**OCB AWARD NUMBER: [2762]**

SUBJECT: Arb Summary # 2762

TO: All Advocates

FROM: Danny Terp

OCB GRIEVANCE NUMBER: [DRC-2022-06087-11

DEPARTMENT: State of Ohio Department of Rehabilitation & Correction]

UNION: Service Employees International Union, District 1199 AFL-CIO, WKO

ARBITRATOR: Jerry B. Sellman

GRIEVANT NAME: Nicole Langston

MANAGEMENT ADVOCATE: James Adkins

UNION ADVOCATE: Josh Norris

OCB REPRESENTATIVE: Tom Dunn

ARBITRATION DATE: May 22, 2025

DECISION DATE: September 8, 2025

DECISION: Grievance Denied

CONTRACT SECTIONS 24.16, 24.17, 5

OCB/BNA RESEARCH CODES: 117.233, 117.3314, 24.368, 2.01

KEYWORD SEARCH TERMS Shift Assignment, Worksite, Bid, Canvass, Seniority, Location, Duty Category

**HOLDING:** **Grievance DENIED**.Union failed to meet burden of proof showing that the nature of assignment openings consistently contained the same job duties, or that the method of assignment was applicable to bidding/ canvassing. Union evidence and argument had merit, but evidence was inconclusive as to the nature of the assignment in question.

**Facts:** Nurses bid on their shifts and days off every 6-months. At Grafton, there are two buildings at which the nurses work. One is the main facility and the other is the Camp facility. Both are at the same worksite, but a nurse must drive from the main facility to perform duties at the Camp facility. Daily assignments, or shift task lists, are posted at the facility and denote the duties that are assigned to an identified category of duties and then to each Nurse. The duties associated with the assignments are a series of duties that are associated with an identified job function identified by the Employer. Grievant worked on the first shift, which she bid on. The nurses were choosing to perform an assignment of duties in a category other than that specified on the schedule. She selected an assignment based on her seniority over the nurse assigned to duties designated in another category. Without seeking approval from her supervisor, Grievant switched locations with another nurse from working in the infirmary inside the main compound to working at the camp. Grievant argued nurses had the right to choose the assignment based on their seniority.

**The Union argued:** Issue is whether employer violated 24.16 of CBA. The Union argues the language in Section 24.16 is clear and unambiguous. Duties assigned to a nurse are an “assignment”. In prior arbitration Employer tried to alter language of 24.16 but failed. Employer is applying seniority to shifts, but not assignments, this is a rewriting of the contract. Contract says “and” for a reason and Employer is ignoring it. 24.16 and 24.17 show intent to recognize seniority for shifts AND assignments. Arbitrator should sustain and find employer violated CBA, and that Employer is obliged to honor seniority when filling assignment openings.

**The Employer argued:** The issue here is choosing work *location* by seniority, which falls outside the scope of 24.16 and is not permitted under the CBA. Duties assigned to nurses are called “task lists”. The issue was switching work locations without approval. Regardless, based on past practices, 24.16 does not permit bidding on daily job duties and locations. Agency specific language omits “assignment” intentionally, only discusses bidding for shifts. “Assignment” is an appointment to individual (ex. Nurse 1). Union interpretation would add absurd logistical strain to the selection process as daily schedule is mapped based on institutional needs. Union interpretation would require canvassing every single day, an undue burden on employees and the Employer. Overall, Union is trying to alter the language of 24.16. The past practice and consistent application of the language supports management’s position. Article 5 reserves management’s right to determine work assignments of employees.

**The Arbitrator found:** Language of 24.16 clearly says shift & assignment openings shall be filled by qualified employee based on seniority *when applicable*. For purposes of 24.16 **“assignment opening”** is when a series of duties tied to job function becomes available within a specific classification (ex. Nurse 1). The language clearly envisioned providing seniority bidding on assignment openings. **“When applicable”** concerns whether the bidding process is sensible or relevant in a given situation. If nurses are assigned a series of duties that are associated with an identified job function each day (e.g. Critical Care Nurse) that are consistent, that it is an assignment opening. If each nurse is assigned duties that are not associated with an identified job function each day, i.e. by necessity nurses could be performing any of the jobs on a daily basis, then bidding on assignment openings would not make sense, for I would agree with the Employer that it would be operationally chaotic. Evidence does show there are assignment openings subject to canvass, and the Union arguments would have merit. However, if duties are assigned to different nurses each day, than such a procedure would not seem to be relevant and appropriate at the institution, i.e. “when applicable.” It would make no sense to permit a nurse to canvass for different duties every day under the language of Section 24.16. That would infringe on management’s right to assign duties, because there would be no assignment of duties to an individual nurse. Here, the evidence failed to meet the burden of proof as to the nature of the assignment in question. It was not shown that an assignment opening existed under 24.16 or that the bidding process is applicable here. Therefore, a decision on whether there was compliance with 24.16 cannot be issued. Grievance is **DENIED**.