

IN THE SUPREME COURT OF THE STATE OF NEVADA

WASHOE COUNTY SCHOOL
DISTRICT,
Appellant,

vs.

WASHOE EDUCATION ASSOCIATION;
WASHOE EDUCATION SUPPORT
PROFESSIONALS; AND LOCAL
GOVERNMENT EMPLOYEE-
MANAGEMENT RELATIONS BOARD,
Respondents.

No. 49961

FILED

APR 08 2009
TRACIE A. LINDEMAN
CLERK OF SUPREME COURT
BY: *[Signature]*
DEPUTY CLERK

ORDER OF REVERSAL AND REMAND

This is an appeal from a district court order denying a petition for judicial review of an Employee-Management Relations Board ruling. First Judicial District Court, Carson City; James Todd Russell, Judge.

This case arises from appellant Washoe County School District's decision to implement an all electronic payroll system. The School District determined that it would be more efficient and less costly to require that all employees either elect direct deposit or receive a pay card, thereby eliminating the customary payroll check. Respondents Washoe Education Association and Washoe Education Support Professionals objected to the forced electronic system. The School District petitioned respondent Local Government Employee-Management Relations Board for a declaratory order on the matter. After a hearing, the Board concluded that the payroll system was subject to mandatory bargaining pursuant to NRS 288.150(2)(a) because it was either "part of" or "significantly related to" salary or wage rates. The School District petitioned the district court for judicial review. The district court, after a hearing, denied the petition, finding that there was substantial evidence to support the Board's decision.

On appeal, the School District argues that the district court erred in two ways: (1) when it upheld the Board's decision that a direct deposit and pay card system was "part of" salary and wage rates and, therefore, subject to mandatory bargaining pursuant to NRS 288.150(2)(a); and (2) when it upheld the Board's decision that the direct deposit and pay card system was "significantly related" to salary and wage rates and, therefore, subject to mandatory bargaining pursuant to NRS 288.150(2)(a). In arguing that the direct deposit and pay card system was not "significantly related" to salary and wage rates, the School District urges this court to revisit Truckee Meadows v. Int'l Firefighters, 109 Nev. 367, 849 P.2d 343 (1993). As the parties are familiar with the facts of this case, we do not recount them except as necessary to this disposition.

DISCUSSION

Standard of Review

NRS 233B.135(3) provides that when a court is reviewing an administrative decision,

[t]he court shall not substitute its judgment for that of the agency as to the weight of evidence on a question of fact. The court may remand or affirm the final decision or set it aside in whole or in part if substantial rights of the petitioner have been prejudiced because the final decision of the agency is:

(a) In violation of constitutional or statutory provisions;

(b) In excess of the statutory authority of the agency;

(c) Made upon unlawful procedure;

(d) Affected by other error of law;

(e) Clearly erroneous in view of the reliable, probative and substantial evidence on the whole record; or

(f) Arbitrary or capricious or characterized by abuse of discretion.

Accordingly, “[w]hen reviewing an administrative decision, this court is limited to determining whether the decision is legally sound and is based upon substantial evidence.” Reno v. Reno Police Protective Ass’n, 118 Nev. 889, 893-94, 59 P.3d 1212, 1216 (2002). Questions of law are reviewed de novo to determine if “there has been a clear error of judgment.” Id. at 894, 59 P.3d at 1216. However, this court will affirm an agency’s decision concerning an issue of fact if it is supported by substantial evidence. Id. “Substantial evidence is evidence that a reasonable person would deem adequate to support a decision.” Id. at 899, 59 P.3d at 1219. Review of the administrative decision is limited to the record before the Board. Id.

Direct Deposit and Pay Card System


In upholding the Board’s decision, the district court did not have before it a record that sufficiently developed the issue of the cost of the direct deposit and pay card system to employees. The district court’s insufficient record means that we cannot now determine whether the direct deposit and pay card system are “part of” or “significantly related to” salary and wage rates and, therefore, subject to mandatory bargaining pursuant to NRS 288.150(2)(a). Accordingly, we remand this case to the district court with instructions to remand to the Board to determine the cost of the direct deposit and pay card system to the employees. The case should then be submitted to the district court for consideration as to whether the direct deposit and pay card system is “part of” or “significantly related to” salary and wage rates.

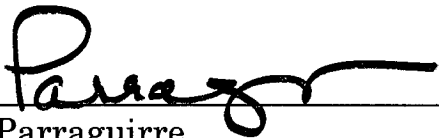
Further, we decline the School District’s invitation to revisit Truckee Meadows v. Int’l Firefighters, 109 Nev. 367, 849 P.2d 343 (1993). Since this court rendered its opinion in Truckee Meadows, the Legislature

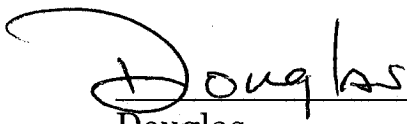
has not revised NRS 288.150(2) to reflect any dissatisfaction with the “significantly related” test in Truckee Meadows.¹

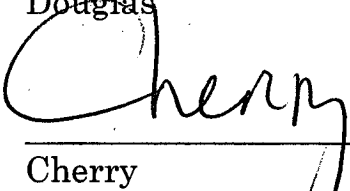
Accordingly, because we conclude that the district court did not have an adequate record as to the actual cost of the pay card system, we


ORDER the judgment of the district court REVERSED AND REMAND this matter to the district court for proceedings consistent with this order.²



_____, C.J.
Hardesty


_____, J.
Parraguirre


_____, J.
Douglas


_____, J.
Cherry


_____, J.
Saitta


_____, J.
Gibbons

¹We have considered all other issues raised on appeal, but do not reach them because we are remanding this case to the district court.

²The Honorable Kristina Pickering, Justice, did not participate in the decision of this matter.

cc: Hon. James Todd Russell, District Judge
Lester H. Berkson, Settlement Judge
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Attorney General Catherine Cortez Masto/Las Vegas
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Carson City Clerk