

OFFICE OF COLLECTIVE BARGAINING
BOARD OF COLLECTIVE BARGAINING

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In the Matter of

THE CITY OF NEW YORK,

Petitioner,

DECISION NO. B-14-69

vs.

DOCKET NO. BCB-52-69

DISTRICT COUNCIL 37, A.F.S.C.M.E
AFL-CIO,

Respondent.

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DECISION AND ORDER

Respondent Union has requested arbitration of its claim that Harold Stetter, a water plant operator in the Department of Water Resources, was denied terminal leave to which he was entitled under Article V, §5.10 of the contract between the parties.

Petitioner challenges the arbitrability of the grievance on the ground that "the subject matter sought to be arbitrated . . . fails to constitute a grievance pursuant to Executive Order No. 52 and Local Law 53 of 1967, and to the applicable rules pertaining thereto."

Article XIV of the contract between the parties provides, in substance, for the arbitration of any dispute "concerning the interpretation and/or application of any provision of this agreement" The contract, which was signed on April 19, 1968, covers a three-year period from July 1, 1967, to June 30, 1970. Article V, §5.10, thereof, provides:

"Effective July 1, 1968, Terminal Leave as presently computed shall be granted as a matter of right, rather than at the discretion of the agency head. . ."

The pleadings disclose that Stetter applied for retirement and terminal leave prior to July 1, 1968, the effective date of Article V, §5.10, but that his retirement did not become effective until September, 1968.

The question thus posed is whether the effective date specified in Article V, §5.10, refers and is related to the date of the application to retire or to the date of retirement. That question necessarily involves "the interpretation and/or application of" the contract, and hence is arbitrable under Article XIV thereof.

O R D E R

____ Pursuant to the powers vested in the Board of Collective Bargaining by the New York City Collective Bargaining Law, it is hereby

O R D E R E D, that the grievance herein be, and the same hereby is, referred to an arbitrator to be agreed upon by the parties or appointed pursuant to the Consolidated Rules of the Office of Collective Bargaining.

DATED: New York, N.Y.
October 8, 1969

ARVID ANDERSON
C h a i r m a n

ERIC J. SCHMERTZ
M e m b e r

TIMOTHY W. COSTELLO
M e m b e r

EDWARD SILVER
M e m b e r

EARL SHEPARD
M e m b e r

HARRY VAN ARSDALE, JR.
M e m b e r