**OCB AWARD NUMBER: 2239**

|  |  |
| --- | --- |
| **SUBJECT:** | **ARB SUMMARY # 2239** |
| **TO:** | **ALL ADVOCATES** |
| **FROM:** | **DAVID LONG** |
| **OCB GRIEVANCE NUMBER:** | **34-21-20130405-0014-01-09** |
| **DEPARTMENT:** | **Bureau of Workers’ Compensation** |
| **UNION:** | **OCSEA** |
| **ARBITRATOR:** | **Howard D. Silver** |
| **GRIEVANT NAME:** | **Renee D. Roberson** |
| **MANAGEMENT ADVOCATE:** | **Bradley A. Nielsen** |
| **UNION ADVOCATE:** | **Jennie Lewis** |
| **ARBITRATION DATE:** | **1-27-2014** |
| **DECISION DATE:** | **2-28-2014** |
| **DECISION:** | **DENIED** |
| **CONTRACT SECTIONS:** | **Article 17.00** |
| **OCB RESEARCH CODES:** | **119.01 Promotions-Selections In General** |

**HOLDING: Grievance DENIED. No violation of Article 17 occurred. The Union did not meet its burden. For it appears that the individual promoted met the minimum qualifications. And as an internal employee, blatant application mistakes are curable.**

The Grievant was not selected for a particular position. She made it to the interview phase. But she did not advance further. The Grievant found this unjust. She met the minimum qualifications and indicated this on her application. While she claims the person selected did not indicate that. And so she asserted an Article 17 violation. But it is not that simple. The other candidate did qualify. So it comes down to a misunderstanding. The eventual hire made a blatant error on her application. But the Employer allowed her to fix it. And after the selection process occurred, the Employer found no harm in promoting that individual. The Grievant, however, claims that mistakes on applications are incurable. All that may be evaluated is the application. Unfortunately, previous phases of the grievance procedure amounted to no avail. And thus, this disagreement was presented before the Arbitrator.

The Employer contended that the individual promoted met the minimum qualifications. She possessed the most experience. And answering an application question incorrectly is not grounds for bidding forfeiture. Further, the Grievant was not entitled to the position. For it is the Employer’s prerogative to pick the best candidate. And that is what occurred. Thus, the grievance should be denied.

The Union argued that the selection process failed. The individual promoted improperly answered application questions. And since the person eventually hired initially indicated that they did not qualify, the Employer should have adhered to that initial notion. But the Employer did not. Further, the Union argued that the individual hired did not possess the proper degree. And the Employer treated the process with variability. Thus, the grievance should be granted.

The Arbitrator found that the Employer did not violate Article 17. The Union did not meet its burden. For it appears that the individual promoted met the minimum qualifications. Further, as an internal employee, the applicant’s mistake is curable. With this matter, there is no contractual decree burdening the Employer to cease variability when considering internal and external applications—especially when the mistake of the internal applicant is obvious. After a holistic evaluation, the Arbitrator concluded that the Employer’s decision was not arbitrary, capricious, or an abuse of discretion. Grievance denied.