

**STATE OF CONNECTICUT  
LABOR DEPARTMENT**

**CONNECTICUT STATE BOARD OF LABOR RELATIONS**

IN THE MATTER OF  
TOWN OF WATERFORD

DECISION NO. 3374

-and-

MARCH 21, 1996

WATERFORD POLICE LOCAL 1948,  
COUNCIL 15, AFSCME, AFL-CIO

Case No. MPP-15,571

**A P P E A R A N C E S :**

Attorney Harry E. Calmar  
For the Town

Attorney Robert Murray  
For the Union

**DECISION AND DISMISSAL OF COMPLAINT**

On June 1, 1993, Waterford Police Union Local 1948, Council 15, AFSCME, **AFL-CIO** (the Union) filed a complaint with the Connecticut State Board of Labor Relations (the Labor Board), amended on January 26, 1994 alleging as follows:

“On or about October - November, 1992, the Town of Waterford (the Town) did not abide by a grievance settlement (Stipulated Agreement) regarding the temporary demotion of G. Bonneau;

The Agreement, in part, was a six (6) month demotion requiring certain conditions be met by the employee;

The employee has met all requirements, but has not been returned to grade for over one (1) year.

On July 21, 1992, the Town issued Bonneau a “mandatory counseling notice”, and made changes in the agreed settlement without discussing or bargaining them with Bonneau’s Union Representative, Norman Zolot, Esq., who negotiated the original settlement.

The City's actions as outlined constitute violations of §§ 7-470(a)1, 2, 4, and 6 of the Act. "

After the requisite preliminary steps had been taken, the amended complaint of January 26, 1994 was brought before the Labor Board for a hearing on July 21, 1994, February 2 and June 12, 1995 at which times the parties appeared, were represented by counsel and were provided full opportunity to adduce evidence, examine and cross-examine witnesses, and make argument. Both parties filed briefs, the last of which was received on September 28, 1995.

On the basis of the entire record before us, we make the following findings of fact, conclusions of law and we dismiss the complaint.

### **FINDINGS OF FACT**

1. The Town of Waterford is an employer within the meaning of the Act.
2. The Union is an employee organization within the meaning of the Act and at all times relevant to this matter was the exclusive bargaining representative for a unit of police officers of the Town.
3. The relevant collective bargaining agreement in effect between the parties had an expiration date of June 30, 1993.
4. George W. Bonneau, Jr. was hired by the Town of Waterford as a patrol officer on May 22, 1972. He was promoted to the rank of Sergeant on June 23, 1986.
5. On or about January 7, 1992, a complaint was filed against then Acting Lieutenant George W. Bonneau, Jr., Shift Commander, alleging that he had violated Departmental Rules and Regulations on December 31, 1991 by sexually harassing a co-worker.
6. Sergeant Bonneau was notified of formal charges and finding of cause for discipline on January 9, 1992 and suspended with pay pending a complete investigation.
7. A disciplinary hearing was scheduled before the Waterford Board of Police Commissioners for March 3, 1992 and was rescheduled to March 16, 1992. During the course of the hearing, the Town of Waterford and the Waterford Police Union, represented by attorneys, entered into negotiations to explore settlement of the matter. As a result of negotiation, the parties entered into an agreement, as follows:

"The evidence supports the charges that George W. Bonneau, Jr. violated Departmental Rules and Regulations **G42.03** (Sexual Harassment), G13.01 (Leadership), **R10.00** (Lack of Sound Judgment), **R12.00** (Civility), **R40.00** (H) (Conduct Unbecoming an Officer) and **R40.00 (I)** (Conduct Contrary to the Good

Order of the Police Department);

that the Board of Police Commissioners orders the demotion of George W. Bonneau Jr. to Patrolman 6th step;

that George W. Bonneau Jr. shall be suspended without pay for the period of one month following the date of this decision;

that George W. Bonneau Jr. shall not return to active duty as a patrolman until after Dr. Ronald Anderson of Willimantic, Ct. shall have evaluated and diagnosed his condition as treatable and has made a written recommendation to the Chief of Police that the officer may resume his normal duties as a police officer;

that the demotion of George W. Bonneau Jr. shall be for a period of six months **from** this date and upon the expiration of this six month period he shall be restored to the rank of sergeant provided:

1. he receives such counseling as may be deemed necessary from Dr. Ronald Anderson;

2. that Dr. Anderson has reported to the Chief of Police that George W. Bonneau Jr. is not likely to engage in any similar sexual harassment episodes with either department employees or civilians; and

**2.[sic]** that George W. Bonneau Jr. shall not be guilty of any major violation of the rules and manual of conduct for the Department during the period of six months.

It is further a part of this agreement that all grievances and unfair labor practice charges filed by the Union with regard to these charges be withdrawn; further the Department shall pay George W. Bonneau Jr. for five overtime shifts that he missed during the period of suspension prior to the hearing; and that appeal rights pursuant to Article 25, section 13 of the Labor Agreement are waived.” (Exs. 3, 4)

8. George W. Bonneau, Jr. was examined by Dr. Anderson on April 11, 1992 and received a questionnaire to complete. Dr. Anderson contacted the Deputy Chief on April 20, 1992 because Bonneau had not completed the evaluation needed for Dr. Anderson to evaluate his fitness to return to work. The questionnaire was subsequently returned, the Department received assurances from Dr. Anderson that Bonneau could return to work, and Bonneau was reinstated as a patrolman on April 29, 1992. (Exs. 5, 6A, 6B)

9. Dr. Anderson submitted a psychological evaluation to the Waterford Police Department on or about June 18, 1992 recommending an extended period of counseling for Bonneau. Dr. Anderson said that while the length of treatment could best be determined by his therapist(s), the estimated minimum time needed to substantially address the concerns of the evaluation was one year. Dr. Anderson also recommended that Bonneau attend intensive workshops or seminars addressing sexual harassment in the workplace. (Ex. 7)

10. Bonneau was directed to attend mandatory counseling in a memorandum of July 14, 1992 from Chief Pendleton and Deputy Chief Giordani. Since Bonneau was then on vacation, he did not receive the memorandum until July 21, 1992. Dr. Anderson was unable to perform the therapy, but the Town located Mr. Peter Gandelman, whom Bonneau saw on

August 17, August 25, and September 1, 1992. (Exs. 8A, B, C)

11. On September 15, 1992, Deputy Chief Giordani initiated correspondence with Mr. Gandelman concerning Bonneau's counseling and the likelihood of his engaging in similar sexual harassment in the future. Mr. Gandelman replied on September 28, 1992 that he recommended further psychotherapy for Bonneau. (Exs. 10, 11)

12. Mr. Gandelman wrote Deputy Chief Giordani on May 5, 1993 that Bonneau had satisfactorily completed his treatment. In a second letter, replacing the May 5 letter, Mr. Gandelman stated that Bonneau was not likely to engage in any similar sexual harassment episodes. The second letter dated May 5, 1993 was received on June 16, 1993. (Exs. 12, 12A)

13. On June 16, 1993, Bonneau was reinstated to the rank of Sergeant, retroactive to May 5, 1993. (Ex. 14)

### CONCLUSIONS OF LAW

1. The refusal to comply with a valid settlement agreement is a violation of § 7-470(a)4 of the Act.

2. The agreement of March 16, 1992 between the Town and the Union to demote George Bonneau, Jr. to patrolman for six months and make his return to sergeant conditional upon his undergoing counseling and receipt by the Chief of Police of professional assurance that Bonneau is not likely to engage in any similar sexual harassment episodes is valid and the language is clear and unequivocal.

3. The Town's action in restoring George Bonneau, Jr. to the rank of Sergeant effective May 5, 1993 was in compliance with the settlement agreement and is not a violation of the Act.

### DISCUSSION

In this case we are asked to determine if the settlement agreement entered into by the parties on March 16, 1992 was breached when George W. Bonneau, Jr. was returned to the rank of Sergeant on May 5, 1993.

Our caselaw concerning grievance settlements is clear. We have long held that failure to abide by a grievance settlement agreement is a prohibited practice. *Naugatuck Board of Education*, Decision No. 3186 (1994); *Town of East Haven*, Decision No. 2378 (1985); *Town of East Hartford*, Decision No. 1439 (1976 *enforced Connecticut State Board of Labor Relations v. Town of East Hartford*, Super. Ct. Hartford, Dkt. No. 214657 (Bums, J., May 12, 1978)). Our role is to interpret the meaning of the settlement agreement and then determine if there has been compliance with that agreement. *State of Connecticut (OLR)*,

Decision No. **3072** (1993); **State of Connecticut (Southbury Training School)**, Decision No. 3197 (1994).

The Union argues that the language of the settlement agreement is not clear since the first part of the agreement says that the demotion shall be for a maximum of six months and the second part contains a proviso. The Union questions why the parties would agree that a demotion was to be for six months if there existed a possibility that the length of the demotion could exceed six months. It argues further that it is not clear from the agreement, whether Bonneau had to complete any counseling that was deemed necessary, and whether the fact that he was actively participating in counseling during the six month period would satisfy the requirement.

The Town claims that the language of the settlement agreement is clear and unequivocal. It argues that the obvious and reasonable meaning of the conditions is that Bonneau could be reinstated only if the Town received professional verification that he was not likely to engage in further incidents of sexual harassment; and further that the Town could not assume the risk or responsibility of doing otherwise. The Town says that the Union neither requested clarification of the proviso during negotiations nor objected to the "provided" language. Furthermore, the Town asserts that the Union's attorney acknowledged that the proviso was a necessary link between Bonneau's evaluation and treatment and his return to the rank of Sergeant. The Town asserts that it adhered to the conditions of the agreement and reinstated Bonneau only after the Chief received professional assurance that Bonneau's misconduct was not likely to be repeated; such assurance was not received until June, 1993.

If a single, obvious and reasonable meaning appears from a reading of language in the context of the rest of the contract, then that meaning is to be applied. **United Grocers, 92 LA 566, 569** (Gaggle, 1989), *citing* Nolan, **Labor Arbitration and Practice**, 163 (1979). "Provided" is a "word used in introducing a proviso. Ordinarily it signifies or expresses a condition. [A]ccording to the context, it may also import an exception to something which precedes it. " Black's **Law Dictionary**, 1102 (1979). It is a well-established principle that if the language of an agreement is clear and unequivocal the clear meaning is not to be ignored even though the results may be contrary to the original expectations of one of the parties. **See** Frank Elkouri and Edna Asper Elkouri, **How Arbitration Works, 348-349 (4th ed. 1985)**. We find that the agreement is clear and unequivocal in that the proviso, in the context of the agreement, signified a condition to the six month demotion period. It means that the Town could not reinstate Bonneau to the rank of Sergeant until he satisfied all of the conditions. The six month period is clearly a "floor" rather than a ceiling in this agreement. Thus, we find that the Town complied with the terms of the agreement in reinstating Bonneau to the rank of Sergeant after he satisfied the conditions specified.

**ORDER**

By virtue of and pursuant to the power vested in the Connecticut State Board of Labor Relations by the Municipal Employee Relations Act, it is hereby ORDERED that the complaint **filed** herein be and the same hereby is DISMISSED.

CONNECTICUT STATE BOARD OF LABOR RELATIONS

s/Antonia C. Moran

Antonia C. Moran,  
Acting Chairman

s/Anthony Sbona

Anthony Sbona,  
Board Member

s/Sandra Biloon

Sandra Biloon,  
Alternate Board Member

CERTIFICATION

I hereby certify that a copy of the foregoing was mailed postage prepaid this 21st day of March, 1996 to the following:

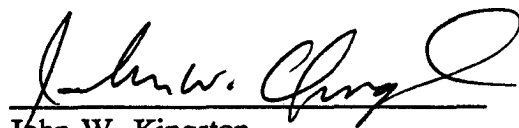
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