

FILED

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION

2012 DEC -4 P 12:08

CLERK US DISTRICT COURT
ALEXANDRIA, VIRGINIA

FRATERNAL ORDER OF POLICE)
METRO TRANSIT POLICE LABOR)
COMMITTEE, INC.,)
711 4th St. NW)
Washington DC 20001)

Plaintiff,)

v.)

WASHINGTON METROPOLITAN)
AREA TRANSIT AUTHORITY)
(WMATA))
600 5th St. NW)
Washington DC 20001)

Defendant.)

Case No. 1:12cv1387
LMB/JFA

COMPLAINT

Plaintiff, Fraternal Order of Police Metro Transit Police Labor Committee, Inc. (“FOP” or “Union”), by and through its undersigned counsel, hereby files this Complaint against Defendants, Washington Metropolitan Area Transit Authority (“WMATA”). This is an action seeking an order to compel Defendant to comply with a final and binding arbitration award.

PARTIES

1. The Union is the certified and recognized representative of a collective bargaining unit of all regular, full-time, sworn, police officers and candidates, but excluding all officers having supervisory authority and/or excluded pursuant to Section 66(b) of Public Law 92-349. See Exhibit A to the Complaint, Agreement between WMATA

and FOP/MTPLC, at Article 1, Sections 1 and 2(d). The Union maintains its principal office at 711 Fourth St., NW, Washington, D.C. 20001.

2. Defendant is a multi-jurisdictional entity created and governed by the Washington Metropolitan Area Transit Compact, as amended, (the "Compact"). Va. Ann. Sec. 56-529. The Compact is attached hereto as Exhibit B to the Complaint. WMATA maintains its principal office at 600 Fifth St., NW, Washington, D.C. 20001.

JURISDICTION & VENUE

3. This Court has jurisdiction over the subject matter of this Complaint pursuant to 28 U.S.C. §1331.
4. The Compact has been consented to by federal legislation at 92 P.L. 349. (Other Public Laws have referenced Congress's consent to the Compact; 92 P.L. 349 is the specific Act referred to in the collective bargaining agreement.)
5. Section 81 of the Compact explicitly confers jurisdiction upon the United States District Courts for this type of action.
6. This Court has personal jurisdiction over the Defendant because WMATA owns numerous properties within the geographic jurisdiction of this Court, and conducts substantial amounts of business within the geographic jurisdiction of this Court. Specifically, WMATA operates twenty rail stations and numerous bus garages in the geographic jurisdiction of this Court. WMATA's Metro Transit Police Department ("MTPD") maintains a police station in the geographic jurisdiction of this Court. This dispute arises from WMATA's/MTPD's termination of the employment of a police officer assigned to that station.

7. Venue is appropriate in this Court for the same reasons that this Court has personal jurisdiction over the Defendant.

FACTS

8. In April 2011, Defendant terminated the employment of MTPD Officer Sherman Benton.
9. The Union filed a timely grievance in objection to Benton's termination.
10. The parties proceeded through the contractual grievance procedure and were unable to resolve the matter short of arbitration.
11. At the time of the proceedings, the parties were bound by the terms of a collective bargaining agreement attached hereto as Exhibit A to the Complaint. Although the collective bargaining lists an expiration date of September 2010, its terms state that it will continue in force until a successor agreement is executed. At all times relevant to this proceeding, the 2008-2010 collective bargaining agreement was in effect and binding on both parties.
12. The parties appointed a Board of Arbitration chaired by neutral member Marvin Johnson.
13. The Board of Arbitration conducted an evidentiary hearing on January 4, 2012.
14. Each party submitted post-hearing briefs in the matter.
15. On March 28, 2012, the Board issued a decision ordering that Benton's "termination be rescinded and a one year suspension substituted in its place." A copy of the Board of Arbitration's decision is attached hereto as Exhibit C to the Complaint.
16. Subsequent to the arbitration award, MTPD conducted a background investigation on Benton and eventually put him on paid administrative leave in or around May 2012.

17. In or around July, 2012, MTPD sent correspondence to the Maryland Police Training Commission regarding Benton's re-certification as a police officer in Maryland.
18. Because MTPD has jurisdiction in Washington DC, Maryland, and Virginia, most of its officers regularly hold certifications as police officers in all three jurisdictions.
19. The Maryland Police Training Commission ("Commission") is a Maryland agency charged with certifying police officers working in Maryland.
20. The Commission denied Benton's re-certification on or around August 6, 2012. A copy of the Commission's notice of denial is attached hereto as Exhibit D to the Complaint.
21. MTPD subsequently requested that the matter of Benton's certification be added to the agenda for appeals of such denials for the Commission's October 2012 meeting.
22. At the Commission's meeting on October 10, 2012, the Commission denied Benton's appeal for re-certification.
23. WMATA's and MTPD's representatives have refused to reinstate Benton to his position.
24. In refusing to reinstate Benton, MTPD has claimed that the Compact prohibits MTPD from employing police officers not certified in all three jurisdictions.
25. In recent years, MTPD has in fact employed police officers, and assigned them to full police duties, at times when those officers did not have valid Maryland certifications.

COUNT I
BREACH OF THE COLLECTIVE BARGAINING AGREEMENT

26. All statements and allegations set forth above are incorporated herein as if fully re-stated.
27. Defendant's termination of Benton's employment was a violation of the collective bargaining agreement.
28. The Board of Arbitration's decision confirms that Defendant's termination of Benton was a violation of the collective bargaining agreement.

**COUNT II
BREACH OF THE WMATA COMPACT**

29. All statements and allegations made above are incorporated herein as if fully re-stated.
30. Defendant's refusal to comply with the arbitration decision is a violation of Section 66(c) of the Compact, which states that the arbitration process used in the Benton case is final and binding on both parties.
31. The Plaintiff has exhausted all procedures available to it in the collective bargaining agreement to resolve this dispute.
32. WMATA and/or the Maryland Police Training Commission have acted in conjunction to disregard the law, embodied in the WMATA Compact, of the United States, the District of Columbia, the Commonwealth of Virginia, and the State of Maryland by refusing to comply with the binding arbitration process required by the Compact.

WHEREFORE, Plaintiff respectfully requests that the Court grant the following relief:

1. Order WMATA to reinstate Sherman Benton to the position of Police Officer, effective immediately in accordance with the Arbitrator's decision.
2. Order WMATA to compensate Benton for collectively bargained wages and benefits he would have earned if WMATA had allowed him to return to work on March 28, 2012, until the date WMATA actually complies and reinstates him to his position and allows him to earn those wages and benefits.
3. Pay the Union's litigation costs incurred in enforcing the arbitration award.
4. Pay the Union's reasonable attorneys' fees incurred in this litigation due to WMATA's frivolous refusal to comply with the arbitration award.
5. Order any additional remedies the Court finds just and proper.

Respectfully submitted,

Dated: 12/4/12


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