

EMPLOYMENT RELATIONS BOARD

OF THE

STATE OF OREGON

Case No. UP-83-99

SALEM-KEIZER ASSOCIATION OF)	
CLASSIFIED EMPLOYEES,)	
)	
Complainant,)	
)	FINDINGS AND ORDER ON
v)	COMPLAINANT'S PETITION
)	FOR REPRESENTATION COSTS
SALEM-KEIZER SCHOOL DISTRICT 24J,)	
)	
Respondent.)	
_____)	

This Board issued an Order in this matter on July 26, 2001. Complainant filed a petition for representation costs on August 16, 2001, to which Respondent filed objections on August 29, 2001. Respondent also petitioned for judicial review of the Order. The Court of Appeals affirmed the Order on January 29, 2003, and issued an appellate judgment on March 24, 2003. Pursuant to Board Rule 115-35-055, this Board makes the following findings:

- 1 Complainant is the prevailing party.
 - 2 Complainant filed a timely petition for representation costs. Respondent filed timely objections.
 - 3 Complainant requests an award of \$3,500, the maximum amount allowed in our rules under most circumstances. The request is based on 97.8 hours of services billed at \$125, \$120, and \$50 an hour, for a total of \$11,151.
 - 4 This case required two days of hearing, post-hearing briefs, and oral argument before this Board. The number of hours claimed is somewhat higher than typical for a two-day hearing. The hourly rates claimed are reasonable.
- Respondent contends that 7.3 of the claimed hours are duplicative and should be disallowed. Respondent also argues that the novel and unusual issues that arose in the case mitigate against a substantial award.
- 5 Complainant charged Respondent with a violation of ORS 243.672(1)(g) for refusing to implement a grievance arbitration award reinstating a discharged employee.

Respondent admitted that it refused to implement the award, but defended against the charge by asserting that the award was unenforceable as contrary to public policy. ORS 243.706(1) We concluded that the award did not violate public policy and that Respondent acted unlawfully by refusing to implement it. Although this case presented more procedural issues than typical in a dispute about an arbitration award, our review of the Order and the parties' arguments leads us to conclude that there was nothing particularly novel about the case itself or the analysis required. This Board typically makes larger than average awards in cases concerning refusals to arbitrate or refusals to comply with arbitration awards to further the Public Employee Collective Bargaining Act (PECBA) policy favoring arbitration to resolve disputes. There is no reason to vary from that practice here.

Having considered the appropriate amounts for services rendered, our awards in similar cases, and the policies and purposes of the PECBA, this Board awards Complainant costs in the amount of \$3,500.

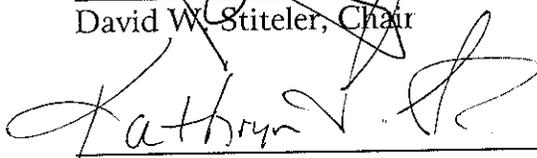
ORDER

Respondent is ordered to remit \$3,500 to Complainant within 30 days of the date of this Order.

DATED this 10th day of April 2003



David W. Stiteler, Chair



Kathryn T. Whalen, Board Member

This Order may be appealed pursuant to ORS 183.482.

Member Thomas Dissenting:

The issues regarding public policy and implementation of an arbitration award involving employee misconduct are not resolved. Until the Oregon Supreme Court has fully interpreted ORS 243.706(1), issues related to that statute are novel.

I respectfully dissent.



Rita E. Thomas, Board Member