

LABOR & EMPLOYMENT

Arbitration Decisions



Labor Arbitration Decision, Saginaw Cnty. Sheriff's Office, 2021 BL 367116, 2021 BNA LA 265

Pagination

* BNA LA
265 p

**VOLUNTARY LABOR ARBITRATION TRIBUNAL
FEDERAL MEDIATION AND CONCILIATION SERVICE**

In the Matter of:

Command Officers Association of Michigan,

Union,

and

Saginaw County Sheriff's Office,

Employer.

COAM Grievance No. 21-08

FMCS 210302-04461

Arbitrator Lee Hornberger

DECISION AND AWARD

August 23, 2021

Hide Summary ^

Case Summary

LABOR ARBITRATION

SUMMARY

[1] **Wages - Retroactive pay - Signing bonus - job classifications** ► **100.45** ► **100.72**
► **100.30** [Show Topic Path]

Arbitrator Lee Hornberger ruled that the Saginaw County Sheriff's Office did not violate its CBA by denying a corrections/jail sergeant retroactive pay due "Law Enforcement Sergeants (312 Eligible)" for a 14-month gap between contracts and instead paying him

a contract-signing bonus in a lesser amount due under the contract to "Corrections Sergeants (Non 312)." He found that even though the grievant held a license to act in the capacity of a law enforcement officer issued by the Michigan Coalition on Law Enforcement Standards, he was not 312 eligible, since under Michigan case law, corrections officers have neither been "subject to the hazards of police work" nor employed in a department where "a work stoppage...would threaten community safety." The grievant has spent his entire career in the Corrections Department, has never been engaged as a police officer, and was properly paid the contract-signing bonus due non-312 corrections officers.

APPEARANCES

For the Union:

David La Montaine
Business Agent
Command Officers Association of Michigan
27056 Joy Road
Redford, Michigan 48239

For the Employer:

David M. Gilbert
Labor Counsel for Saginaw County
Gilbert & Smith, P.C.
721 South Michigan Avenue
Saginaw, Michigan 48602-1529

INTRODUCTION

This arbitration arises pursuant to a Collective Bargaining Agreement (CBA) between the Command Officers Association of Michigan (Union) and the Saginaw County Sheriff's Office (Employer). The Union contends that the Employer violated the CBA when Grievant was denied retroactive pay to which he was entitled. The Employer maintains that it did not violate the CBA when it denied Grievant retroactive pay.

Pursuant to the procedures of the Federal Mediation and Conciliation Service, I was selected by the parties to conduct a hearing and render a final and binding arbitration award. The hearing was held on June 23, 2021, in Saginaw, Michigan, via Zoom. At the hearing, the parties were afforded the opportunity for examination and cross-examination of witnesses and for introduction of relevant exhibits. The hearing was transcribed. The transcript was received by me on June 28, 2021. The dispute was deemed submitted on August 13, 2021, the date the last post-hearing submission was received by me.

The parties stipulated that the Grievance and arbitration were timely and properly before me and that I could determine the issues to be resolved in the instant arbitration after receiving the evidence and arguments presented.

The advocates did an excellent job of presenting their respective cases.

ISSUE

The Union framed the issue as:

Whether Grievant was unjustly denied back-pay due to the Employer's position that he is not "312-eligible"?

The Employer framed the issue as:

Whether or not Grievant is a law enforcement sergeant and whether or not he is "312-eligible"?

I frame the issue as:

Did the Employer violate the CBA when the Employer did not provide Grievant with retroactive pay?

FACTUAL OUTLINE

In December 1997, Grievant graduated from the police academy. He put himself through the academy. In June 1998, he began working part-time for the Employer in the jail. He passed the test. He took the Oath of Office with each Sheriff. Grievant holds both L-cots and MCOLES certifications. Grievant was grandfathered into the Lcots certification. Grievant's MCOLES number is on his identification card.

Grievant arrests suspects in the lobby of the Court House. There is a drug program. Because of his Oath he can arrest people.

Grievant was promoted to corrections/jail sergeant. Grievant is an Administrative Sergeant in the Jail Division.

In the Employer's organizational chart, there is the Law Enforcement Division and the Corrections Division.

There was a prior CBA with a term from June 20, 2017, to September 30, 2019. The current CBA has a term of December 15, 2020, to September 30, 2022. Because of the requirements of Michigan law some employees could get[*2] retroactive pay for the period of October[*2] 1, 2019, to December 14, 2020, and others could not. MCL **423.215b** (1).

There was a gap between the end of the prior CBA and the beginning of the current CBA. Current CBA Art. 26 provides that "Law Enforcement Sergeants (312 Eligible)" would receive retroactive pay, but that "Corrections Sergeants (Non 312)" would receive a signing bonus of a lesser amount instead of the retroactive pay.

As a result of the new CBA, Grievant received a \$ 1,700 CBA signing bonus. He asks for the difference between the signing bonus which he got and the retroactive pay increase which he did not get.

Grievant is in a unique situation. Grievant is MCOLES certified but works in a corrections capacity. Grievant takes the Oaths. Grievant is both MCOLE and Lcot certified. The Employer does not do an Oath for corrections officers.

According to the Undersheriff, Grievant was never assigned as a law enforcement officer. A law enforcement officer would have had to be on road for five years. According to the Undersheriff, "Corrections Officers are non-312" and "312" means working as a police officer.

According to the Sheriff, the "hitch" is that Grievant has not worked "on the road." The issue arose as to who would train Grievant? The Employer decided Grievant would not be trained by someone that Grievant outranked. One needs five years of experience on the road to become a law enforcement sergeant.

In response to not receiving the retroactive pay, Grievant filed a Grievance. The January 11, 2021, Grievance said as follows:

On 12-31-2020 [Grievant] was denied the retroactive pay which is entitled to 312-eligible sergeants as a result of the newly ratified contract. [Grievant] was paid \$1750 which was designated for non-312 eligible sergeants. [Grievant] is a certified law enforcement officer in the State of Michigan and has been employed by the Saginaw County Sheriff's office as such since 1998. [Grievant] is entitled to the full amount of retro pay which would have been \$6428.97. This is in violation of Article 26 Wages of the current [CBA]. On 1-04-2021 [Grievant] initiated the grievance process step one by verbally discussing the issue with Lt. ___. Lt. ___ advised he could not approve or deny the grievance, but supported the position that [Grievant] is 312-eligible. On 01-04-21 [Grievant] also spoke [with] Sheriff ___ who also stated that he support[s] the 312-eligible status for [Grievant], but stated he would have to speak with ... the County Controller. On 1-11-21 I was advised that the grievance was denied by [the County Controller].
...

The union requests that the county affirm [Grievant] as 312-eligible and pay [Grievant] full retro pay that was agreed upon mutually between the County of Saginaw and COAM. The union requests the county reimburse [Grievant]

\$4,678.97 which is the difference of \$6428.97 minus the \$1750 that has already been paid.

The Employer's February 5, 2021, Answer to Grievance stated as follows.

... Grievant commenced his employment with Saginaw[*3] County as a corrections officer. Grievant has[*3] never been assigned as a deputy or law enforcement officer. Grievant has always been employed as a corrections officer. Article 1 of the CBA for the Non 312 bargaining unit provides that the unit consists of all full-time corrections officers but excludes deputies among others. Grievant took the corrections sergeants' exam and was promoted to a corrections sergeant. Grievant's Personnel Control Number with Saginaw County lists him as a jail sergeant. The position is subject to appropriation by the Saginaw County Board of Commissioners and the appropriation is for a corrections sergeant. Grievant did not have the requisite five years of law enforcement experience on the road to entitle him to test for a law enforcement sergeant position. While Grievant may be MCOLES certified, he has not been FTO [Field Training Officer] certified. Grievant does not have the requisite experience on the road and FTO certification to be engaged as a police officer. Therefore, Grievant does not meet the definition of a police officer pursuant to Act 312 (MCL 423.232). As a corrections sergeant, Grievant is not 312 eligible and therefore is not entitled to retroactive pay pursuant to the recently ratified contract.

Based on the above, the Employer is of the position that there has been no contract violation and the grievance is denied.

The matter proceeded to arbitration.

CONTENTIONS OF THE PARTIES

a. For the Union

The Union contends that during the bargaining of the CBA, which involved a state mediator, the Employer, for the first time, introduced the concept of 312 and non-312-eligibility in Art. 26 Wages. The reference to Public Act 312 is inferred, yet not fully spelled out by the Employer in the CBA. The Recognition Clause makes no differentiation in "312" and "non-312." This concept had never before been a predictor of who received a wage increase or who did not. All members of the bargaining unit receive the same hourly rate of pay. There is only one classification in the CBA, Sergeant. The Employer's only attempt at defining "Non 312' and "312 eligible" is to proceed these positions by using "Corrections Sergeants" as "Non-312," and "Law Enforcement Sergeants" as "312-eligible."

Grievant graduated from the Police Academy. He passed the State of Michigan test. He holds a license to act in the capacity of a police officer, issued to him by the Michigan Coalition on Law Enforcement Standards (MCOLES). His license was activated by Grievant being employed by a law enforcement entity, and his being sworn in by the Sheriff. His identification card, issued by the Sheriff, shows him as a "Duly Appointed Deputy Sheriff." His MCOLES number #__ is on the back of his ID card. It is[*4] an industry practice that Sergeants are often referred to as Deputy Sheriffs, even though they have been promoted to Sergeant.

The Union, during bargaining, [*4] never contemplated that the Employer would have taken this position with regards to Grievant, or it would have certainly spelled out and agreed upon who was and was not "312-eligible." Grievant is a sworn police officer and is "312 eligible." There are parallels in this case to the concept of attorneys and "P-numbers." An attorney can graduate from law school and not pass the bar exam. This does not preclude them from working, only that they cannot practice law in a court, much like corrections officers. Once an attorney passes the Bar (or in this case the MCOLES Exam) he is then issued a P-number. Once a MCOLES exam is passed, and the officer is duly sworn in (Appointed), he is authorized by the State to act in the capacity of a police officer, and the MCOLES number is issued. Much like this case, corrections officers do not get issued

MCOLES numbers, and are not "312-eligible." The assignment of Grievant has no bearing on this case, and his status with the State of Michigan or MCOLES.

Grievant by virtue of his Academy graduation, his passing of the state test, his issuance of a License to act in the capacity of a police officer by the State of Michigan, and the subsequent activation of his license is "312 eligible" in every aspect.

The Union requests that I grant the Grievance.

b. For the Employer

The Employer and the Union were parties to a CBA that covered June 20, 2017, to September 30, 2019. A subsequent CBA was negotiated and ratified. The subsequent CBA covers December 15, 2020, to September 30, 2022. The Grievance was filed on January 11, 2021, alleging Grievant was denied retroactive pay to which he was entitled under the new CBA. Grievant was paid \$1,750 designated for non-312 eligible Sergeants. Grievant contends that, since he is a law enforcement officer in the State of Michigan, he is entitled to the full amount of retro pay that was given to the Saginaw County law enforcement sergeants who were 312 eligible.

Grievant commenced his employment as a corrections officer. Grievant has always been employed in the Corrections Department. Grievant took the corrections sergeant exam and was promoted to corrections sergeant. Grievant's personnel control number lists him as a corrections sergeant. The position Grievant holds is appropriated as a corrections sergeant by the Saginaw County Board of Commissioners. Grievant does not have the requisite five years of law enforcement experience on the road to enable him to test for a law enforcement sergeant position and Grievant is not FTO certified as required by the Department. In addition, Grievant did not meet the definition of a police officer pursuant to Act 312. As a corrections sergeant, Grievant is not 312 eligible and is not entitled to retroactive pay.

Grievant has spent his entire career in the Corrections Department. While he[*5] became MCOLE certified[*5] early in his career, he has never engaged as a police officer. He has always worked in Corrections. He is a certified corrections officer. The provisions in the CBA provide for retroactive pay increases for law enforcement sergeants who are 312 eligible. Grievant is not a law enforcement sergeant. He is not by definition 312 eligible according to the statute and to Michigan case law. He works in the Corrections Department. Case law has held that corrections officers' duties are of a non-critical service nature and are not 312 eligible. Grievant received what he was entitled to receive, which was a one-time lump sum signing bonus that was given to him in accordance with CBA Art. 26.

According to the Employer, the Grievance should be denied.

DISCUSSION AND DECISION

The instant case involves a contract interpretation in which I am called upon to determine the meaning of some portion of the CBA between the parties. I may refer to sources other than the CBA for enlightenment as to the meaning of various provisions of the CBA. My essential role, however, is to interpret the language of the CBA with a view to determining what the parties intended when they bargained for the disputed provisions of the CBA. Indeed, the validity of the award is dependent upon my drawing the essence of the award from the plain language of the CBA. It is not for me to fashion my own brand of workplace justice nor to add to or delete language from the CBA.

In determining the meaning of the instant CBA, then, I draw the essence of the meaning of the CBA from the terms of the CBA of the parties. Central to the resolution of any contract application dispute is a determination of the parties' intent as to specific contract provisions. In undertaking this analysis, I will first examine the language used by the parties. If the language is ambiguous, I will assess comments made when the bargain was reached, assuming there is evidence on the subject. In addition, I will examine previous practice by the parties related to the subject. When direct evidence is not available, circumstantial evidence may be determinative.

For the reasons that follow, I conclude that the Employer did not violate the CBA.

This is a contract interpretation case. The issue is whether the Employer should have paid Grievant the 2019/2020 retroactive increases. The Union maintains that the

Employer should have. The Employer maintains that it did not have to.

The burden lies with the Union to identify a CBA provision which prohibited the Employer from acting as it did. *Reynolds Metal Co.*, 62 LA 695 (Volz, 1974). Abrams, *Inside Arbitration* (Bloomberg BNA 2013), pp. 246-247. As stated by Arbitrator Sears:

... in contract interpretation cases ... the grieving party has the burden of persuading the Arbitrator that its position is the correct one. *Int'l Minerals & Chem. Corp.*, 62-1 ARB ¶ 8284 at p. 4074 (Sears, 1962).

CBA Art. 26 states:

Consideration of Wages in Fiscal Years 2020, 2021, and 2022 Corrections Sergeants (Non 312)

2020/2021 — Up to 2%, base wage increase, contingent on budget stabilization fund.

2021/2022[*6] - Up to 2%, base wage increase, contingent on budget stabilization fund.

Law Enforcement Sergeants (312 Eligible)[*6]

2019/2020 — 2% base wage increase.

2020/2021 — 2% base wage increase.

2021/2022 — 2% base wage increase.

The 2019/2020 increases for Law Enforcement Sergeants (312 Eligible) will be effective as of 10/01/19. Increases for Corrections Sergeants (Non 312) will be effective as of the date of ratification of the [CBA]. Emphasis added.

As soon as practical after ratification of this [CBA], Employer shall pay Corrections Sergeants (Non 312) a one-time lump sum payment of one thousand seven hundred fifty dollars (\$1,750) each, considered as payroll.

The Union argues that Grievant should have received the retroactive pay because he is "312 Eligible" in that he attended the police academy, passed the test, is sworn in by the Sheriff, and is MCOLES certified. The Employer argues that the Grievant is not "312 Eligible" in that he is engaged as a corrections sergeant, is not engaged as a Law Enforcement Officer, and has always worked in the Employer's Corrections Department.

Retroactive pay between the time a CBA expires and a new CBA is adopted is prohibited for many Michigan public sector employees by **Section 15b(1) of PA 54** of 2011 (MCL **423.215b** (1)), which provides as follows:

Except as otherwise provided in this section, after the expiration date of a [CBA] and until a successor [CBA] is in place, **a public employer shall pay and provide wages and benefits at levels and amounts that are no greater than those in effect on the expiration date of the collection bargaining agreement.** The prohibition in this subsection includes increases that would result from wage step increases Emphasis added.

The prohibition against retroactive pay does not apply to PA 312 eligible public employees. PA 54 was amended by Act 322 of 2014 (MCL **423.215b** (4)(a-c) to exclude Act 312 eligible employees from PA 54, thereby allowing those employees to receive retroactive pay. Act 312 provides for compulsory arbitration in public police and fire departments. (MCL **423.231**). Act 312 (MCL **423.232** (1)) defines public police or fire department employees as:

... any employee of a city, county, village, or township, or any authority, district, board, or any other entity created in whole or in part by the authorization of 1 or more cities, counties, villages, or townships, whether created by statute, ordinance, contract, resolution, delegation, or any other mechanism, **who is engaged as a police officer, or in fire fighting or subject to the hazards thereof** Emphasis added.

The Michigan Supreme Court, in *Metropolitan Council No 23, AFSCME v Oakland County Prosecutor*, **409 Mich 299, 335 ; 294 NW2d 578** (1980) issued a plurality opinion setting forth two conditions requisite to invoke Act 312 :

Under this dual, whole act interpretation, two premises must be satisfied. First, the particular complainant **employee must be subject to the hazards of police work**; it is not enough that the interested department/employer merely employ at least two persons engaged in that capacity who are not complainants. Second, the interested department/employer must be a critical-service[*7] county department engaging such complainant employees and having as its principal function the promotion of the public safety, order[*7] and welfare so that a work stoppage in that department would threaten community safety; again, it is not enough that the interested department/employer merely employ at least two persons who fulfill the first premise whether or not complainants Emphasis added.

The Michigan Court of Appeals has held that jail security officers, detention officers, and corrections officers' duties are of a non-critical service nature and are not 312 eligible. *Capital City Lodge No 141, Fraternal Order of Police v Ingham County Board of Commissioners*, **155 Mich App 116 ; 399 NW2d 463** , lv den **428 Mich 870** (1987)("The record does not contain competent, material and substantial evidence that a strike by the Ingham County jail security officers would pose a threat to community safety."; *Local 214, Teamsters v City of Detroit*, on remand, **103 Mich App 782 ; 303 NW2d 892** (1981) ("Having reviewed this matter in light of the Supreme Court decision in *Metropolitan Council 23, supra* , we conclude that the MERC board determination should be reversed and the plaintiffs held not entitled to compulsory arbitration because their duties were of a 'noncritical service nature' and not within the purview of the compulsory arbitration statute, MCL **423.231 et seq.**; **MSA 17.455** (31) *et seq.*"); *Lincoln Park Detention Officers v City of Lincoln Park*, **76 Mich App 358, 365 ; 256 NW2d 593** (1977) ("[D]etention officers must be either police officers or subject to the hazards of police officers. In essence, plaintiff's complaint states that detention officers are employed by the police department and that they perform many police duties although they are not line police officers. Plaintiff has failed to allege that they are police officers or subject to the hazards of police officers").

Grievant has not been a road deputy. He is not a Law Enforcement Sergeant. He has not been certified to be on the road. He is not 312 eligible, as he is not engaged in police work or subject to the hazards thereof. He is a jail/corrections sergeant. Under the Court of Appeals decisions, jail/corrections sergeants have not been recognized to be 312 eligible, as the duties are of a non-critical nature.

Grievant has spent his entire career in the Corrections Department. While he was MCOLE certified early in his career, he was not engaged as a police officer. He has always worked in corrections. He is a certified corrections officer. CBA Art. 26 provides for retroactive pay increases for Law Enforcement Sergeants who are 312 eligible. Grievant is not a Law Enforcement Sergeant. He is not 312 eligible according to MCL **423.232** (1) and according to Michigan case law. ***Metropolitan Council No 23 ; Capital City Lodge No 141 ; Local 214; Teamsters*** ; and ***Lincoln Park Detention Officers*** . He works in the Corrections Department. Case law has held that corrections officers' duties are of a non-critical service nature and are not 312 eligible.

"[M]inutes of bargaining meetings provide important evidence, as well as the actual text of the proposals exchanged by the parties during negotiations." Elkouri and Elkouri, *How Arbitration Works* (8th ed), p. 9-30. In this case, there is no evidence of either minutes or what was said at the bargaining table.

All of the witnesses testified honestly and to the best of their recollections.

The primary rule in construing a written instrument is to determine, not alone from a single[*8] word or phrase, but from the instrument as a whole, the true intent of the parties, and to interpret the meaning of a questioned word, or part, [*8] with regard to the connection in which it is used, the subject matter and its relation to all other parts or provisions. *Riley Stoker Corp*, 7 LA 764, 767 (Platt, 1947).

If CBA wording is clear and definite, clear language should be enforced. In cases where the language is clear and unambiguous, arbitrators are generally unlikely to consider extrinsic forms of evidence such as the intent of the parties, bargaining notes or history, or practices. *Champion Int'l Corp.*, 85 LA 877, 880 (Allen, 1985). Words should be given their ordinary and popularly accepted meaning in the absence of anything indicating that they were used in a different sense or that the parties intended some special or technical meaning.

It has been indicated that:

Although [I] may use [my] expertise in interpreting and applying the contractual provisions, [I] cannot substitute [my] own sense of equity and justice but the award must be grounded in the terms of the agreement. To do otherwise would, in effect, be to change or alter the agreement through indirection. This [I] cannot, and should not do in the interest of *all* parties and the collective bargaining process. In other words, it is the [my] duty ... to interpret the contract as precisely as [I] can, and not to rewrite it. *Johnston-Tombigbee Mfg Co.*, **113 LA 1015, 1020** (Howell, 2000). Emphasis in original.

The Union argues that the Union, during its bargaining, never contemplated that the Employer would have taken this position concerning Grievant, or the Union would have certainly spelled out and agreed upon who was and was not "312-eligible." This argument does not control. There is no evidence of the details of the bargaining history or what the parties communicated to each other during bargaining. What the parties internally privately contemplated does not create bargaining history. "Subjective intent not communicated to the other party cannot pierce the veil of ambiguity in drafting." Abrams, p. 244. Uncommunicated understandings do not create bargaining history. Elkouri & Elkouri, pp. 9-29 to 9-31.

The Union argues that there are parallels in this case to the concept of attorneys and "P-numbers," an attorney can graduate from law school and not pass the bar examination, this does not preclude them from working, only that they cannot practice law in court, much like corrections officers, but after an attorney passes the bar examination (or in this case the MCOLES exam) the attorney is then issued a P-number, once a MCOLES exam is passed, and the officer is duly sworn in (Appointed), the officer is authorized by the State to act in the capacity of a police officer, and the MCOLES number is issued. This argument does not control. An individual can be a duly qualified Michigan attorney with a P-number and yet not "be engaged" as an attorney. The P-number person could be employed in any job in the economy even if such job has nothing to do with the practice of law. Such a P-number person "is not engaging in" the work of being an attorney. MCL **423.232** (1).[*9] **Metropolitan Council No 23 ; Capital City Lodge No 141 ; Local 214; Teamsters ; and Lincoln Park Detention Officers .**

The Union argues that the assignment of Grievant has no bearing on this case, and his status with the State of Michigan or MCOLES. This argument[*9] does not control. In order for Grievant to be a police officer, he has to be "engaged" in the work of being a police officer. MCL **423.232** (1). **Metropolitan Council No 23 ; Capital City Lodge No 141 ; Local 214; Teamsters ; and Lincoln Park Detention Officers .** Grievant is a corrections sergeant. He is not engaged in being a police officer. Elkouri & Elkouri, pp. 9-21 to 9-24.

The Union argues that Grievant is a sworn MCOLES police officer; much testimony was presented about the assignment; and what account Grievant is being paid from, none of which has any bearing on his being "312-eligible;" the only question before me is the concept of "312 eligibility." This argument does not control. In order for Grievant to be a police officer, he has to be "engaged" in the work of being a police officer. MCL **423.232** (1). **Metropolitan Council No 23 ; Capital City Lodge No 141 ; Local 214; Teamsters ; and Lincoln Park Detention Officers .** Grievant is a corrections sergeant. He is not engaged in being a police officer.

The Union argues that CBA Art. 26 is ambiguous at best; the Union's unrefuted position is that the only measuring stick that matters is "312 eligible" by virtue of Grievant being a duly appointed Deputy Sheriff; sworn in by the Sheriff as a police officer; has acted in that capacity; and holds a license to act in the capacity of a police officer; has a MCOLES number and is "312 eligible." This argument does not control. In order for Grievant to be a

police officer, he has to be "engaged" in the work of being a police officer. MCL **423.232** (1). **Metropolitan Council No 23 ; Capital City Lodge No 141 ; Local 214; Teamsters** ; and **Lincoln Park Detention Officers** . Grievant is a corrections sergeant. He is not engaged in being a police officer.

This decision neither addresses nor decides issues not raised by the parties.

The crucial points in this case include:

1. Grievant was engaged as a jail-corrections officer not as a police officer,
2. MCL **423.232** (1) and **Metropolitan Council No 23 ; Capital City Lodge No 141 ; Local 214; Teamsters** ; and **Lincoln Park Detention Officers** .
3. the Employer has separate Law Enforcement and Corrections Divisions,
4. the Union has the burden of proof,
5. ordinary meaning given to words unless they are clearly used otherwise,
6. the totality of the circumstances, and
7. the wording of the CBA.

AWARD

Having heard or read and carefully reviewed the evidence and argumentative materials in this case and in light of the above discussion, I deny the Grievance.

Dated: August 23, 2021

Lee Hornberger
Arbitrator

