



The Four Winds

National Weather Service Employees Organization

Arbitrator Rules NWS Breached Negotiations Ground Rules- Orders NWS Back to Bargaining Table over 17 Articles for Successor Agreement

(November 28, 2020) In August, NWSEO's membership rejected the proposed NWS-NWSEO collective bargaining agreement by a nine-to-one vote. After the vote, the NWS protested the fact that the entire agreement was submitted to the membership for ratification. According to the NWS, the union's membership only had a right to vote to approve the four articles of the agreement to which the parties had agreed before the NWS prematurely declared impasse, and not the 13 articles to which they agreed during bargaining that occurred after impasse was declared, nor the 29 articles that were imposed by the Federal Service Impasses Panel.

When the NWS refused to return to the bargaining table to renegotiate anything other than the initial four articles to which the parties had initially agreed, the union asked a Federal labor arbitrator, Keith Greenberg, to resolve the dispute over whether the union had a right to ratify and renegotiate the entire agreement.

On November 27, Arbitrator Greenberg issued his decision. In summary, he held that:

1. The union had the right to ratify the entire CBA, including the Panel imposed provisions;
2. NWSEO has a right to renegotiate all 17 articles to which the parties voluntarily agreed, and not just the four articles to which they agreed before the NWS declared impasse;
3. NWS could elect, but was not required to, renegotiate the 29 articles imposed by the FSIP;
4. The NWS violated the parties' ground rules by refusing to give NWSEO a copy of the entire agreement, including FSIP imposed provisions, for the ratification vote, and by failing to conduct an editorial review of the final agreement with the union before the ratification vote.

As a remedy, he ordered that the union has a choice:

- a. either the union can now demand that the NWS return to the table over the 17 articles that were not part of the Panel's final decision, or
- b. the union can demand that the NWS provide a final version of the agreement, conduct an editorial review, and then allow NWSEO to conduct another ratification vote on that edited version of the final agreement, and return to the bargaining table over the 17 articles if it fails ratification again.

NWSEO disagrees with the Arbitrator's decision that the NWS does not have an obligation to renegotiate the provisions imposed by the FSIP - it contradicts his decision that the membership had a right to ratify the entire agreement, including the FSIP imposed provisions. NWSEO will be filing an appeal of that part of his decision with the Federal Labor Relations Authority. Such appeals usually take a year before they are resolved.

In the meantime, the union now has a right to renegotiate the 17 articles to which the parties had agreed on their own, and to seek a better deal for the members on the subjects they cover, which include:

- Parties and Purposes of the Agreement
- Recognition and Unit Designation
- Reduction in Force
- Government Housing
- Laws and Regulations
- Rights of Employees
- Rights of the Union
- Equal Employment Opportunity
- Rights of Management
- Discipline
- Position Descriptions
- Official Records
- Travel
- Employee Assistance
- Miscellaneous
- Surveys and Questionnaires
- Furloughs

It is unknown how long this negotiation process may take, and it may involve another trip to mediation and to the Federal Service Impasses Panel if the parties are unable to come to an agreement on these articles. Impasse proceedings usually take four to six months. The members will then have another opportunity to vote on whether to ratify the new agreement.

In addition, the union has a suit pending in Federal court in Washington, DC challenging the legality of the FSIP decision imposing the 29 articles. This suit alleges that the FSIP's decision is illegal because the individuals appointed to the Panel by President Trump were not confirmed by the Senate. The suit also alleges that the FSIP did not have jurisdiction over the NWS-NWSEO bargaining dispute because the parties were not really at impasse in their negotiations- as evidenced by the fact that the parties continued bargaining after the FSIP accepted the case and actually came to agreement on 13 additional articles.

In light of the length of time it will take to renegotiate at least the 17 articles as ordered by Arbitrator Greenberg, the union's appeal of that portion of his decision concerning whether the NWS must also renegotiate those provisions imposed by the FSIP, and the union's lawsuit challenging the legality of the FSIP's decision, it is unlikely that there will be a new NWS-NWSEO collective bargaining agreement anytime in the foreseeable future. In the meantime, as a result of this summer's Court of Appeals decision in NWSEO v. FLRA, the NWS must continue to honor the 2001 collective bargaining agreement.

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NWSEO proudly represents more NOAA employees than any other Union. NWSEO serves bargaining unit employees of the National Weather Service, NESDIS Office of Satellite and Product Operations, Office of General Counsel, Aircraft Operations Center, and Atlantic Oceanographic and Meteorological Laboratory.