

FILED

SEP 18 2015

STATE OF NEVADA
E.M.R.B.

STATE OF NEVADA
LOCAL GOVERNMENT EMPLOYEE-MANAGEMENT
RELATIONS BOARD

ELKO COUNTY EMPLOYEES
ASSOCIATION, NEVADA CLASSIFIED
SCHOOL EMPLOYEES AND PUBLIC
WORKERS ASSOCIATION LOCAL 6181,

Complainants,

vs.

ELKO COUNTY,

Respondent.

CASE NO. A1-046068

ORDER

ITEM NO. 807

On the 18th day of August, 2015, this matter came on before the State of Nevada, Local Government Employee-Management Relations Board ("Board") for consideration and decision pursuant to the provisions of the Local Government Employee-Management Relations Act ("the Act") NRS Chapter 288. The Board held an administrative hearing on this matter on May 5-6, 2015, in Elko, Nevada. Pursuant to the request of the parties, post-hearing briefs were submitted to the Board in lieu of oral closing arguments.

The complaint in this matter concerns an allegation of discrimination under NRS 288.270(1)(f) surrounding two former employees of Elko County's Ambulance Service and the County's exclusion of these employees from overtime opportunities.

Prior to 2007 the Elko County Ambulance Service was a volunteer operation. In 2007 the County began to transition the service to a more advanced life support operation. In order to accommodate this move, Elko County began hiring full-time employees for the Ambulance Service with the paramedic certifications that are necessary to operate an advanced life support service. Some of the first employees hired by the County in this transition were Marcey Logsdon and Richelle Rader. Employees in the Ambulance Service are represented by the Elko County Employees Association ("Association").

1 In order to provide the necessary round-the-clock coverage for the Ambulance Service,
2 the County utilizes both scheduled overtime and extra overtime. Scheduled overtime is time that
3 an employee was regularly scheduled to work. The Board heard testimony that scheduled
4 overtime typically consisted of two 24-hour shifts, for a total workweek of 48 hours. A 48-hour
5 workweek such as this included 8 hours of scheduled overtime per week. Apart from scheduled
6 overtime, the County also offered extra overtime. Extra overtime was an irregular amount
7 additional time that was needed to cover special events, such as rodeos, or to respond to
8 emergency incidents, such as large automobile accidents. Overtime is significant because of the
9 increased wage rate that applies to overtime work and the increased compensation to employees
10 who work overtime. The Association claims that Ms. Logsden and Ms. Rader were the victims
11 of discrimination based upon personal reasons and based upon sex when the County denied
12 them the opportunity to work scheduled overtime and denied them the ability to take advantage
13 of the extra overtime opportunities that were made available to their co-workers.

14 Marcey Logsden was, and is, a registered nurse with an EMS endorsement. She was
15 hired by the County on August 7, 2007 as an EMT paramedic-ALS-RN-EMS. Because of Ms.
16 Logsden's advanced qualifications she was hired at the top of the salary range for this position,
17 which was Step 3 - \$21.21 per hour at the time. By the time she left employment with the
18 County in September of 2012, Ms. Logsden's base wage rate had increased to \$26.01 per hour.
19 According to Ms. Logsden's testimony, during the first two years of her employment with the
20 County she routinely worked shifts that included scheduled overtime, the two 24-hour shifts per
21 week mentioned above. Ms. Logsden testified that this occurred while Bill Webb was the
22 Director of the Ambulance Service. However, Director Webb left the position of Director of the
23 Ambulance Service sometime in 2010 and was replaced by Jeff Scierine. From that point on
24 Ms. Logsden was taken off of scheduled overtime shifts and worked a 40-hour per week shift
25 for the remainder of her time with the County. This shift did not include any scheduled
26 overtime.

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1 Richelle Rader was hired by the County on August 2, 2007. She was hired as an EMT-
2 intermediate with a base wage rate of \$14.70 per hour. Shortly after being hired, Ms. Rader
3 attended an extended paramedic school in Texas at the County's expense and was subsequently
4 certified as a paramedic. With her advanced qualifications the County raised Ms. Rader's wage
5 rate. Ms. Rader testified that this increase was approximately ten dollars per hour more, but
6 precise figures were not supplied to the Board. At the time she left employment with the County
7 in September of 2012, Ms. Rader's base wage rate was \$24.52 per hour. Similar to Ms.
8 Logsden, Ms. Rader was moved from a 48 hour per week work schedule to a 40 hour per week
9 schedule after Director Webb left sometime in 2010, although Ms. Rader testified that she went
10 back and forth between a 40 hour workweek and a 48 hour workweek for short stint after
11 Director Webb left. Notwithstanding this temporary reversion to scheduled overtime in 2010,
12 by 2011 Ms. Rader has been permanently excluded from any scheduled overtime shifts.

13 Ms. Logsden and Ms. Rader were the only ambulance staff employees who worked 40-
14 hour workweeks. The County's other EMT's and paramedics remained on the 48-hour
15 workweeks. This fact did not go unnoticed by Ms. Logsden and Ms. Rader. In addition to the
16 lack of any scheduled overtime Ms. Logsden and Ms. Rader were effectively excluded from
17 extra overtime opportunities as well. While the County did not absolutely forbid Ms. Logsden
18 and Ms. Rader from working extra overtime, it did dictate that Ms. Logsden and Ms. Rader
19 were, quite literally in this case, the last in line for extra overtime opportunities. Ms. Rader
20 testified that for a time she worked as scheduling director and she kept a card box with each
21 employee's contact information on a card. When extra overtime was available she worked
22 through that card box from the front to the back contacting the employees to offer the overtime
23 to them. Ms. Rader testified that she and Ms. Logsden's information was kept at the back of that
24 card box, making them the last employees to whom extra overtime would be offered.¹ This
25 was no accident, but came by direction of the current Director of Ambulance Services
26 Christopher Sloman, who was hired in May of 2010 to replace Jeff Scierine.

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¹ The County later moved to an electronic notification system for extra overtime opportunities.

1 The evidence before the Board demonstrated the glaring disparity in overtime
2 distribution. Joint exhibit 19 showed the overtime allocation for 2011. In 2011 each ambulance
3 staff employee recorded 416 hours of scheduled overtime, except for Ms. Logsden and Ms.
4 Rader, who each recorded 0 hours of scheduled overtime. During that same year extra overtime
5 hours varied greatly among the other employees, but each employee recorded at least 116 hours
6 or more of extra overtime. Ms. Rader was able to work only 95 hours of extra overtime in
7 2011, and a mere 9 hours of extra overtime trickled down to Ms. Logsden for the year. In
8 contrast, the employee with the highest overtime total for that year worked 1,445 total hours of
9 overtime. The inability to work overtime along with their co-workers and the lost economic
10 opportunity for overtime work forced both Ms. Logsden and Ms. Rader to seek secondary
11 employment outside the County.

12 Joint Exhibit 21 showed that for the first half 2012 the same trend continued. Ms.
13 Logsden and Rader each recorded 0 hours of scheduled overtime. During that time Ms. Rader
14 was able to obtain 27 hours of extra overtime and Ms. Logsden only 4.8 hours. In contrast, the
15 employee with the next lowest overtime totals had recorded 298 hours of total overtime during
16 that same time period.

17 The County does not dispute this overtime disparity, but claimed that it was an attempt
18 to minimize labor costs. The evidence at the hearing did establish that Ms. Logsden and Ms.
19 Rader's base wage rate was significantly higher than the base wage rate of the other ambulance
20 staff employees. Joint exhibit 20 detailed the disparity in wage rates. In July of 2012, Ms.
21 Logsden's base wage rate was \$26.01 per hour and her overtime rate was \$39.02 per hour. Ms.
22 Rader's base wage rate was \$24.52 per hour and her overtime rate was \$37.78 per hour. In
23 contrast, the base wage rate of the other ambulance staff employees ranged from \$12.85 per
24 hour to \$18.75 per hour and the overtime wage rate ranged from a low of \$19.28 per hour to a
25 high of \$28.13 per hour. The County's explanation was that allocating overtime to the
26 employees with the lower wage rate was simply an attempt to save money. The Board heard
27 from the County's Assistant Manager and Chief Financial Officer, Mr. Cash Minor, that the
28 Ambulance Service was established as an enterprise fund entity, meaning that it was anticipated

1 that the Ambulance Service would be able to pay for itself. Mr. Minor testified that not only
2 was the Ambulance Service not able to pay for itself, but that it was "hemorrhaging" money at
3 the time. In addition to Mr. Minor's testimony, the County introduced documentary evidence
4 showing the financial condition of the Ambulance Service at the time and the rate at which the
5 service was losing money. The County contends that it was only these significant financial
6 concerns that led to its decision to try to control costs by excluding Ms. Logsden and Ms. Rader
7 from overtime work and leaving overtime to the employees with lower wage rates.

8 Not surprisingly this disparity in wage rates and overtime opportunities led to
9 frustrations and conflict among the ambulance staff employees and between the staff employees
10 and Director Sloman. Ms. Rader testified about the work environment at the Ambulance
11 Service. She testified that she was frequently the target of comments by her co-workers to the
12 effect that she should be fired because she was paid a higher wage rate. Both Ms. Logsden and
13 Ms. Rader testified to their own frustrations at being excluded from overtime opportunities. Ms.
14 Rader even attempted to engage the County in direct dealing to negotiate for a lower wage rate
15 in order for her to be able to work overtime alongside her co-workers. The County declined to
16 negotiate directly with Ms. Rader. Both Ms. Logsden and Ms. Rader complained repeatedly to
17 Director Sloman about their exclusion from overtime opportunities, and Director Sloman
18 admitted to becoming frustrated with the complaints about the overtime distribution. Director
19 Sloman met these complaints by informing Ms. Rader and Ms. Logsden that the County was
20 attempting to save on costs.

21 Those mutual frustrations continued to grow. The Board heard evidence of one occasion
22 in April of 2012 where Director Sloman disciplined Ms. Rader with a verbal reprimand for
23 working overtime. Ms. Rader claimed that the extra time was necessary to complete a call that
24 had begun during her regular shift. In response to that discipline, Ms. Rader unsuccessfully
25 appealed that discipline and in doing so complained that the County's overtime system was
26 discriminatory. This accusation brought a brusque rejoinder from Director Sloman. In February
27 2012 Ms. Logsden was given an unsatisfactory performance evaluation that she asserted was
28 based upon the constant frustrations and her constant objections to the overtime allocation

1 process. In September of 2012 both Ms. Logsden and Ms. Rader left the County. Ms. Rader
2 testified that she resigned because she felt like she had a target on her back and that Director
3 Sloman was looking for reasons to discipline her. Ms. Logsden also testified that she felt as
4 though she had a target on her back and that she was under the impression that Director Sloman
5 was looking to force her out. Her resignation email of September 4, 2012 cited hostile
6 treatment, an unprofessional working environment and discrimination against her as the reasons
7 for her resignation.

8 The Association filed this complaint on July 11, 2012, before either Ms. Logsden or Ms.
9 Rader had resigned. The complaint contends that Ms. Logsden and Ms. Rader were the victims
10 of unlawful discrimination for personal reasons in violation of NRS 288.270(1)(f). The
11 Association claims discrimination based upon the fact that the County allowed other employees
12 of the Ambulance Service to work extensive amounts of overtime while denying Ms. Logsden
13 and Ms. Rader the opportunity to work and earn overtime compensation. The Association also
14 claimed that Ms. Logsden and Ms. Rader were the victims of sex discrimination, and the
15 question of sex discrimination was properly placed at issue before the Board.

16 The County does not dispute the basic facts alleged by the Association, and
17 acknowledges that it excluded Ms. Logsden and Ms. Rader from overtime assignments, while
18 permitting and even requiring other employees of the ambulance service to work significant
19 amounts of overtime. The County contends that its sole reason for doing so was the higher
20 wage rate earned by Ms. Logsden and Ms. Rader, and argues that discriminating against Ms.
21 Logsden and Ms. Rader on the basis of their wage rate is not unlawful under NRS
22 288.270(1)(f). The County argues that the Ambulance Service was losing money and the
23 County's overtime practice that favored employees with a lower wage rate was an attempt to
24 minimize the costs of the ambulance service rather an act of unlawful discrimination.

25 Not every injustice in the workplace equates with a statutory prohibited labor practice
26 under NRS 288.270. The Act envisions that employee organizations and the collective
27 bargaining process are the primary means available to redress matters of compensation,
28 including overtime allocation, while this Board's authority is limited to statutory prohibited

1 labor practice matters. In matters of discrimination, a statutory prohibited labor practice occurs
2 only if the impetus for an employer's adverse actions against an employee is a class, status or
3 conduct that is identified as protected under the Act.

4 The Association contends that this denial of overtime opportunities shows unlawful
5 discrimination on the basis of personal reasons. The County argues that its actions were not
6 based upon personal reasons, but were based upon financial concerns, which it argues does not
7 amount to a "personal reason" under the Act. We agree with the County.

8 NRS 288.270(1)(f) states that it is a prohibited labor practice for a local government
9 employer to discriminate against a local government employee "...because of political or
10 personal reasons or affiliations." In applying this section, this Board has long accepted the
11 meaning of the term "personal reasons" to include "non-merit-or-fitness" factors, and would
12 include the dislike of or bias against a person which is based on an individual's characteristics,
13 beliefs, affiliations, or activities that do not affect the individual's merit or fitness for any
14 particular job." Kilgore v. City of Henderson, Item No. 550H, Case No. A1-045763 (March 30,
15 2005). In order to state a *prima facie* case of discrimination under this portion of NRS
16 288.270(1)(f), a claimant must present credible evidence that personal reasons were a
17 motivating factor in the employers actions. *Id.*; Bisch v. Las Vegas Metro Police Dep't, 129
18 Nev. ___, 302 P.3d 1108, 1116 (2013) (adopting the modified Wright Line test to claims of
19 discrimination based upon political or personal reasons).

20 In this case, we find that the Association has not stated a *prima facie* case of
21 discrimination because "personal reasons" under NRS 288.270(1)(f) does not include an
22 employee's higher base wage rate. A contrary reading of "personal reasons" that would include
23 an employee's wage rate is not compatible with the Act as a whole.

24 As we recognized in Kilgore, the personal reasons anti-discrimination clause is intended
25 to protect an employee from adverse actions that are motivated by concerns that are unrelated to
26 the employee's merit or fitness for a job, such as beliefs or affiliations. The wage rate that an
27 employer pays to the employee does not correspond to any of the categories we identified in
28 Kilgore. Nor is the wage rate entirely unrelated to the job or entirely personal to the employee.

1 An employee's rate of pay is of course a concern to the individual employee, but it is also a
2 matter of concern to a local government employer. Employee wage rates do impact the finances
3 of the local government employer, and we cannot say that wage rate is entirely personal to the
4 employee. NRS 288.150(5) recognizes a general management right for a local government
5 employer to manage its operation in what it deems to be the most efficient manner. To construe
6 "personal reasons" so as to include the wage rate paid to an employee by the local government
7 employer would tend to undermine this general management right. The main thrust of the
8 County's argument is consistent with NRS 288.150(5) and relies upon the notion that the
9 County's actions were motivated solely by a desire to control the costs of the Ambulance
10 Service, rather than any other reason.

11 Moreover, overtime allocation is a mandatory subject of bargaining under NRS
12 288.150(2)(a). Truckee Meadows Firefighters Local 2487 v. Truckee Meadows Fire Protection
13 District, Item No. 448A, Case No. A1-045650 (July 23, 1999). If this Board were to accept the
14 term "personal reasons" to include an employee's wage rate in this case, we would in effect be
15 finding that overtime allocation must be more or less equally allocated among employees
16 regardless of pay rates. A decision from this Board mandating a specific overtime allocation
17 practice based upon an employee's rate of pay is inherently incompatible with the overarching
18 purpose of the Act to promote full and fair negotiations on such mandatory subjects of
19 bargaining between an employer and a bargaining agent. See NLRB v. C&C Plywood Corp.,
20 385 U.S. 421 (1967). Such a decision would tend to remove overtime allocation from the
21 bargaining process of NRS 288.150, and place overtime allocation practices under the oversight
22 of this Board through the anti-discrimination provisions of NRS 288.270. This undermines the
23 collective bargaining process as a whole. The Act does not leave employees without any
24 recourse in the face of unfair overtime allocation practices, but that recourse is prospective and
25 allows for overtime allocation practices to be established and adjusted by agreement between an

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1 employer and the employees' chosen representative in the collective bargaining process rather
2 than redressed through a prohibited labor practice proceeding before the Board.²

3 For these reasons we do not accept the Association's position that "personal reasons"
4 under NRS 288.270(1)(f) includes an employee's wage rate paid by a local government
5 employer. If overtime allocation is unfair, as it was in this case, but is based solely on financial
6 considerations affecting the employer such as an employee's wage rate, then the employer does
7 not commit an act of discrimination based upon personal reasons under NRS 288.270(1)(f) due
8 to its overtime allocation practice. As the overtime allocation based upon wage rate in this case
9 does not fall within the meaning of a "personal reason" under NRS 288.270(1)(f), the
10 Association fails to demonstrate that protected personal reasons were a motivating factor in the
11 County's action against Ms. Logsden and Ms. Rader.

12 The foregoing analysis is based strictly upon the view that financial matters affecting the
13 County (personnel costs) are the sole basis for claiming personal reasons discrimination. The
14 Association did not show that any other "personal reason" was a motivating factor for excluding
15 Ms. Logsden and Ms. Rader from overtime allocation. The Board did hear some evidence of
16 personality conflicts between Ms. Rader, Ms. Logsden and management, particularly with
17 Director Sloman. But that evidence suggested that those personality disputes arose towards the
18 end of Ms. Logsden's and Ms. Rader's employment and after Ms. Logsden and Rader had
19 already been excluded from overtime. The evidence suggests that these conflicts grew out of the
20 overtime exclusion rather than demonstrating that they were a motivating factor behind the
21 overtime exclusion. Bisch, 302 P.3d at 1116. Even if we were to accept a personal dislike
22 between management and Ms. Logsden and Ms. Rader as a motivating factor, we would find
23 that the County met its burden of proof to show that it would have taken the same actions
24 against Ms. Logsden and Ms. Rader even in the absence of personal dislike, as the County's
25 motivation was financial and the overtime practice preceded the personality conflicts.

26 ² The Board heard some evidence suggesting that the County had changed its overtime policy in
27 2010 when Ms. Logsden and Ms. Rader were removed from the scheduled overtime shifts and
28 that the County changed its overtime policy again 2012. These changes were not at issue before
the Board in this case. We note that our analysis and decision in this matter should not be
construed as permitting an employer to make unilateral changes to existing overtime policy.

1 Finally, we do not see evidence that would support a finding that the County
2 discriminated against Ms. Logsden and Ms. Rader on the basis of sex. Sex discrimination
3 claims under NRS 288.270(1)(f) are analyzed under the burden-shifting approach stated in City
4 of North Las Vegas v. EMRB, 127 Nev. ___, 261 P.3d 1071 (Nev. 2011). In this case, the
5 evidence does show that the Association established a *prima facie* case of sex discrimination.
6 The undisputed evidence showed that Ms. Logsden and Ms. Rader were women who were
7 qualified for their jobs, and who suffered an adverse action when they were denied overtime
8 while similarly situated male employees were allowed significant amounts of overtime.
9 However the County articulated a legitimate non-discriminatory reason for its actions based
10 upon its attempt to control the costs of the Ambulance Service by preferring to schedule lower
11 wage employees for overtime shifts. The Association does not show that this reason was mere
12 pretext for unlawful sex discrimination. Indeed we find that this desire to control costs was the
13 true reason for the County's actions. Cash Minor testified that cost was the exclusive reason for
14 limiting Ms. Logsden's and Ms. Rader's overtime opportunities and the Board accepts this
15 testimony as credible. Because this is a legitimate non-discriminatory reason, un rebutted by the
16 Association, we find that the County did not discriminate against Ms. Logsden and Ms. Rader
17 on the basis of sex.

18 Based upon the foregoing, the Board makes the following findings of fact and
19 conclusions of law.

20 **FINDINGS OF FACT**

21 1. From August 7, 2007 to September 4, 2012 Marcey Logsden was employed by
22 Elko County as an EMT Paramedic-ALS-RN-EMS.

23 2. From August 2, 2007 to September 4, 2012 Richelle Rader was employer by
24 Elko County as an EMT-Intermediate and then as a paramedic.

25 3. At all times relevant to this matter, Ms. Logsden and Ms. Rader's base wage
26 rates were significantly higher than the wage rate of other paramedics and EMTs in the Elko
27 County Ambulance Service.

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1 4. After Bill Webb left the position of Director of Ambulance Services sometime in
2 2010, Marcey Logsden was removed from scheduled overtime and placed on a 40-hour
3 workweek.

4 5. After 2010 Richelle Rader was excluded from scheduled overtime and placed on
5 a 40-hour workweek.

6 6. All other ambulance staff employees (EMTs and paramedics) were on scheduled
7 overtime shifts of 48 hours per workweek; only Ms. Logsden and Ms. Rader were not on
8 scheduled overtime shifts.

9 7. No later than 2010, the County limited Ms. Logsden and Ms. Rader's
10 opportunities to work extra overtime shifts by offering extra overtime to all other ambulance
11 staff before offering extra overtime to Ms. Logsden and Ms. Rader.

12 8. Ms. Logsden and Ms. Rader each resigned from County employment effective
13 September 4, 2012.

14 9. The Ambulance Service in Elko County is an enterprise fund operation.

15 10. From 2009 to 2012 the Ambulance Service operated at a significant deficit.

16 11. The County's decision to exclude Ms. Logsden and Ms. Rader from overtime
17 opportunities was based on a desire to limit costs.

18 12. The personality conflicts that arose between Ms. Logsden and Ms. Rader and
19 other County personnel developed after the County had already excluded Ms. Logsden and Ms.
20 Rader from participating in overtime allocation.

21 13. The County would have excluded Ms. Logsden and Ms. Rader from participating
22 in overtime opportunities even absent any personal dislike or conflict between Ms. Logsden and
23 Ms. Rader and other County personnel.

24 14. Ms. Logsden and Ms. Rader are female.

25 15. Ms. Logsden and Ms. Rader were each qualified for their respective jobs with the
26 County.

27 16. Ms. Logsden and Ms. Rader were subject to an adverse employment action when
28 they were excluded from overtime opportunities.

1 17. Similarly situated male ambulance staff employees were not excluded from
2 overtime opportunities.

3 18. The County's excluded Ms. Rader and Ms. Logsden from overtime opportunity
4 based upon the County's financial concerns.

5 19. The County did not discriminate against Ms. Logsden and Ms. Rader due to their
6 sex.

7 20. If any of the foregoing findings is more appropriately construed a conclusion of
8 law, it may be so construed.

9 **CONCLUSIONS OF LAW**

10 1. The Board is authorized to hear and determine complaints arising under the
11 Local Government Employee-Management Relations Act.

12 2. The Complaint in this matter arose under NRS 288.270(1)(f).

13 3. The Board has jurisdiction over the parties and the subject matters of the
14 Complaint on file herein pursuant to the provisions of the Act.

15 4. The wage rate paid by a local government employer to an employee impacts the
16 employer's finances.

17 5. A local government employer has a general right to manage its operation in an
18 efficient manner under NRS 288.150(5).

19 6. Overtime allocation is a mandatory subject of bargaining under NRS
20 288.150(2)(a).

21 7. "Personal reasons" under NRS 288.270(1)(f) does not include the wage rate that
22 is paid to an employee by a local government employer.

23 8. The County did not violate NRS 288.270(1)(f) -- discrimination based upon
24 personal reasons -- when it excluded Ms. Logsden and Ms. Rader from overtime opportunities
25 based upon their wage rates.

26 9. The Association did not present credible evidence that personality conflicts or
27 personal dislike were a motivating factor in the County's decision to exclude Ms. Logsden and
28 Ms. Rader from overtime.

10. Even if the Association had established a *prima facie* case of discrimination based upon personal reasons, the County would have taken the same action against Ms. Logsdon and Ms. Rader based upon their wage rate and the County's financial concerns.

11. The Association has established a *prima facie* case of sex discrimination under NRS 288.270(1)(f).

12. The County has articulated a legitimate non-discriminatory reason for its actions based upon financial concerns and limiting the personnel costs of the Ambulance Service.

13. The Association has not shown that the County's proffered reason was mere pretext to sex discrimination.

14. The County did not violate NRS 288.270(1)(f) – discrimination based upon sex - when it excluded Ms. Logsden and Ms. Rader from overtime opportunities.

15. The Complaint against the County in this matter is not well-taken.

16. This matter raised a genuine legal dispute and an award of attorney's fees in this case is not warranted.

17. If any of the foregoing conclusions is more appropriately construed a finding of fact, it may be so construed.

ORDER

Based upon the foregoing and as set forth above,

IT IS HEREBY ORDERED that the Board finds in favor of Respondent Elko County;

IT IS FURTHER ORDERED that each side shall bear its own costs in this matter.

DATED this 18th day of September, 2015.

**LOCAL GOVERNMENT EMPLOYEE-
MANAGEMENT RELATIONS BOARD**

BY: BRENT ECKERSLEY, Esq. Vice-Chairman

BY: Sandra Masters
SANDRA MASTERS, Board Member

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1 One of the lowest paid staff members of this unit, Daniel Hassett, made \$69,518 or
2 \$16,000 more than either Logsden or Rader in 2011, when one considers his base salary and the
3 eye-popping amount of 1,350 hours in overtime. Mr. Hassett, it should also be noted, scheduled
4 the overtime for the EMS unit. Testimony showed that his roommate, Mike Hoover, logged an
5 even more incredible 1,445 hours of overtime. While Ms. Logsden logged 95 hours of overtime
6 and Ms. Rader logged 9 hours of overtime for the entire year, Mr. Hassett was working on
7 average 68.6 hours each week while Mr. Hoover was working an average of 70.5 hours each
8 and every week. These figures are based on a 50 week year assuming two additional weeks of
9 vacation. Does one really want to be transported or receiving medications by ambulance drivers
10 who are routinely working 70 hour workweeks? I think this is an unsafe labor practice, and
11 more to the point this concern undercuts the County's professed motivation in this case when
12 weighed against the comparative paltry savings that came about by discriminating against
13 Logsden and Rader.

14 The root of the discontent lay in the overtime restriction imposed upon Logsden and
15 Rader by Elko County management. It was undisputed that Logsden and Rader brought this
16 issue up quite frequently with their co-workers and with their management consisting initially
17 of Mr. Minor and subsequently with Mr. Sloman. One could conclude that these ladies
18 ultimately despaired of getting this restriction lifted and ultimately tendered their respective
19 resignations and moved on. Both Logsden and Rader testified, credibly in my mind, that they
20 felt like Director Sloman had painted a target on their back. It is readily apparent that Director
21 Sloman's job would be much less aggravating without the nuisance of Logsden and Rader
22 around to complain about the obviously unfair overtime distribution. The nightmarish work
23 environment endured by Logsden and Rader was not necessary for the County to save the mere
24 fistful of dollars that was supposedly so important in this case and suggests to me that personal
25 animus played a much greater role in this case than is reflected in the Board's decision.

26 Finally, the Elko County Commission approved a resolution increasing the rates charged
27 by the Ambulance Service for special events, effective December of 2011. Cash Minor testified
28 that with this increase in rates, the prohibition against Logsden and Rader working overtime was

1 lifted. I never saw anything introduced as evidence or in writing describing this policy on
2 behalf of Elko County regarding this policy directed toward Ms. Logsden and Ms. Rader insofar
3 as no overtime. This suggested to me that Elko County, or at least Director Sloman did not wish
4 to place their intentions or their policy into writing. This was particularly evidenced towards the
5 end of the hearing when the Association asked the County to stipulate to the fact that both
6 Logsden and Rader claimed they were never informed of Director Sloman's decision in
7 December 2011 to now allow both Logsden and Rader to work overtime for special events. The
8 County would not stipulate to this request, whereupon the Association had to put each lady back
9 on the witness stand, swear them in, in order to have them testify to this issue. Mr. Sloman it
10 appears would go to great lengths to avoid putting anything in writing regarding his or the
11 County's intention to eliminate any and all overtime for Ms. Logsden and Ms. Rader. The fact
12 of the matter is this could have been completely avoided had Mr. Sloman sent out a simple e-
13 mail or memo to his staff advising that as of this date, and for special event overtime, Ms.
14 Logsden and Ms. Rader could now work this if needed. This would have shown a clear date of
15 the e-mail, the distribution list to which it was intended, the subject matter material and a
16 statement from Mr. Sloman regarding allowing Ms. Logsden and Ms. Rader to begin to work
17 overtime for Special Events only. It suggests to me that Mr. Sloman and/or Elko County had no
18 desire to commit anything to writing with respect to this policy. It appears to me that even
19 though the County's financial concerns were assuaged on this special events issue in light of the
20 increased rates, the County still did not include Logsden and Rader in the overtime offers for
21 these events. Both Logsden and Rader, after being resworn, testified as much, and the numbers
22 again suggest that the truth is on the side of Logsden and Rader. Supposedly the special events
23 restriction was lifted in December of 2011, yet for the first half of 2012 Logsden and Rader
24 were on pace to work even fewer hours of extra overtime than they worked in 2011. I would
25 find that the County withheld special events overtime opportunities from Logsden and Rader.

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28 ///

1 This was based upon personal animus and dislike in violation of NRS 288.270(1)(f).

2 DATED this 18th day of September, 2015.

3 LOCAL GOVERNMENT EMPLOYEE-
4 MANAGEMENT RELATIONS BOARD

5 BY: 
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7 PHILIP E. LARSON, Chairman
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STATE OF NEVADA
LOCAL GOVERNMENT EMPLOYEE-MANAGEMENT
RELATIONS BOARD

ELKO COUNTY EMPLOYEES
ASSOCIATION, NEVADA CLASSIFIED
SCHOOL EMPLOYEES AND PUBLIC
WORKERS ASSOCIATION LOCAL 6181,

Complainant,

vs.

ELKO COUNTY,

Respondent.

CASE NO. A1-046068

NOTICE OF ENTRY OF ORDER

To: Elko County Employees Association, Nevada Classified School Employees and Public Workers Association Local 6181 and their attorney Michael E. Langton, Esq.

To: Elko County and their attorney Charlie Cockerill, Esq.

PLEASE TAKE NOTICE that an ORDER was entered in the above-entitled matter on September 18, 2015.

A copy of said order is attached hereto.

DATED this 18th day of September, 2015.

LOCAL GOVERNMENT EMPLOYEE-
MANAGEMENT RELATIONS BOARD

BY



MARISU ROMUALDEZ ABELLAR
Executive Assistant

CERTIFICATE OF MAILING

I hereby certify that I am an employee of the Local Government Employee-Management Relations Board, and that on the 18th day of September, 2015, I served a copy of the foregoing ORDER by mailing a copy thereof, postage prepaid to:

Michael E. Langton, Esq.
801 Riverside Drive
Reno, NV 89503

Ronald P. Dreher
Advocacy Investigation Services
PO Box 40502
Reno, NV 89504

Charlie Cockerill, Esq.
Thoran Towler, Esq.
Allison MacKenzie, Ltd.
402 N. Division St.
Carson City, NV 89703



MARISU ROMUALDEZ ABELLAR
Executive Assistant

