

IN THE MATTER OF ARBITRATION

BETWEEN

OTIS ELEVATOR COMPANY

AND

INTERNATIONAL UNION OF
ELEVATOR CONSTRUCTORS
LOCAL 135

DECISION IN

GRIEVANCE INVOLVING UNION'S

ALLEGED INTERFERENCE WITH

UNLOADING AND HANDLING OF

MATERIALS

AAA CASE NO.: 14 300 02310 03

GRIEVANCE: The grievance protests the Union's alleged interference with the Company's unloading and handling of materials at a construction site.

AWARD: The grievance is denied.

HEARING: September 29, 2004; Myrtle Beach, S.C.

ARBITRATOR: Edward J. O'Connell

APPEARANCES

For the Company

Eric D. Jones, Attorney

Thomas P. McGinty, former
Construction Superintendent

Dean A. Schleicher, Regional Safety Manager

William A. Kom, Regional Field
Manager

Operations Manger

Michael J. Loeffler, Field Support Manager

James Walker, former Executive Director NEII

For the Union

Robert Matisoff, Attorney

Winifred V. Kao, Attorney

Dana A. Brigham, General President

Ed Gliham, Local 135 Business Representative

Donald L. Brown, Local 135 Business
Representative

Curtiss Devillers, Local 41 Business
Representative

ADMINISTRATION

By letter dated November 17, 2003 from the Philadelphia Regional Office of the American Arbitration Association, the undersigned was notified of his selection to hear and decide a matter then in dispute between these Parties. A hearing was held on September 29, 2004, where the Parties presented testimony and evidence in support of their respective positions. The record was closed upon receipt of Post Hearing Briefs, and the matter is now ready for final resolution.

GRIEVANCE AND QUESTION TO BE RESOLVED

The Company filed the following consolidated grievance (Joint Exhibit 2) on June 25, 2002:

Beginning on or about April 15, 2002, Local No. 135 interfered with the Company's unloading and handling of material at the Westin Hotel job site in Charlotte, NC. The Local's violation has continued through at least June 18, 2002. This interference has occurred in three forms: (1) the Local claims that it is a violation of the labor agreement for the Company to utilize an extended boom forklift to unload and move material, and/or (2) the Local failed to recognize "unusual Conditions" at this job site, as contemplated by the parties in Article IV, Par. 1, and/or (3) disruption at the job site caused by the local Business Representative's action on the job site. As a result, the material was/has not been unloaded in an efficient manner resulting in substantial added labor costs to the Company.

The question to be resolved is whether or not the Union violated the collective bargaining Agreement when it: 1) interfered with the unloading and handling of elevator materials at the construction site by claiming the Company could not use a Lull to unload and handle materials; 2) failed to recognize "unusual conditions" at the construction site; and 3) disrupted the efficient unloading of materials, resulting in substantial added labor costs to the Company. If so, what is the appropriate remedy?

CITED PORTIONS OF THE AGREEMENT

The following portions of the Parties' collective bargaining Agreement (Joint Exhibit 1) were cited by the Parties:

ARTICLE IV

WORK JURISDICTION

Par. 2.

- (a) The handling and unloading of all equipment coming under the jurisdiction of the Elevator Constructor, from the time such equipment arrives at or near the building site, shall be handled and unloaded by the Elevator Constructors. Mechanical equipment such as a fork lift or truck mounted swing boom may be used by the Elevator Constructors. A derrick or crane can be used under the supervision of Elevator Constructors to handle and unload the heavy material described in Paragraph 5(a). Where unusual conditions are expected to exist prior to delivery of equipment at or near the building site in regard to handling and unloading of equipment in the primary or secondary jurisdiction of the local union, the Company shall contact the Local's Business

Representative to make appropriate arrangements for the handling and unloading of such equipment. In areas outside the jurisdiction of the local union, the Company shall contact the Regional Director.

Par. 5.

- (a) Where heavy material is to be hoisted or lowered outside of the structure, a derrick or crane can be used under the supervision of the Elevator Constructors in the employ of the Company. Heavy material under subparagraph (a) is confined to machines, controllers, generators, trusses, or sections of trusses, plungers or cylinders.

- (d) All other material is to be hoisted or lowered by Elevator Constructors without the use of derrick or crane.

Par. 9. No restrictions shall be imposed as to methods, tools, or equipment used.

FACTUAL BACKGROUND

Otis Elevator ("the Company") manufactures, installs and repairs elevators, escalators and related equipment. The International Union of Elevator Constructors ("the Union") represents the Company's elevator mechanics, apprentices and helpers. For many decades the Company has had a collective bargaining relationship with the Union. The most recent collective bargaining Agreement between the Parties runs from July 9, 2002 through July 8, 2007. The collective bargaining Agreement in effect at the time of the incidents involved herein (the Agreement) ran from July 9, 1997 through July 8, 2002.

In April 2002, the Company participated in the construction of a new Westin Hotel in downtown Charlotte, North Carolina. The Company was awarded a contract to install 17 elevators and two escalators for the 26-story building. Since the construction site was in an urban downtown area, the space available for unloading trucks and moving materials was severely limited. Additionally, because the general contractor had not yet finished constructing the lobby of the hotel, the Company was unable to store its installation materials there, as was the normal practice. Instead, the Company and other contractors had to store their materials in a basement level garage. In order to give contractors access to the basement level garage, the general contractor constructed a large "leave-out hole" in the ground in front of the hotel building. Contractors, including the Company, were directed to lower construction materials down the leave-out hole to the basement level below. Once the Company's elevator installation materials were placed in the basement, the Company intended to move the materials to the elevator shafts located in the basement level and hoist the materials up the shaft to be installed.

Initially, the Company used a machine referred to as a "Lull" to unload the trucks and lower the materials down the leave-out hole. The Lull is a rough terrain forklift, with a boom arm that moves up and down and telescopes outward. The telescoping feature allows the Lull to raise or lower material at least one story or more. The Company intended to use the Lull to unload and lower the elevator equipment through the leave-out hole for a period of one week to ten days. At that point, a ramp to the lower level of the parking garage was to have been constructed, and the Company intended to use the Lull to unload the trucks and move the material over a barricade and onto the ramp. The Company then intended to use a regular forklift to move the material down the ramp to the basement level storage area.

A Union member observed the Company using the Lull to lower materials into the leave-out hole, and reported its use to Union Business Manager Donnie Brown. Mr. Brown contacted Union Business Representative Ed Gilham and asked him to go to the construction site to investigate. Mr. Gilham arrived at the site on or about April 25, 2002, at which time he observed the Lull lowering materials into the leave-out hole, which included flat boards, counterweights, guide rails, rail brackets and other materials used to install elevators. Believing that the use of the Lull in such a manner violated the Agreement. Mr. Gilham informed its members not to operate the Lull. He told them if they did, he would file charges against them under the Union's discipline rules.

At the hearing, both Mr. Gilham and Mr. Brown testified that they never objected to the Company's use of the Lull to unload the materials, but only objected at the time to the use of the Lull to lower the materials into the leave-out hole. According to Gilham and Brown, the Agreement required that the lowering of the materials down to the basement level had to be accomplished through the use of traditional hoisting and lowering techniques, which only trained elevator constructors could employ. The Company's Construction Superintendent, Tom McGinty, testified that the Union told him that the Company could use the Lull, but not the extended-boom feature. Thereafter, he said the Union told him that the Company could not use the Lull at all. Company Field Support Manager, Mike Loeffler, testified that he "may have been told" by the Union that the Lull could be used to unload the truck.

In an effort to resolve the dispute, Mr. Brown and Mr. McGinty met at the construction site on the morning of April 26, 2002. The Union agreed that the Company could unload the trucks and lower the materials through the leave-out hole to the basement level. In return, the Company agreed to pay the employees what they would have earned had the materials been manually unloaded, moved and lowered to the basement using traditional hoisting and lowering techniques. This agreement was memorialized in a handwritten document (Joint Exhibit 3, the "April Agreement") and was executed by Brown, McGinty and Mechanic-in-Charge Mark Dickerson. The April Agreement stated as follows:

Otis agrees to pay 3 hrs per man per truck (rail trucks exempt) and 8 hrs per man for material presently on the ground at College St level to be placed in basement of project. Only employees that are unloading trucks are entitled to above.

(Joint Exhibit 3)¹

According to the Company, several days after entering into the April Agreement the Union reneged on the Agreement and prevented the Company from using a crane to lower materials through the leave-out hole. The Union witnesses testified, however, that they never breached the April Agreement. They testified that at some point, on or around May 1, 2002, the lobby was cleared and the Company was able to move the materials through the lobby on dollies and lower the materials down the elevator shaft. In any event, the record reflects that the Union was paid for at least some of the hours of work agreed to in the April Agreement. According to the Company, as a result of the Union's breach of the April Agreement, the materials had to be moved manually, which resulted in additional labor costs.

Weeks later, on June 26, 2002, and without prior notice to the Union, the Company filed the instant grievance. Following unsuccessful efforts by the Parties to resolve the dispute through the contractual grievance procedure, the matter was appealed to arbitration hereunder.

¹ At the hearing, several Company witnesses testified that the April Agreement only allowed them to use a crane to unload the material and lower it through the leave-out hole. However, the Union witnesses testified that they agreed the Company could lower the materials throughout the leave-out hole to the basement level using whatever mechanical means the Company desired, including using a Lull. As indicated above, the April Agreement does not specifically address this issue.

CONTENTIONS OF THE PARTIES

Company Contentions

The Company contends the Union interfered with its operations by directing its employees not to use the Lull, threatening them with fines, and causing undue delay. It asserts that the Union's actions substantially increased the Company's labor costs, because it was forced to manually move material without the use of the Lull. The Company also alleges it incurred rental expense for the Lull it could not use.

Further, the Company argues that the Agreement provides it with the right to unload and handle material with the Lull. It points out that the Agreement allows the Company to use "mechanical equipment such as a forklift" to unload and handle material at a job site. The Company also points out that the Agreement provides that "[n]o restrictions shall be imposed as to methods, tools, or

equipment used." The Company observes that the Lull is commonly recognized in the construction industry as a forklift, and that it and other contractors have used it on construction sites for decades. The Company asserts that despite its right to use the Lull, the Union wrongfully "proclaimed" that it was not a forklift under the Agreement and wrongfully instructed Company employees not to use it, threatening them with fines.

The Company disputes the Union's contention at the hearing that the Company can use the Lull to unload materials from the trucks, but is not permitted to use it to lift or lower the materials. It claims this distinction has no support in the Agreement. Additionally, the Company states that there is nothing in the Agreement to support the Union's position that the use of the Lull to lower materials interferes with the elevator constructors' traditional work of hoisting and lowering. The Company observes that the Union presented no evidence that the use of the Lull either interfered with, or caused the loss of, any hoisting work traditionally performed by Union members.

Additionally, the Company emphasizes that the only restriction in the Agreement relative to the use of "mechanical equipment" is the provision that cranes or derricks cannot be used for handling anything other than heavy materials. It argues that this provision does not restrict the use of forklifts or Lulls. The Company states that the arbitral precedent relied on by the Union in support of its position that the Lull cannot be used to lower materials is inapposite because those cases involved different employers, different contract language, or the use of dissimilar equipment.

The Company stresses that the Westin hotel project herein was the only one where the Union has questioned the Company's use of the Lull. It claims, moreover, that the Parties' bargaining history reveals that the contract language adding the right of the Company to use "mechanical equipment such as a forklift" came about without any discussion or concern raised by the Union about limiting how the equipment could be used and that the Union's only concern at the time was that its members be able to operate it. In addition, the Company claims that the past practice cited by the Union, of the Company allegedly conceding that the use of the Lull violates the Agreement, is irrelevant. It maintains that one of the circumstances involved a different employer, and both instances involved settlements to avoid prolonged disputes.

According to the Company, the Union violated the Agreement when it wrongfully interfered with its right to use the Lull. The Company asserts the evidence establishes that Mr. Gilham ordered employees not to use the Lull and that Mr. Brown informed Superintendent McGinty that the Company could not use the Lull because it was not a "forklift" under the Agreement. The Company contends that the Union's "newly created theory" -- that it only objected to the Company's use of the Lull to lower materials -- does not comport with the facts. It claims that Mr. Brown repeatedly took the position at the hearing that a Lull was not a forklift; that being the case, the Company alleges there would be no basis under the Agreement for the Lull to be used for any purpose. The Company also points out that Manager Loeffler's undisputed testimony revealed that in his conversation with Union Regional Director Avery he was told in no uncertain terms that the Company could not use the Lull for any purpose.

The Company asserts that the Union repudiated the Parties' April Agreement that permitted the Company to use a crane to lower the material through the leave-out hole. It claims that this breach also violated Article IV of the Agreement which requires the Parties to make "appropriate arrangements" when a particular job site involves "unusual conditions." The Company observes that several Union witnesses conceded that the conditions at the site were unusual. It emphasizes that when Mr. McGinty testified that he did not believe the conditions were difficult it was clear from his testimony that he was referring to the conditions before the Union objected to the use of the Lull. The Company insists that the conditions became difficult and unusual after the Union prevented it from using the Lull, and the Union therefore had an obligation under the Agreement to make "appropriate arrangements" with the Company to rectify the situation. The Company states that the Union reneged on its obligation to make "appropriate arrangements" when it repudiated the April Agreement.

Finally, the Company contends that it is entitled to damages arising out of the Union's breach of the Agreement. It believes that it is entitled to compensatory damages for the economic harm caused by the breach; namely, the additional wages it was forced to pay employees for the additional labor and the cost of the rental equipment that it could not use. It also contends that it is entitled to an award of attorney's fees and arbitration expenses as a result of the Union's bad faith in contesting the Company's grievance. The Company argues that if the Union had been acting in good faith, it could have merely filed a grievance when it learned of the Company's use of the Lull, rather than threaten employees and prevent the Company from using it. The Company contends that this violated the "work now, grieve later" principle.

In light of all of the above, the Company seeks to have the grievance sustained. As a remedy, it requests a determination that:

1. the Lull is "mechanical equipment such as a forklift", within the meaning of Article IV, Par 2(a);
2. the Union interfered with the Company's right to use the Lull;
3. the Union violated Art. IV, Par. 2(a) when it repudiated the agreement to allow the Company to use a crane to unload and handle material;
4. the Union violated Art. IV, Par. 9 by seeking to impose restrictions on the methods and equipment used by the Company to unload and handle material;
5. the Union took this case to arbitration without a good faith position.

Additionally, the Company requests an order that the Union pay the Company \$16,828.89 in compensatory damages and the Company's attorney's fees and arbitration expenses.

Union Contentions

The Union initially submits that any interpretation of the Parties' Agreement must be understood in the context of their extensive bargaining history. Over the years, it states, because of the strength of the its bargaining position it has been able to retain significant control over work performed by its members. The Union points out that the Work Jurisdiction clause of the Agreement dictates the manner in which elevators and escalators must be assembled, as well as the manner in which materials must be unloaded, hoisted and lowered.

In that regard, the Union fails to see how "claiming" that the Company violated the Agreement itself can constitute a breach of the Agreement. It emphasizes that if this were the case, it would "chill" a union in carrying out its duty to represent members. The Union insists that it does not dispute that a Lull may be used to unload and move material pursuant to Article IV, Par. 2 of the Agreement. Rather, the Union asserts that the violation of the Agreement in the instant case was the Company's use of a Lull and its telescoping arm to lower unloaded material through the leave-out hole, one floor below to the basement level.

The Union maintains that Business Representatives Gilham and Brown consistently and credibly testified that their protest regarding the use of the Lull was directed at this lowering activity. Former Company Field Manager Mike Loeffler corroborated their testimony when he testified that his understanding of the Union's objections "was the fact that we were using the extended boom forklift to lower the equipment down what they call a leave-out." It believes that the Company fundamentally misunderstands or, at worst, distorts the Union's position. The Union argues the Company never sought from the Union clarification as to the basis of its objection over the use of the Lull, and therefore it must bear responsibility for its failure to do so.

In addition, the Union asserts that there were no "unusual conditions" as contemplated by Article IV, Par. 2. It observes that Superintendent McGinty initially testified that he did not believe there were any unusual conditions at the construction site. He later testified that because of the "unusual conditions" caused by the Union's refusal to operate the Lull, he negotiated the April Agreement with Mr. Brown, permitting the use of a crane to unload materials from the trucks. The Union insists that it never breached the April Agreement. Further, the Union asserts that the Company paid the Union members the amounts owed to them under the April Agreement, and there is no evidence that the Company at any time protested the Union's alleged "repudiation" of the April Agreement, including in the instant grievance.

The Union explains that it recognized and acknowledged that some sort of accommodation needed to be made to lower the materials into the basement because of the inability to bring the materials

through a lobby. It states that through the April Agreement with the Company Mr. Brown agreed the materials could be moved to and lowered through the leave-out hole by whatever mechanical means the Company wanted to use. The Union indicates that this accommodation applied only to trucks arriving before May 1, 2002. According to Mr. Brown, Mr. McGinty told him that after May 1, 2002, arrangements would be made with the civil contractor to clear the hotel ground level so material on trucks arriving after May 1st could be taken through the lobby to the elevator shafts. From there, the Union claims the material was to be handled according to the hoisting and lowering requirements in the Agreement. The Union emphasizes that this is in fact what was accomplished and that it never repudiated or reneged on the April Agreement.

In the Union's view the Company is not entitled to any damages from the Union. It observes that the Company is before the arbitrator in a rather "unusual posture." In that connection the Union points out that when confronted by the Union's objection to the use of the Lull, the Company never demanded that the Union comply with its directives or grieve the matter if it believed the Company was in violation of the Agreement. Instead, it emphasizes that the Company entered into a written agreement with the Union allowing it to proceed with the unloading and lowering of the material. The Union argues the Company never indicated it was entering into the April Agreement "under protest", or otherwise indicated that it intended to recover damages from the Union for its refusal to allow it to use the Lull.

The Union stresses that the foregoing indicates not only that the Company failed to mitigate any damages suffered but, more importantly, it indicates that the Company willingly consented to the Union's objection and only after-the-fact decided to reevaluate its position. The Union calls attention to the fact that both McGinty and Brown testified that they thought the dispute had ended with the negotiation of the April Agreement.

The Union also insists that the Company has failed to establish that it is entitled to the damages it seeks. First, the Union maintains that any work hours cited for the unloading of trucks without the use of the Lull should be rejected, since the Union never objected to the Company's use of the Lull to unload materials. Concerning the damages the Company seeks due to its inability to use the Lull to lower materials into the building, the Union contends that Article IV, Par. 5 only provides for the use of a crane or derrick to hoist or lower heavy material and makes no provision for the use of a Lull to hoist or lower material. The Union emphasizes that the use of a Lull to perform any lowering or hoisting work is a violation of Par. 5, whether heavy material is involved or not.

The Union observes further that the Company has recognized in other circumstances that the use of a Lull to raise or lower material violates of the Agreement. The Union sees a clear distinction between lowering material several feet from curb height and lowering it a full floor level below the ground. From its standpoint, the fact that the Company could have lowered the material by using thee parking ramp, had it been usable, does not justify the Company's attempt to violate the Agreements hoisting and lowering provisions. The Union also contends that any attempt by the Company to seek damages as a result of the Union's objection over the use of the Lull must be rejected, given the Company's failure to inform the Union at the time that it did not agree with the Union's position on the use of the Lull. The Union emphasizes that the Company should have let both the employees and the Union know of its position at the time, rather than proceed as if the matter had been resolved. It contends that the Company's actions in entering into the April

Agreement, and failing to at anytime challenge the Union's position, belies that claim that the Company opposed the Union's position.

Additionally, the Union asserts that under the Agreement a crane can only be used to lower heavy materials or tools of the trade. The Union maintains that none of the items loaded into the basement storage area fell within the scope of materials that may be properly lowered by a crane pursuant to Article IV, Par 5. The Union's insistence that these materials be lowered by traditional rigging and hoisting skills, conforms with the provisions of the Agreement. Finally, the Union claims that even if it were to be found that the Company was entitled to damages or costs, the damage estimates and figures provided by the Company are unreliable and inaccurate.

On the basis of the foregoing, the Union seeks to have the Company grievance denied.

DISCUSSION AND FINDINGS

The Company filed the grievance in this matter, therefore it must establish that it is entitled to the relief sought. In the grievance the Company alleges the Union interfered with the unloading and handling of materials at the Westin Hotel job site in three ways. First, it alleges that the Union "claimed" it was a violation of the Agreement for the Company to use the Lull. Second, it contends that the Union failed to recognize "unusual conditions" at the job site, as contemplated by the Agreement. Finally, the Company asserts that, due to the Union's Business Representative's disruptive actions, it could not efficiently unload its materials and thus sustained substantial additional labor costs.

With respect to its first contention, the Company has failed to point to any contractual language indicating that the Union's claim that the Company had violated the Agreement itself constitutes a contractual violation. Indeed, there is nothing in the Agreement preventing either Party from asserting its position that the other Party has breached the Agreement. As is very often the case when a union believes an employer is violating a collective bargaining Agreement, the Union here was merely stating its position that it believed the Company was violating the Work Jurisdiction provisions of the Agreement by its use of the Lull. Given the language of Article IV, the Union had an arguable, good faith basis for asserting that the Lull -- with its telescoping extended boom - - performed tasks that went beyond the traditional capabilities of a forklift. The Union's claim that the Agreement was being breached, based on this good faith belief, did not violate any provision of the Agreement.

On the other hand, the Company also had a good faith basis to assert that it had the right to use the Lull to unload and move equipment based on the contractual "forklift" language and the previous use of a Lull. At this juncture, therefore, it is significant that, although it could have, the Company did not continue to use the Lull despite the Union claim that its use was a violation of the Agreement. Had the Company continued to operate the Lull it could have reasonably expected the

Union to adhere to the fundamental principle of "work now, grieve later" and this case would have then proceeded on a more typical grievance arbitration track. If, hypothetically, the Union had resorted to other means of protest the Company's claim of improper interference would be resting on a more solid footing. Instead, matters did not proceed any further. On April 26, 2002, the Company entered into an agreement with the Union to resolve the dispute over the use of the Lull. The Company agreed to compensate certain Union members for the wages they lost as a result of not being utilized to unload and move the elevator materials to the basement level. In exchange the Company was permitted to lower the material into the basement either by use of a crane only, as the Company claims, or by whatever means it chose, as the Union claims.

Thus, it can only be concluded that the Parties reached an amicable resolution to their differences over the Company's use of the Lull. The Company chose to settle the dispute rather than continue to utilize the Lull and have the Union grieve or otherwise pretest its actions. The fact that the Union did not file a grievance over the use of the Lull supports a finding that the April Agreement resolved the dispute.

Because of this resolution, the Company is now estopped from alleging that the Union violated the Agreement by claiming the Company could not use the Lull, or by directing its members not to operate it. Accordingly, despite the extensive arguments advanced by the Parties on this issue, it is unnecessary to address the substantive question of whether the Agreement permitted the Company to use the Lull.

At the hearing and in its Post Hearing Brief, the Company acknowledges that it entered into the April Agreement with the Union, but nevertheless contends the Union breached that Agreement only two days later when it told the Company it could no longer use the crane. This contention is not persuasive. First, the Company has not established that the Union refused to allow it to continue to operate the crane to lower materials into the leave-out hole. The Union denied that it did so, and presented contrary evidence establishing that the Company ceased using the crane because the lobby of the building was cleared and materials could be moved into the lobby and lowered through the hoistways. There is also evidence that the Company compensated Union members, according to the terms of the April Agreement. Furthermore, the Company never alleged in its grievance that the Union breached the April Agreement. Indeed, the Agreement is not mentioned at all in the grievance. The Company's actions strongly suggest that both sides were satisfied with the April Agreement's resolution of their dispute.

Finally, the Company has failed to establish that the Union breached the collective bargaining Agreement's "unusual conditions" clause of Article IV, Par. 2(a). The clause provides that "[w]here unusual conditions are expected to exist prior to delivery of equipment at or near the building site in regard to handling and unloading equipment . . . the Company shall contact [the Union] to make appropriate arrangements for the handling and unloading of such equipment." The Union has presented evidence indicating that the conditions were not sufficiently out of the ordinary as to trigger the "appropriate arrangements" requirements of this clause of the Agreement. Additionally, the Company never contacted the Union to discuss the alleged "unusual conditions" at the job site prior to its rental and use of the Lull. In any event, even assuming this clause applied here, the Union's willingness to enter into the April Agreement constituted a sufficient "appropriate arrangement" to address the unusual conditions alleged by the Company.

The Company has failed to meet its burden of demonstrating that the Union improperly interfered with the unloading and handling of materials at the construction site and thus violated the Agreement. The grievance must therefore be denied.

American Arbitration Association

ARBITRATION TRIBUNAL

In the Matter of the Arbitration between:

Otis Elevator Company

and

International Union of Elevator Constructors, Local 135

CASE NUMBER: 14 300 02310 03

AWARD OF ARBITRATOR(S)

I (WE), THE UNDERSIGNED ARBITRATOR(S), having been designated in accordance with the arbitration agreement entered into by the above-named parties and dated _____ and having been duly sworn and having duly heard the proofs and allegations of the parties, AWARD as follows:

The grievance is denied.

