

Arbitration Panel Decision Under the Randolph-Sheppard Act

AGENCY: Department of Education.

ACTION: Notice of arbitration panel decision under the Randolph-Sheppard Act.

SUMMARY: Notice is hereby given that on October 20, 1993, an arbitration panel rendered a decision in the matter of *Michael Lawyer v. Illinois Department of Rehabilitation Services*, (Docket No. R-S/92-14). This panel was convened by the Secretary of the U.S. Department of Education pursuant to 20 U.S.C. 107d-2, upon receipt of a complaint filed by petitioner Michael Lawyer.

FOR FURTHER INFORMATION CONTACT: A copy of the full text of the arbitration panel decision may be obtained from George F. Arsnow, U.S. Department of Education, 600 Independence Avenue SW., Room 3230, Switzer Building, Washington, D.C. 20202-2738. Telephone: (202) 205-9317. Individuals who use a telecommunications device for the deaf (TDD) may call the TDD number at (202) 205-8298.

SUPPLEMENTARY INFORMATION: Pursuant to the Randolph-Sheppard Act (20 U.S.C. 107d-2(c)), the Secretary publishes a synopsis of arbitration panel decisions affecting the administration of vending facilities on Federal property.

Background

Michael Lawyer, complainant, is a blind vendor licensed by the Illinois Department of Rehabilitation Services (DORS), which is the State licensing agency under the Randolph-Sheppard Act. Mr. Lawyer began operation of the vending facility at the Cook County Hospital on October 1, 1990.

Mr. Lawyer was given a safe to be used to deposit monies from the facility. The safe subsequently broke, and Mr. Lawyer was advised by DORS that they could not furnish another one and that he would have to replace it. The facility had a rolltop safe that was used by other vendors to deposit their monies at the end of their workday. Instead of replacing the broken safe, the complainant began depositing his monies into this rolltop safe if he had a witness to verify the amount of his deposit. If complainant did not have a witness to verify the amount, he took the money home with him and returned it in the morning. Complainant believed this practice was accepted by his lead manager and carried it out on several occasions, without incident. On February 3, 1992, the lead manager issued complainant \$500.00 for use as working capital in order to make change. Mr. Lawyer was to return this

money to the lead manager at the end of his workday. Instead of returning the money, complainant took it home, where later that evening he was robbed and the money stolen. Mr. Lawyer was hurt during the struggle and had to be hospitalized for his injuries. A police report was filed that same day. Only after returning home from the hospital did he realize that the money had been stolen.

On March 17, 1992, DORS terminated complainant's license for violation of its rules governing facility money. Chapter IV, Sec. 650.100(m), 89 Ill. Adm. Code, states that facility money, product, equipment, or program assets shall not be removed from the facility by the vendor for personal use and that violation shall result in termination of the vendor's license. Mr. Lawyer contested the decision to revoke his license and was provided a Level II hearing on May 27, 1992, pursuant to DORS rules. The hearing officer found that DORS had properly terminated complainant's license. Mr. Lawyer then appealed the DORS decision to the U.S. Department of Education, and a hearing was convened on July 27, 1993.

Arbitration Panel Decision

The panel unanimously found that complainant did not have permission to remove the money in question from the facility and failed to use an available secure place to safeguard the facility assets. A majority of the panel members found that, although the complainant did not maliciously intend to appropriate the money for personal use, once the facility assets were removed from the facility, complainant took full control and possession of the assets for personal use in violation of Chapter IV, Sec. 650.100(m), 89 Ill. Adm. Code. However, one panel member dissented and held that personal use under the regulations means that the funds had to be used for direct personal gain such as purchasing goods or using the funds in a similar personal manner.

In recognizing that the loss of a vendor's license to a legally blind person with limited opportunity for gainful employment is a very severe penalty, the panel recommended that DORS convene another panel to review complainant's employment record to determine if his license should be returned. It also recommended that if DORS elects to return complainant's license, he should repay the \$500.00.

The views and opinions expressed by the panel do not necessarily represent the views and opinions of the U.S. Department of Education.

Dated: May 12, 1995.

Judith E. Heumann,

Assistant Secretary for Special Education and Rehabilitative Services.

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DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP95-484-000]

ANR Pipeline Co.; Notice of Application

May 12, 1995.

Take notice that on May 4, 1995, ANR Pipeline Company (ANR), 500 Renaissance Center, Detroit, Michigan 48243 filed an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon an exchange service between ANR, formerly Michigan Wisconsin Pipe Line Company and Transwestern Pipeline Company (Transwestern), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

ANR states that, in Docket No. CP79-422, the Commission authorized an exchange between ANR and Transwestern dated August 15, 1978, as amended. It is stated that the service is designated as Rate Schedule X-89 under Original Volume No. 2 of ANR's FERC Gas Tariff, and Rate Schedule X-15 under Original Volume No. 2 of Transwestern's FERC Gas Tariff. ANR states that, in a letter dated June 16, 1993, Transwestern exercised its right to terminate the service. ANR contends that, on November 14, 1994, Transwestern filed an application in Docket No. CP95-70-000 to abandon, inter alia, exchange service with ANR under its Rate Schedule X-15, which corresponds to ANR's Rate Schedule X-89. Accordingly, ANR requests permission to abandon the above described exchange service. It is stated that no facilities are proposed to be abandoned.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 2, 1995, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in