return would disrupt operations.
			Expedited arbitratio	ER-not return to work, but assignment.	Sustained	ER interpretation is too narrow.
16PA0068	MN, State of - Crosswinds & Perpich State Residential Schools Ed Assoc.	Befort, Stephen	Pay during School Breaks	Teachers told they must use vacation to be paid for winter & spring breaks vs being allowed to work.	Sustained	Practice allowed teachers to work for additional pay and can't be unilaterally changed. Discussion on inferred practice.
15PN0673	Ramsey County (Interest Award) Law Enforcement Labor Services, Inc.	Lundberg, James	Interest	Deputies. Wages: '15-2%, '16-2.5%, 17-2.6% - both. Market adjustment: 15-1.2\$, '16-1%, '17-1% - u (e-0%).	2015 - 3.2% 2016 - 3.5% 2017 - 3.6%	Wages based on pattern. Market adj.- external; pay equity predicted pay; and Commander Feb 2016 award for 3.2%.
16PA0351	Rosemount, City of Law Enforcement Labor Services, Inc.	Roberts, Andy	Termination	Ee pointed his laser equipped pistol at a co-worker. Inconsistent & incomplete statement given. U challenged there was no Garrity warning or questioning.	Denied	EE provided voluntary written statement that was inaccurate. Serious misconduct does not required progressive discipline.
16PA0396	Spirit Mountain Recreation Authority AFSCME Council 5	Jacobs, Jeffrey	3 day suspension	Refusal to wear footwear after being told to do so & rude/unprofessional behavior toward her manager. Occurred before her shift so ee claimed she was a customer.	Denied	General obligation to observe plant rules. Swearing at supervisor was determining factor. Discussion on nexus to work place of off duty conduct.
16PA0231	Traverse County AFSCME Council 5	Daly, Joseph	Termination	Deputy Auditor/Treasurer used postage meter without reimbursing County.	12 mo susp.	Lack of clear & convincing evidence. Casual & lax practice re postage meter.
15PA0792	University of Minnesota MN Public Employees Association	Ogata, Harley	Vac/Comp time PRHCSP	Officer leaving for another job unable to use vac/comp time due to understaffing so money place into PRHCSP.	Denied	Clear language in MOU. EE also given opportunity to extend vacation in Nov. but refused.

March, 2016

BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
15PA0970	Cook Hospital AFSCME Council 65	Beens, Richard	Termination	Nursing assistant told nursing home patient he was pissed because he had to clean him.	15 day susp.	Mistreatment of a vulnerable adult. Procedural violations at Loudermill meeting. Similar Appellate Court case.
15PN0566	Hutchinson, City of (Interest Award) MN Public Employees Association	Befort, Stephen	Interest	Police. Wages-u (u-3,3; e-2,2); Shift Differential-n-e; OT-count vac as hours worked-n-e; Language-eligible for wage increase despite discipline-u.	2015 - 2.25% 2016 - 2.25%	Wages external average. Shift Differential & OT lacked compelling reasons for change. Language-existing practice. Discussion of Arbitration Standards.
None listed	MN, State of, Dept. of Human Services MN Assoc.of Professional Employees	Befort, Stephen	Termination	Chaplain at Recovery center in Brainerd Failed to cooperate with background study.	Split	U claimed confusion regarding order. Returned to work but no back pay. See Supplemental Order July 2016.
AAA	N.S.P. d/b/a Xcel Energy Inc. IBEW Local 160	VerPloeg, Christine	Overtime	Work crew are comprised of Benefit & non-benefit (Union bench) ees. U feels only benefit employees should receive OT.	Sustained	Despite 30 yr practice, contract language only applies to benefit employees.
16PA0124	Ramsey County Law Enforcement Labor Services, Inc.	Anderson, Richard	Termination	Deputy arrested for DUI 3/8/14, pled on 2/13/15, given 25 day susp. on 6/19/15. Arrested for Gross Misd. DUI on 6/6/15. Terminated on 6/20/15	9 mo. Susp.	Delay in suspension on 1st DUI while waiting for the court case raised due process concerns on subsequent termination. Returned with no backpay.
16PA0388	St. Paul, City of International Union of Painters Council 82	Johnson, John	Union work	Retired painter called back to train new painter on paint striping machine. Hired as a machinist so painter pension not effected.	Sustained	U seeking OT for active painter, but his current duties create time conflict. ER ordered to pay U dues during training.

February, 2016

BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
15PN0621	Carver County (Interest Award) AFSCME Council 65	Neigh, Charlotte	Interest	Attorneys. PTO donation-n-e. Severance update-e; wages '15-0%,'16-2%-e (u-5%, 2016 - 2.0% 5%);performance pay-up to 4.25%-e (u-7%), increase after prob-u; prorating merit-n-u; add language on eligibility for merit-n-u; delete obsolete language re PFP plan-y-e.	2015 - 0% 2016 - 2.0%	PTO donation-not fully developed, failed to show need. Severance-eliminates obsolete language, Wages&merit-pattern, Remaining awards based on internal patterns.
15PA0855	Chaska, City of Law Enforcement Labor Services, Inc.	Miller, Richard J.	Termination	Officer used racial profiling in making traffic stops, manipulative conduct with county attorney & lied during investigation.	Denied	Giglio-impaired due to untruthful answers during Garrity. Co. will not accept his testimony in criminal cases.
16PA0051	ISD 2889, Lake Park - Audubon Education MN - Lake Park, Audubon	Latimer, George	Lane Advancement	Superintendent approved credits for lane advancement, not knowing they were professional development, not graduate level courses	Sustained	Credits were approved as required by the CBA. Note: current negotiation attempt to clarify language doesn't mean language says the opposite.
15PA0631	Metro Council Amalgamated Transit Union Local1005	Jacobs, Jeffrey	Termination	Policy calls for termination when driver has 4 chargeable accidents in 36 months.	Denied	13 years service doesn't mitigate. Policy valid and has been consistently applied.
15PN0624	Nobles County (Interest Award) Teamsters Local 320	Toenges, Roland	Interest	ER implemented a new pay plan & offered the awarded wages. U seeking additional \$1.50 hr. shift pay for jail- no.	2015 - 1% 2016 - 2.25% 2017 - 2.5%;	Internal pattern; no one else in Co. has shift pay; Miller Jan 2016 did not award shift pay to Sergeants.

16PA0037	Ramsey County Teamsters Local 320	Abelsen, James	Voluntary Move	Correction Officer 2 moved to Probation Officer 1 at a lower start, but a higher top. U claims it is a promotion so must start higher.	Denied	A voluntary reduction by terms of contract and Personnel Rules.
			Timeliness	Not filed within 21 days.		ER failure to object constitutes a waiver.
16PN0020	Ramsey County (Interest Award) Law Enforcement Labor Services, Inc.	Lundberg, James	Interest	Commanders.'15-2%-e(u-3%),'16-2.5%-e(u-4%),'17-2.6%-e(u-5.1%), increase POST lic.pay-n-e; Mkt adj. '15-3.2% + 2% pattern-u (e-0%)	2015 - 5.2% 2016 - 2.5% 2017 - 2.6%	Wages-internal pattern. Market adjstmnt 3.2% based on pay equity underpaymnt. Award compares cities to counties.
16PA0189	Red Wing, City of AFSCME Council 65	Anderson, Richard	Sick Leave, non-family member	Can sick leave be used for girlfriends Doctor appointment?	Sustained	Immediate family includes "bona-fide permanent member of household".

January, 2016

BMS #	Employer/Union	Arbitrator	Issue	Details	Award*	Basis/Argument
15PN0652	Clearwater County (Interest Award) Teamsters Local 320	Jacobs, Jeffrey	Interest	Communication officers. ER seeking to change 65/35 split for family Insurance to the ER's 50/50 pattern.	No change	No quid pro quo nor compelling reason for change. 2 prior arbs supported the Union. (Teamsters have own ins.plan).
15PN0458	Nobles County (Interest Award) Teamsters Local 320	Miller, Richard J.	Interest	Jail Sgts. seeking shift differential.	Not awarded.	No quid pro quo nor compelling need & no one else in county has benefit.
16PA0170	Metro Transit Amalgamated Transit Union 1005	Bauman, Susan	Termination	Bus driver making a right turn, struck a bicycle rider. Union didn't dispute driver was responsible.	60 day susp.	50% of those involved in similar accidents were returned under LCA's. ER did not provide sufficient evidence showing why this was different. 9 yr. ee with previous LCA that expired more than 3 yrs. ago therefore could not be used in this case.
None listed	Metropolitan Council Terry Fulford - Veteran	Jacobs, Jeffrey	Termination - V.P.	Bus Driver lost his CDL as a result of a D.U.I.	Denied.	Without a CDL-Veteran is incompetent within meaning of the statue.