

STATE OF WASHINGTON
BEFORE THE MARINE EMPLOYEES' COMMISSION

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| SHIPWRIGHTS & JOINERS |) | MEC Case No. 9-93 |
| LOCAL 1184 on behalf of |) | |
| Jack Nannery, |) | |
| |) | |
| Grievant, |) | DECISION NO. 113-MEC |
| |) | |
| v. |) | |
| |) | DECISION AND ORDER |
| WASHINGTON STATE FERRIES, |) | |
| |) | |
| Respondent. |) | |
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Christine Gregoire, Attorney General, by Robert McIntosh, Assistant Attorney General, appearing for and on behalf of Washington State Ferries.

Davies, Roberts and Reid, Attorneys, by Kenneth J. Pedersen, appearing for and on behalf of Shipwrights & Joiners Local 1184.

This matter came on regularly before the Marine Employees' Commission (MEC) on October 15, 1993 when Jack Nannery filed a request for grievance arbitration against Washington State Ferries (WSF). Nannery alleged that he was fired on May 17, 1993. Nannery's union, Shipwrights and Joiners Local 1184 (Shipwrights 1184), contends that the firing was without just and sufficient cause under the collective bargaining agreement pursuant to Article IV, Section 3 and related provisions of the agreement.

Jack Nannery was a 13-year employee at the WSF Eagle Harbor Shipyard. He began working as a journeyman carpenter in 1980, became a carpenter shop leadman in 1987 and foreman in 1988, usually supervising the carpenters/shipwrights. On March 13, 1993, Nannery was placed on administrative leave effective March 1, 1993, characterized by WSF Operations Director Armand Tiberio as "non-

disciplinary in nature, intended to "facilitate and expedite the investigative process." On May 17, 1993, Tiberio discharged Nannery for alleged violations of WSF rules involving alleged falsification of time records, theft or unauthorized use of State or private property, including misuse of public funds, and unsatisfactory work performance.

The request for grievance arbitration was docketed as MEC Case No. 9-93 and was assigned to Commissioner Donald E. Kokjer to act as arbitrator pursuant to WAC 316-65-070. Hearing convened as scheduled on January 4 and 5, and February 1 and 2, 1994. Hearing transcripts were received on March 9, 1994. Briefs were timely received on April 11, 1994.

THE ISSUE

Did the Washington State Ferries have just and sufficient cause to discharge Jack Nannery under Article IV Section 3 of the collective bargaining agreement (Ex. 1)?

If not, what is the appropriate remedy?

POSITIONS OF THE PARTIES

Position of the Washington State Ferries

WSF contends that Jack Nannery was terminated as the result of serious allegations of falsification of time records, theft of state or private property and harassment. Mr. Nannery had been previously disciplined by the WSF for using coarse language with a fellow Eagle Harbor shop foreman, for which he received a suspension of five days on July 23, 1991. Although those charges in themselves were serious enough to merit his discharge, Mr. Nannery was previously warned that further infractions of WSF rules could result in his termination.

The report of Kenneth Wilson, an investigator from the Attorney General's Office, concerning alleged intimidation, harassment and falsified pay records was fairly and properly conducted. Indeed, as a result of his findings, WSF management, through Paul Kressin and Harold Hix, conducted further interviews and thoroughly reviewed time records cited in Wilson's report for accuracy.

Testimony of carpenter shop members as to Jack Nannery's vindictive attitude and declining work performance was evidence of Nannery's desire to get back at the ferry system for the 1991 suspension. Eagle Harbor manager Paul Kressin and assistant Harold Hix had both heard comments from carpenter shop members and other Eagle Harbor employees that Nannery was harassing or intimidating them, resulting in a problem with morale in the carpenter shop. Specific examples of Nannery's actions were testified to by carpenter shop members Steve Moen and Steve Chaussee: foreman Nannery directing Chaussee to speed up production of ferry boat signboards at the request of the shore gang foreman, when no such request had been made; and ordering Chaussee to sharpen chain saws which Nannery himself had made dull while using them on his own property.

WSF asserts that Investigator Kenneth Wilson's comparison of time records and interviews with carpenter shop members convincingly proved five occasions on which Jack Nannery submitted false claims for overtime pay. Jack Nannery was afforded an opportunity to respond to these claims at an April 27 meeting with WSF management and Nannery's union representative.

Upon conclusion of that meeting WSF management made a review of the case against Jack Nannery and determined that termination was the appropriate discipline. Jack Nannery had previously been suspended for harassment or abusive remarks to a co-worker; the present allegations of harassment sufficed to impose the next progressive disciplinary step. In addition to these incidents, WSF found motive

for and evidence of falsification of pay records and misuse of a state truck, the nature of which are so serious that in and of itself these charges warrant discharge.

Position of the Shipwrights & Joiners Local 1184

Although Jack Nannery received a five-day suspension in July, `99`, for comments made to asbestos shop foreman Mitch Nelson, since that time Nannery has not been disciplined either formally or informally by WSF until the instant dismissal.

The investigation into Nannery's work performance and falsification of time records began when two members of an Eagle Harbor Shipyard carpenter shop "cable crew," Steve Chaussee and Steve Moen, claimed time for which they had not worked on December 10 and 11, 1992. Upon review of their timesheets, Jack Nannery questioned the entries made for the cable job. Although Moen voiced his opinion that the entries were correct, he did change the timesheet entries. Moen and Chaussee, disgruntled by Nannery's inquiry, began to review Mr. Nannery's overtime records. They brought their concerns to Eagle Harbor facilities manager, Paul Kressin and his assistant, Harold Hix, stating that Nannery had not worked the jobs claimed.

Moen and Chaussee made further complaints about Nannery's work performance, stating that he had "harassed" them.

As a result of the complaints by Moen and Chaussee and comments made by other carpenter shop members and certain other Eagle Harbor staff, on March 1, 1993, Jack Nannery was placed on administrative leave by WSF's Director of Marine Operations, Armand Tiberio. Thereafter, WSF management retained the services of Mr. Kenneth Wilson, an investigator with the Office of the Attorney General for Washington State. Throughout Wilson's investigation, Jack Nannery was neither apprised of who was conducting it, nor did Wilson ever seek to interview him. Mr. Wilson did, however, interview carpenter

shop members and former Eagle Harbor employees to obtain "evidence" of misdeeds of Jack Nannery. Their hearsay comments were rewritten from Wilson's own notes, and included in the investigative report.

Prior to a meeting with WSF management on April 27, 1993, Nannery was not supplied with a copy of Mr. Wilson's report, which was made available to WSF on April 20, 1993. In fact, his request for a list of the specific allegations being brought against him was denied by Armand Tiberio. Nannery was presented with the allegations, and Wilson's report, on April 27, 1993, and on May 17, 1993, without the benefit of a follow-up meeting to respond to WSF's charges, Jack Nannery was terminated for violations of WSF rules involving the falsification of time records, theft or unauthorized use of State or private property, including the misuse of public funds, and unsatisfactory work performance.

The union maintains that the testimony of Steven Moen, Steve Chaussee and John Stoddard presented at the hearing does not support the allegations of "harassment" of carpenter shop members and other Eagle Harbor employees. Paul Kressin testified that he was aware of the facts surrounding the several incidents cited by Moen and Chaussee, no disciplinary action was taken by him against Mr. Nannery at that time. Armand Tiberio testified about hearsay knowledge of an incident in which Nannery is alleged to have made disparaging remarks about members of the Christian faith to Eagle Harbor employee Washington Machado. Mr. Machado was not called to testify about this incident; indeed, Jack Nannery had no previous knowledge of any such allegation against him prior to Tiberio's testimony.

Nannery testified that he and other shop foremen had been instructed by Paul Kressin to spend more time in the field with his crews to verify overtime claims. In his testimony, Nannery was

able to reconstruct scenarios for each of the five allegations of falsification of time records, each of which had been approved by either Paul Kressin or Harold Hix. He had been unable to give these explanations at the April 27, 1993 meeting because he had been denied previous knowledge by Armand Tiberio. Allegations that Nannery had stolen or misused state or private property by virtue of his use of the truck assigned to the carpenter shop when his private auto tabs had expired were unsupported in evidence presented at hearing.

The Washington State Ferries in its investigation and termination of Jack Nannery failed to meet just cause standards outlined by the Arbitrator in this case. Evidence presented in support of charges of falsification of time records and theft of state or private property was not credible. The grievance in this case must be sustained, and Jack Nannery returned to his rightful position as foreman of the Eagle Harbor carpenter shop.

Having ready and carefully considered the entire record, the Marine Employees' Commission now hereby enters the following findings of fact.

FINDINGS OF FACT

1. The WSF operates the Eagle Harbor Maintenance and Repair Facility on Bainbridge Island, a shipyard which includes seven craft shops. The facility is managed by Paul Kressin; his assistant is Harold Hix.
2. Jack Nannery was a thirteen-year employee of Washington State Ferries. He began work as a journeyman carpenter in 1980, was a member of the "cable crew" until his promotion to leadman

in 1987; in 1988 he was promoted to foreman and remained in that job until he was discharged in 1993.

3. During his 13-year tenure, Nannery was disciplined for five days in July, 1991 or using coarse or obscene language with a fellow WSF employee.
4. In a meeting with all craft foremen, Paul Kressin asked them to verify overtime claims of the crews. Kressin told them to get out in the field. Jack Nannery did travel to various job locations to assist the crew if needed and to verify their performance.
5. The carpenter shop maintained a "cable crew," which was responsible for making cable repairs on ferry docks at any time of night or day. On December 10 and 11, 1992, cable crew persons Moen, Chaussee and Beddo were assigned to assist the machinists craft in replacing cable sheaves at the Edmonds terminal. The job was to begin between 11:30 p.m. and midnight. Nannery caught the first ferry to Edmonds on December 11, 1992 and found the cable crew was not present at the terminal. He returned to Eagle Harbor and found the cable truck. On the following Monday, Leadman Steven Moen filled out the time record for his crew, claiming eight hours of overtime pay and eight hours of compensatory time. Because Nannery knew this was not correct, he asked Moen to correct the time, stating to Moen that "Paul [Kressin] may question it." Moen corrected the time sheet for his crew.
6. The first indication to management that something may not be correct concerning Nannery's own overtime claims, was when Paul Kressin was told by employee John Stoddard that if "I expected them to go and . . . do any more . . . work on overtime on a call out that he wasn't going to go if other

people, i.e. . . . Jack Nannery was going to get overtime for work he did not do." Neither Kressin nor Hix discussed this complaint with Jack Nannery.

7. Eagle Harbor Manager Kressin depends on shop foremen and other shipyard supervisors to report overtime correctly. Manager Kressin or assistant Harold Hix sign off on all Eagle Harbor payroll records weekly.
8. Paul Kressin had collectively discussed and reviewed overtime claims with craft foremen at Eagle Harbor. The overtime claims for the carpenter shop under foreman Nannery were among the lowest of all crafts. While the posting of overtime claims by shop generated shipyard conversation, none of the carpenter shop employees or management spoke to Nannery about his overtime.
9. On numerous occasions Nannery approached Paul Kressin and asked Kressin to evaluate his performance and to offer suggestions as to how to improve that performance. Kressin assured Nannery that he was fine, albeit a bit "gruff."
10. As a result of his frustration with certain carpenter shop personnel, Nannery met with Kressin and stated that he was going to "drop the hammer in the [carpenter] shop." Kressin, who was aware of complaints made by shop members against Nannery, asked him to "hold off." After meeting with Armand Tiberio, WSF's Director of Operations, on February 25, 1993, Kressin and Tiberio met with Nannery and discussed his job performance.
11. On February 26, 1993, Armand Tiberio met with carpenter shop employees, asbestos shop foreman Mitch Nelson and WSF employee Washington Machado, outside of Nannery's presence, to discuss

problems in the carpenter shop. After the meeting, Tiberio informed Nannery that he was being placed on administrative leave.

12. Subsequent to this notification, management enlisted the services of an outside investigator, Kenneth Wilson of the Washington State Attorney General's Office. Starting March 12, 1993 Wilson conducted an investigation. Wilson personally interviewed eleven current carpenter and asbestos shop employees, and questioned seven former carpenter shop employees by phone. Former and current employees provided information to Wilson relating to jobs for which Nannery claimed overtime. Wilson kept notes of his conversations with these individuals; no sworn or recorded statements were made as a part of his investigative report. On the basis of these interviews, Wilson noted that Jack Nannery may have claimed "ghost overtime." Wilson presented WSF with his report and findings on April 5, 1993.
13. Wilson thereafter reviewed Eagle Harbor time records to reconstruct "scenarios" for each date on which Nannery had claimed overtime. As a result of this review and the interviews discussed in FF 12, Wilson concluded that on five occasions Nannery made false overtime claims in violation of WSF rules.
14. Moen and Chaussee, the most prominent employees making accusations against Jack Nannery, never informed Wilson that Nannery had requested that Moen correct overtime claims for the December 10 and 11, 1992 Edmonds terminal sheave repair job. This fact would have been significant in Wilson's evaluation of their credibility as witnesses.

15. Wilson did not interview Jack Nannery as a part of his investigation.
16. Kenneth Wilson concluded that there was probable cause to prosecute Jack Nannery for second degree theft without interviewing Jack Nannery and without knowledge of the incident in which Nannery questioned Moen's and Chaussee's overtime claims.

Kenneth Wilson's failure to interview Nannery resulted in a faulty and inadequate investigation. Because he did not interview Nannery, Wilson could not evaluate the hearsay statements of witnesses and therefore could make no credibility finding. Until Jack Nannery testified in this case, Kenneth Wilson had knowledge that Nannery had questioned Steve Moen's crew's overtime claims submitted for work on the Edmonds dock on December 10 and 11, 1992. Wilson himself testified that this information may have affected the outcome of his investigation. In its follow-up investigation, WSF management also failed to seek Jack Nannery's side of the story.

17. After receiving the report, management spent several weeks reconstructing travel and overtime scenarios. Again, Nannery was not interviewed during this phase of management's investigation. A meeting was scheduled with Nannery on April 27, 1993. Nannery was sent time sheets for jobs which he was alleged to have falsely claimed overtime. His request for a list of specific allegations against him prior to that meeting was denied by Armand Tiberio. Likewise, the specifics of the harassment and intimidation allegations were not presented to him prior to the April 27 meeting.

18. At the April 27 meeting, Tiberio, Kressin, Hix, and Richard Jackson, on behalf of WSF management, discussed the incidents of alleged harassment and the five "ghost overtime" incidents. Nannery, accompanied by union representative Robert Scott, attended the meeting, but was unequipped to respond to the allegations of false overtime claims which dated back a number of years.
19. Nannery believed that there would be another meeting and he would have an opportunity to fully respond to all of the charges against him.
20. WSF called Steve Moen and Steve Chaussee to support its claims that Jack Nannery harassed and intimidated carpenter shop members. The witnesses testified to two specific incidents, one involving an order by Nannery to Chaussee to sharpen two shop chain saws. Chaussee complained to Paul Kressin that Nannery had personally used the two saws and should have returned them in good working order. As a result, Kressin ordered Nannery and Chaussee to each sharpened one chain saw. No discipline of Nannery or Chaussee resulted from this incident.

The second incident of harassment/intimidation stemmed from an order by Nannery to Leadman Moen to direct journeyman Chaussee to interrupt his usual method of refurbishment of ferry boat signboards and deliver one as quickly as possible to the shore gang. The shore gang foreman had inquired of Nannery whether the carpenter shop had any signboards ready for the shore gang: his crew needed work. Chaussee was outraged by Nannery's order and spoke to the shore gang foreman himself, who indicated that there was no emergency. Hence, Chaussee ignored Nannery's order and proceeded to refurbish the sign-

boards in his usual manner. Nannery later apologized to Moen.

21. Investigator Wilson did not use the signboard incident as a basis for any finding in his report because he determined it was too insignificant to mention.
22. At the conclusion of the meeting, WSF management representatives met and made a decision to terminate Nannery and did so by letter dated May 17, 1993.
23. As a direct result of Jack Nannery's termination, Steve Moen and Steve Chaussee were promoted to foreman and leadman, respectively, thereby gaining by Nannery's discharge.
24. Harold Hix testified that Steve Chaussee is a person that needs to be worked with; he complained about jobs that he was required to do.
25. Despite an allegation in Armand Tiberio's testimony that Jack Nannery had harassed or intimidated WSF employee Washington Machado, the state did not call Machado as a witness in this case. Conversely, Harold Hix testified that Machado regularly played cards at lunch with Nannery.
26. Washington State Department of Transportation Directive D 04-01 (December 30, 1992) states that it is a policy of the DOT to provide "all its employees with a working environment free of all forms of discrimination (including harassment) because of race, creed, color, national origin, religion, age, sex, sexual orientation, marital status, Vietnam era veteran status, disabled veteran status, or the presence of a mental, physical, emotional or sensory disability." The directive requires that "[I]ndividuals who are subjected to discrimina-

tion . . . shall make it clear that such behavior is offensive to them and shall immediately report the incident to their immediate supervisor" Appendix 1 to the directive defines "harassment" as: "A course of conduct directed at a specific person that causes substantial emotional distress in such person and serves no legitimate purpose."

27. The evidence is controverted as to whether and/or why Jack Nannery drove the truck assigned to the WSF Eagle Harbor carpenter shop to his home. The truck was periodically taken home to put miles on it, or to drop by a terminal either before or after work. Steve Moen and Doug Beddo allege that on some unspecified date, time, or year that Nannery drove the state truck when his personal auto tabs had expired. Jack Nannery denies this allegation.
28. Discharges from employment in the WSF shipyard are governed by Article IV, Section 3 of the collective bargaining agreement between WSF and Shipwrights 1184 and five other unions comprising the Puget Sound Metal Trades Council (hereinafter, WSF/Shipwrights Agreement), as follows:

ARTICLE IV

HIRING OF NEW EMPLOYEES

Section 3. The Employer retains the right to reject any job applicant referred by the Union. The Employer may discharge any employee for just and sufficient cause (emphasis supplied).

29. Disputes over discharges from the WSF shipyard are governed by Article XII of said WSF/Shipwrights Agreement, as follows:

ARTICLE XII

GRIEVANCE PROCEDURE

Section 1. Grievance is hereby defined as the question or challenged raised by an employee or the Unions as to the correct interpretation or application of this Agreement by the Employer. It is the purpose of this clause to provide the employees and the Unions with an orderly and effective means of achieving consideration of any grievance which may arise during the life of this agreement.

For this purpose, the following steps are agreed upon as the appropriate order of contact:

Step 1. Employee raises the grievance with his immediate supervisor and/or Union representative raises the grievance with the official of the Employer most immediately involved (written communication not required).

Step 2. Employee and/or Union representative outlines the grievance in writing and presents the same to head of the employees' department. The latter shall arrange a conference involving the petitioner and the Employer officials most directly concerned.

Step 3. Employee and/or Union representative present the grievance to the Director of Employee Relations for discussion and resolution. In the event the parties cannot agree, it shall be their duty to refer such controversy or dispute to the Marine Employees' Commission. The orders and awards of the Marine Employees' Commission shall be binding upon any employee or employees or their representatives affected thereby and upon the Employer.

30. "Just and sufficient cause" is not specifically defined in Article IV of the contract. Therefore, at hearing Arbitrator Kokjer noted that he would utilize the following "tests"¹ to determine whether Mr. Nannery was terminated for "just and sufficient cause" pursuant to the contract. A finding of

¹ Based upon Just Cause: The Seven Tests, Koven and Smith, Kendall/Hunt Publishing, 1985.

"just and sufficient cause" requires affirmative answers to the following questions:

- (1) Did the company give to the employee the forewarning or foreknowledge of the possible or probable disciplinary consequences of the employee's conduct?
- (2) Was the company's rule reasonably related to (A) the orderly, efficient, and safe operation of the company's business, and (B) the performance that the company might reasonably expect of the employee?
- (3) Did the company before administering discipline to the employee make an effort to discover whether the employee did in fact violate or disobey a rule or order of management?
- (4) Was the company's investigation conducted fairly and objectively?
- (5) At the investigation did the company decision maker obtain substantial and compelling evidence or proof that the employee was guilty as charged?
- (6) Has the company applied its rules, orders and penalties evenhandedly and without discrimination to all employees?
- (7) Was the degree of discipline in a particular case reasonably related to (a) the seriousness of the employee's proven offense and (B) the service record of the employee in his service with the company?

Having entered the foregoing findings of fact, the Marine Employees' Commission now hereby enters the following conclusions of law.

CONCLUSIONS OF LAW

1. MEC has jurisdiction over the labor-management relations between and among the employee, employer, labor union and matters involved in this case. Chapter 47.64 RCW; specifically RCW 47.64.150 and 47.64.280.
2. MEC may not change or amend the terms, conditions, or applications of the collective bargaining agreement (1989-1991) by and between WSF and Shipwrights Local 1184 and five other unions. RCW 47.64.150.
3. The burden of proof by a preponderance of the evidence in this termination case lies with the employer, WSF. Koven and Smith, Just Cause: The Seven Tests, 217-219, 293 (1985); Elkouri and Elkouri, How Arbitration Works, 4th Ed., 661 (1988).
4. "Preponderance of evidence" includes weight, relevancy, credibility and authenticity of evidence presented at hearing. See Elkouri and Elkouri, ibid., at 319-325.
5. WSF failed to pass the just cause tests in several ways, thus violating Jack Nannery's due process requirement. Just cause test #4 (see FF 1, supra) requires that a "fair and objective" investigation be conducted into the employee's alleged wrongdoing. "[D]ue process requires that an employee be informed promptly and in reasonable detail, with what offense he is being charged (or may be charged) and given the chance to tell his side of the story." Just Cause: The Seven Tests, ibid., at 139.

6. Although Nannery had been sent certain time sheets on or after April 20 1993, the contents of the investigator's report, including charges dating back to 1991, were not made available to Nannery until the April 27, 1993 hearing. Director of Operations Armand Tiberio specifically denied Nannery's request for the report in advance of the meeting. Following the April 27, 1993 hearing, a decision to terminate Jack Nannery was made without affording him an opportunity to respond to the charges. The accused employee must have an opportunity to be heard in his own defense. McCartney's Inc., 84 LA 799, 804 (Nelson, 1985). Here, in fairness, WSF should have held a subsequent meeting or hearing to allow Jack Nannery to respond to the charges against him.

7. Due process requires that management obtain substantial evidence that the employee was guilty as charged. Just Cause, ibid.; Enterprise Wire Co., 46 LA 359, 364 (1966). The evidence on which WSF management based its termination of Jack Nannery for charges of harassment and intimidation against Jack Nannery was unsubstantial.

DOT Directive D 04-01 (Exhibit 14) defines harassment as "a course of conduct which serves no legitimate purpose." Mr. Nannery's order to Steve Chaussee to produce a signboard for the Eagle Harbor shore gang served a legitimate business purpose. The WSF investigator found the incident too insignificant to include in his findings. The incident can perhaps be construed as a miscommunication, but cannot in any way rise to the definition of harassment. Similarly, evidence showed that although Nannery's order to Chaussee to sharpen two chain saws which he had made dull may have seemed unfair to Chaussee, the order conformed to Chaussee's regular job duties. Chaussee was characterized as a difficult person to supervise. Testimony showed that the dispute was equitably

and appropriately resolved when Eagle Harbor Superintendent Paul Kressin intervened. This incident does not fit the DOT's definition of harassment. Hearsay testimony by Armand Tiberio and WSF's post-hearing brief referenced a complaint by employee Washington Machado, who did not even testify in this case, as evidence of intimidation by Nannery of WSF employees. This does not constitute "substantial evidence" needed to prove the charge of harassment.

8. Evidence presented to prove charges of falsification of time records on January 2, 1991, August 26 and 27, 1992, October 31, 1992, November 12, 13, 24, 25, 1992 at Mukilteo and November 14, 1992 was not clear and convincing. A decision to believe or disbelieve a witness's testimony may be based on the bias, interest or prejudice of the witness, as well as the consistency and plausibility of the testimony. Associated Grocers of Alabama, Inc., 76 LA 1245 (1981); Parsons Contractors, 91 LA 73 (1988).

There was uncontroverted evidence that as a foreman, Jack Nannery had been directed by Eagle Harbor Manager Kressin to get out in the field more to verify his crews' overtime claims. Jack Nannery's explanations of his own overtime claims were objective, truthful and very credible. Under cross examination, Nannery responded with conviction. The testimony of Steve Moen and Steve Chaussee did not appear to be credible. Both Moen and Chaussee received promotions are a result of Nannery's termination, which may have tainted their testimony.

9. MEC must conclude that WSF did not prove that Jack Nannery was discharged for just and sufficient cause in accordance with Article IV, Section 3 of the WSF/Shipwrights 1184 Agreement. Therefore, MEC must order WSF to reinstate Jack Nannery to his

rightful position of Carpenter Foreman and that Jack Nannery must be made whole for lost wages and benefits. MEC must determine on the basis of a preponderance of evidence that Washington State Ferries did not have just and sufficient cause to discharge Jack Nannery under Article IV, Section 3 of the WSF/Shipwrights 1884 collective bargaining agreement.

The Marine Employees' Commission, having entered the foregoing findings of fact and conclusions of law, now hereby enters the following order.

ORDER

1. The grievance filed by Shipwrights 1184 on behalf of Jack Nannery on October 15, 1993 is hereby sustained.
2. Washington State Ferries shall immediately return Jack Nannery to his job as Foreman of the Carpenter Shop in the WSF maintenance facility at Eagle Harbor. He shall be made whole for any loss of earnings and other benefits resulting from his discharge, less any net interim earnings. All of his benefits, including medical, dental, pension, vacation time, sick leave. etc., shall be restored in full as if Nannery had never been fired.

3. All records of this particular incident shall be removed from any and all personnel or other Washington State Ferries' records pertaining to Jack Nannery.

DONE this 9th day of June 1994.

MARINE EMPLOYEES' COMMISSION

/s/ HENRY L. CHILES, JR., Chairman

/s/ DONALD E. KOKJER, Commissioner

/s/ LOUIS O. STEWART, Commissioner