

OFFICE OF COLLECTIVE BARGAINING

-----  
In the Matter of the Impasse

-between-

DISTRICT COUNCIL 37, AFSCME, AFL-CIO

-and-

THE CITY OF NEW YORK

Re: I-162-81  
Office Aides

REPORT AND RECOMMENDATIONS  
OF  
IMPASSE PANEL

-----  
Before: BENJAMIN H. WOLF, The Impasse Panel

APPEARANCES:

For the Union: Eddie M. Demmings, Esq.

For the City: Helena Williams, Esq.

THE ISSUES

Whether the amendment of February 25, 1981, to the job specifications of Office Aide Level III has a practical impact; and if so, what recommendations, if any, does the Impasse Panel make in regard to the question?

BACKGROUND

On May 25, 1984, the undersigned was designated as a one-man impasse panel, in place of Meyer Drucker, to hear and make report in this dispute between District Council 37, AFSCME, AFL-CIO, and the City of New York. A hearing had been held

before Mr. Drucker on March 20, 1984, but when Mr. Drucker was unable to continue as the impasse panel, the parties agreed on the undersigned as his substitute. They also agreed to submit to me the transcript of the hearing before Mr. Drucker instead of holding a new hearing.

On February 25, 1981, the City amended the job specifications of Office Aide in which, with reference to Assignment Level III, it stated, "May perform supervisory duties not in excess of thirty workdays or 210 hours in a calendar year."

The Union contends that this quoted language had a substantial practical impact on the thousands of Office Aides represented by Local 1549 of District Council 37. It also claims that the City imposed these supervisory duties on Office Aides, Level III, III, prior to the amendment to the job specifications and contravention to the earlier job specifications that had been promulgated on November 9, 1977.

The Union contends that the change in the job specifications made in 1981 were made in order to avoid the results of many out-of-title claims made by individual grievants.

The Union, after the amendment, asked for a bargaining session and one occurred in June 1981, without any change being effected.

The Union claims that the imposition of thirty days of supervisory duties has a practical impact not only on the Level III Office Aides but upon all others in that they must take up the slack created when the Level III Office Aides perform their supervisory duties.

The City takes the position that the parties are not at impasse because there is no practical impact and, therefore, no obligation to bargain. The addition of the thirty days of supervisory duties merely corrected an error. The error occurred in 1977 when, in broadbanding the positions of Senior Clerk, Senior Cleric (Income Maintenance), Senior Process Server, Senior Typist and Senior Telephone Operator into Office Aide Level III, reference to supervisory duties was inadvertently emitted. Those supervisory duties were clearly contained in the pre-broadbanded titles. Moreover, the amended Office Aide job specifications dated February 25, 1981, contained a cap on, the amount of supervisory duties that the employee in the title could perform, that cap is a greater limitation than one would find in the pre-broadbanded titles. Those titles did not contain any cap on the amount of supervisory work that could be assigned to an employee in the title.

The City objected to consideration of the impact on other Office Aides not in a supervisory position because they have to perform their co-workers' tasks. That is not an issue before this Impasse Panel; it is not included in the request for the appointment of the Impasse Panel.

The City stated that it did not waive any of its rights in the future to have impact or other underlying issues determined in alternative forums as provided by the New York City Collective Bargaining Law, to insure that the report and recommendation in the instant case does not become in any way a procedural precedent.

Stella Kramer Assistant t Director of the Clerical and Administrative Division, District Council 37, testified that Local 1549 had over 28,000 members a majority of whom are Office Aides. She had processed hundreds of out-of-title grievances by Office Aide Level III employees involving the supervisory function. The function consisted of dispensing and evaluating work. They were also asked to act as hearing officers in disciplinary proceedings. Their complaint was that they were not functioning in their job specification, that they were given additional duties they never had before. They felt that their opportunities for promotion to a supervisory position were curtailed. Before broadbanding, their supervisory duties consisted of dispensing work to other employees. Since broadbanding, they have Iliad to schedule vacations and lunch periods and they had to review work of other employees.

On cross-examination, Ms. Kramer conceded that she had no first-hand knowledge 'of what senior clerks did before broadbanding. She also conceded that the term "supervision" involved the responsibility to recommend disciplinary action even if the supervisor does not have the power to impose the discipline.

Harry Karetsky, Deputy Director of Labor Relations, testified that he was in at. the beginning and the end of the broadbanding of the Office Aide title. He found it incredible that the-supervisory functions which had existed before broadbanding were not included in the broadbanded title. It was included when the omission was discovered.

On cross-examination, Mr. Karetsky explained "incredible"

by saying that the purpose of broadbanding was to include all the duties contained in the titles broadbanded. It was never intended to omit any duties, and when it supervisory" duties were omitted he found it hard to believe it was intended. In fact, the employees who did supervising under their pre-broadbanding job specifications continued to perform the same supervisory functions under the broadbanded job specifications before they were amended to include supervisory functions as well as after.

#### FINDINGS AND RECOMMENDATIONS

I find that the Office Aides Level III are composed of the following pre-broadbanding titles: Senior Clerk, Senior Clerk (Income Maintenance), Senior Telephone Operator, Senior Typist and Senior Process Server; that the job specifications of each of the foregoing contained supervisory duties; and that the original job specifications for Office Aide inadvertently omitted reference to supervisory duties although the employees who had previously performed supervisory duties continued to perform them.

I find that the amendment of February 25, 1981, to the Office Aide Level III job specifications of supervisory duties, although stated somewhat differently from the statement of supervisory duties in the pre-broadbanding job specifications, contains a cap of 30 working days or 210 hours in a calendar year. This cap assures that the practical impact of the change will be de minimis.

I, therefore, make the following

RECOMMENDATION

The amendment of February 25, 1981, to the job specifications of Office Aide Level III has no practical impact.

Dated: June 14, 1984

---

BENJAMIN H. WOLF  
Impasse Panel