

In the Matter of the Arbitration Between

Congressional Research Employees Association)	
IFPTE, Local 75 (Union))	FMCS Case 060202-53345-A
)	Library of Congress Case 2006-7
and)	
)	In the Matter of Alleged Denial
The Library of Congress (Agency))	of Contractual RIF Rights
)	

Brief for the Library of Congress

Statement of the Case

This arbitration results from a grievance filed by the Congressional Research Employees Association, IFPTE, Local 75 ("CREA" or the "Union") against the Library of Congress (the "Library"), asserting that a reduction in force ("RIF") was initiated when the Director of the Congressional Research Service ("CRS") announced on September 22, 2005 that certain CRS positions would be eliminated by the end of September 2006. The Union asserts that the Library has subsequently denied the bargaining unit incumbents in the affected positions (the "affected employees") their rights under the RIF provisions of the Collective Bargaining Agreement.

There is no dispute that on September 22, 2005, the Director of CRS announced that due to technological advancements, changes in work flows, and specific direction from Congress to streamline operations, CRS would eliminate the positions performing production support, technical support assistant, and audio-visual functions by the end of September 2006. The Director also announced that CRS would be creating and competitively filling new administrative, product preparation, and technology support positions.

At the time of the Director's announcement, there were 51 bargaining unit employees in the affected positions. Between the Director's announcement and the hearing in this case, 19 of the affected bargaining unit employees retired, primarily under incentive programs negotiated between the Library and the Union. Also during that seven-month period, three of the affected bargaining unit employees were selected for new positions in CRS pursuant to competitive postings.

The Library maintains that no RIF has yet commenced,¹ and that any employee who does receive official notification of a RIF will receive all of the protections to which he or she is entitled under the Collective Bargaining Agreement.

¹ If a RIF were initiated after the hearing in this case, it would not be a matter for this Arbitrator to review. As the Arbitrator noted (Transcript ("Tr.") at 7), "the decision will be based on those events only insofar as they relate back to the September 2005 date." Accordingly, throughout this Brief, the Library has referred to events after the date of the hearing in the future tense, consistent with the testimony on April 24-25, 2006.

Issues

The parties did not stipulate the issues in the case. The Library's statement of the issues is as follows:

- (1) Did the Director of the Congressional Research Service declare a RIF on September 22, 2005, when he announced the elimination of certain positions by the end of September 2006?
- (2) Has the Agency failed to follow the provisions of the Collective Bargaining Agreement governing RIFs with regard to employees whose positions are being eliminated by the end of September 2006?
- (3) Did the Union's information request that is at issue in the instant case meet the "particularized need" standard and other requirements of 5 USC Chapter 71?
- (4) Is the Library contractually obligated to provide training to the employees whose positions are being eliminated?
- (5) If the answer to issue 4 above is "yes," is the contractual obligation unenforceable under 5 USC Chapter 71 as interfering excessively with the exercise of management's rights?
- (6) If the answer to issue 5 above is "no," did the Agency fail to follow the provisions of the Collective Bargaining Agreement regarding training?
- (7) Is the Agency contractually restricted from deciding to abolish one or more permanent or indefinite positions?
- (8) If the answer to issue 7 is "yes," is the contractual restriction unenforceable under 5 USC Chapter 71 as interfering excessively with the exercise of management's rights?
- (9) If the answer to issue 8 is "no," did the Agency fail to follow the provisions of the Collective Bargaining Agreement in deciding to abolish the positions at issue in the instant case?
- (10) Is the Library contractually obligated to use reassignments and/or attrition when abolishing positions?

- (11) If the answer to issue 10 is “yes,” is the contractual obligation unenforceable under 5 USC Chapter 71 as interfering excessively with the exercise of management’s rights?
- (12) If the answer to issue 11 is “no,” did the Library fail to follow the provisions of the Collective Bargaining Agreement with regard to reassignments and/or attrition?
- (13) If the answer to issue 2 is “yes,” what is the appropriate remedy?
- (14) If the answer to issue 3 is “yes,” what is the appropriate remedy?
- (15) If the answer to issue 6 is “yes,” what is the appropriate remedy?
- (16) If the answer to issue 9 is “yes,” what is the appropriate remedy?
- (17) If the answer to issue 12 is “yes,” what is the appropriate remedy?
- (18) Is a claim that position descriptions should have been revised, whether or not affecting the title, series or grades of the affected positions, subject to the negotiated grievance and arbitration procedures?
- (19) Did the Library fail to follow the provisions of the Collective Bargaining Agreement when it did not revise the affected employees’ position descriptions?
- (20) If the answer to issue 19 is “yes,” what is the appropriate remedy?

