

STATE OF VERMONT
LABOR RELATIONS BOARD

GRIEVANCE OF:

Ethel P. BOWER, JOSEPH GAINZA,
CAROL LABRECQUE and DORIAN M. MAZUR

Docket No. 77-5 8

OPINION AND ORDER

This matter comes before the Board on the motion of Carol C. Labrecque, one of the grievants, to re-open the hearing on newly discovered evidence. Grievant's motion dated February 13, 1978, requested that the decision of this Board dated January 13, 1978, be set aside as to the grievant, Carol Labrecque, pursuant to 3 V.S.A. § 924 (b) and Article VI, § 7 of the Rules of this Board on the ground that the Board had relied upon erroneous facts in arriving at its decision with regard to Ms. Labrecque.

Specifically, the grievant claims that the Board's decision as to her was erroneous because it relied upon findings of fact that the position of Social Worker Trainee was abolished when the position of Social Worker Associate was created and that this was a reallocation situation rather than a promotion situation (see Board's Opinion, Page 2); that the grievant was a Social Worker Associate, pay scale 10, until she was reallocated to the position of Social Worker, pay scale 13 (Board's finding No. 3); and that the grievant was a trainee for a full-level position (Board's opinion, Page 4).

The Board has heard the argument of counsel on April 14, 1978, and has considered affidavits submitted by the parties. The Board has decided to deny the said motion to reopen.

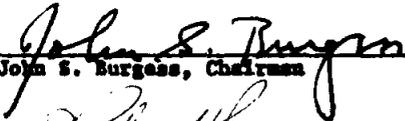
The Board finds that all of the factual issues discussed above and pertaining to Ms. Labrecque's status under the position of Associate Social Worker were fairly raised for adjudication by Paragraph 2 (c) of the State's answer. The affidavits filed to support this motion do not show evidence which could not with due diligence have been submitted at the original hearing in this matter. All of the evidence shown in the affidavits appear to the Board to have been readily available at the time of the original hearing.

Accordingly, Grievant cannot claim unfair surprise, nor is there new evidence to justify a reopening of this matter.

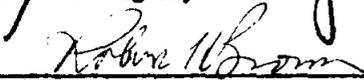
For the foregoing reasons, the Board hereby ORDERS that the grievant's motion to reopen the hearing on newly discovered evidence is denied.

DATED this 30th day of June, 1978.

VERMONT LABOR RELATIONS BOARD



John S. Burgess, Chairman



Robert Brown



William Kemeley