

In the Matter of

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
BAKERSFIELD, CALIFORNIA

and

CHAPTER 118, NATIONAL TREASURY
EMPLOYEES UNION

Case No. 09 FSIP 9

ARBITRATOR'S OPINION AND DECISION

The Department of the Treasury, Internal Revenue Service, Bakersfield, California (Employer) filed a request for assistance with the Federal Service Impasses Panel (Panel) to consider a negotiation impasse under the Federal Service Labor-Management Relations Statute (Statute), 5 U.S.C. § 7119, between it and Chapter 118, National Treasury Employees Union (Union).

After an investigation of the request for assistance, which arises from bargaining over the relocation of the Bakersfield Post of Duty (POD), the Panel directed the parties to mediation-arbitration with the undersigned. Accordingly, on January 16, 2009, a telephonic mediation-arbitration session was held with representatives of the parties. During the mediation phase, the parties were not able voluntarily to resolve the outstanding issue. In reaching this decision, I have considered the entire record in this matter, including the parties' final offers, pre-conference written submissions, and oral statements of position.

BACKGROUND

The Employer's mission is to fairly enforce tax laws, respect taxpayer rights, collect taxes and help educate the taxpayer. The Union represents approximately 90,000 professional and non-professional employees nationwide at the IRS headquarters, service centers, regional offices and numerous field offices. The IRS/NTEU National Agreement (NA) covering these employees expired in 2006, but the parties are continuing to follow most of its terms until a successor agreement is effectuated.

ISSUES AT IMPASSE

The sole issue in dispute is whether the Employer should provide a Union office at the Bakersfield POD in addition to the office the Union is already being provided at the Camarillo POD.^{1/}

POSITIONS OF THE PARTIES

1. The Union's Position

The Union proposes to create a Union office in the Bakersfield POD by combining two interview rooms. Its proposal is consistent with the Factfinder's recommendation that the Chapter President be provided private office space similar to his previous location in Bakersfield. According to the Union, the Bakersfield POD has four interview rooms that are hardly ever used. Revenue Agents and Officers, who are the primary users of the interview rooms, are mandated to be out of the office 20 percent of the time, where they do most taxpayer interviews. Combining the two interview rooms would still leave the Employer with two interview rooms that would more than meet its business needs.

2. The Employer's Position

The Employer proposes to maintain the Union's current situation in the Bakersfield POD whereby the size of the Chapter President's office is commensurate with his work status as a Revenue Officer. In addition, the Chapter President can reserve an interview or conference room as needed to conduct representational activities. It also proposes to store the Union's file cabinets in the storage room with the Union having access to that room. According to the Employer, the Chapter

^{1/} To assist them in resolving issues that arose during negotiations over the relocation, the parties engaged the services of a Factfinder consistent with Article 15, Section 3 of the NA. Under that Article, a factfinder has the authority to recommend a resolution to the parties, and any disputes remaining after submission to the factfinder may be resolved by the Panel. The Factfinder assisted them in reaching settlements on all of the other issues associated with the relocation but the Union office space issue.

President's current workstation is sufficient to conduct both his regular duties and his Union activities. The Union can use one of the four interview rooms or conferences rooms, as needed, to conduct meetings with employees and the Employer is developing an electronic calendar for the Union that will give the Chapter President the ability to schedule meetings even when away from his workstation. The need for more office space is unwarranted as the Chapter President is on travel status over 50 percent of the time. Moreover, when he is at the Bakersfield POD his Union workload is insufficient to justify an increase in office space.

CONCLUSION

Having carefully considered the arguments and evidence presented in this case, I conclude that the impasse should be resolved on the basis of a compromise that would provide the Union with an office of at least 100 square feet and no more than 156 square feet for its exclusive use to conduct Union activities. The Employer would have the discretion to determine the location of the office consistent with the aforementioned parameters. In my view, this addresses the Union's concerns regarding adequate privacy and space by allowing it to properly represent its bargaining unit and conduct its representational activities without having an adverse impact on the Employer's operations.

DECISION

The Employer shall provide the Union with an office of between 100 and 156 square feet for its exclusive use to conduct Union representational activities. The Employer shall have the discretion to determine the location of the office at the Bakersfield POD consistent with these parameters.

Grace Flores-Hughes
Arbitrator

January 17, 2009
Alexandria, Virginia