

1. Grievant(s)  
A.F.G.E. Local 801 for Barry Kendall

2. Duty Station:  
F.C.I. Waseca, Waseca, MN

3. Representative of Grievant(s)  
(name person)  
William Joenks Jr, Union President, A.F.G.E.  
Local 801 or his representative

4. Informal resolution attempted with:  
D. Dubbs, Associate Warden

5. Federal Prison system Directive, Executive Order, Statute violated: 5 USC 2302 Prohibited Personal practices, Master Agreement, Article 3, Section C., Master Agreement, Article 6, Section B(2) and (6). Master Agreement, Article 23 section a and b and Master Agreement Article 33, and the Back Pay Act.

Please note that there is NO requirement by the Master Agreement to be specific in block 5. Please look at block 6.

IF THERE IS ANY QUESTION ABOUT ANYTHING IN THIS GRIEVANCE, PLEASE CONTACT THE LOCAL PRESIDENT

6. In what way were each of the above violated? Be specific  
In an attempt to be very specific, an attachment is added as the space for this block does not allow for this much specificity. SEE ATTACHMENT

7. Date(s) of violation(s)  
The union became aware of this issue on March 28, 2008

8. Request remedy (i.e., what you want done)  
In an attempt to be very specific, an attachment is added as the space for this block does not allow for this much specificity. SEE ATTACHMENT

9. Person with whom filed  
R. Rios

10. Title  
Warden

11. Signature of recipient

12. Date signed

I hereby certify that efforts at informal resolution have been unsuccessful.

13. Signature of Grievant(s)  
/s/  
A.F.G.E. Local 801 for Barry Kendall

14. Signature of Representative  
/s/  
William Joenks Jr, Union President, A.F.G.E.  
Local 801 or his representative

**FORMAL GRIEVANCE- ATTACHMENT # 1**

**Section 6. In what way were each of the above violated? Be specific:**

Sometime in March 2007, Barry Kendall, VT (Wood) Instructor, applied for the Temporary (NTE 1 Year) Maintenance Worker Supervisor (WS-4749-08) position. When Mr. Kendall turned in his application, the Employee Services Department placed Mr. Kendall's application on the Merit Promotion Procedures. Subsequently, the position was given to David Johnson, Warehouse Supervisor who had far less experience than Mr. Kendall's 11 yrs of hands on trade experience. Sometime after turning his application, Mr. Kendall received a response back which stated he was qualified for the position but not amongst the best qualified.

Nearly a year later, Mr. Kendall applied for the position Maintenance Worker Supervisor, 4749-08 WAS-2008-0009-FCI Waseca. On March 12, 2008, Mr. Kendall received a notice from S McGrady, Grand Prairie, TX, stating that David Johnson was selected for the position and that Mr. Kendall received consideration for selection as part of the "non-competitive" group. Mr. Kendall did not understand the terminology of "non-competitive" group, he responded to Ms. McGrady asking what "non-competitive" group meant and not qualified. Ms. McGrady responded stating his application was not placed on the Merit Promotion Listing, rather it was placed on the Exception Listing.

After receiving the response from Ms. McGrady, Mr. Kendall went to Lisa Roach, ESM, and asked her why his application for the Temporary (NTE 1 Year) Maintenance Worker Supervisor (WS-4749-08) position was placed on the Merit Promotion Listing, rather it be placed on the Exception Listing. In a March 18, 2008 written response from Ms. Roach, she stated, " I cannot explain why you were erroneously considered under Merit Promotion Procedures, but I can assure you that it was an unintentional error."

By their actions in March 2007, the Employee Services Department failed to administer all matters covered by the Master Agreement, Agency officials, Union officials, and employees are governed by existing and/or future laws, rules, and government-wide regulations in existence. Their actions also holds a negative financial effect on Mr. Kendall and potentially hindering departmental mobility. Mr. Kendall was also denied the right to be treated fairly and equitably in all aspects of personnel management.

It is obvious that Mr. Kendall's experience could not have been considered. Mr. Kendall has a much higher qualification than Mr. Johnson. Mr. Kendall has taught construction trades to inmates for the past six years and has built and assisted building several homes. Mr. Johnson was the Warehouse Supervisor, which has zero specialty trade skills. Because of this, Mr. Kendall was denied the right to be treated fairly and equitably in all aspects of personnel management.

On April 17, 2008, the union attempted to informally resolve this grievance with Associate Warden Dubbs. Mr. Dubbs did not respond within the 10 (ten) days as outlined in the Master Agreement.

Managements violations include: 5 USC 2302 Prohibited Personal practices, Master Agreement, Article 3, Section C., Master Agreement, Article 6, Section B(2)and(6). Master Agreement, Article 23 section a and b and Master Agreement Article 33 and the Back Pay Act.

**Section 8. Request remedy (i.e., what you want done)**

We request Mr. Kendall be made whole in every way to include;

1. any appropriate Back Pay Act, law, rules or regulations compensations,
2. all attorney fees, legal fees and other expenses incurred in the processing of this grievance be reimbursed by the agency,
3. any other remedy requested at hearing,
4. the grievant will suffer no reprisal, harassment, or intimidation, as a result of filling this grievance,
5. any other remedies as deemed necessary and appropriate by the arbitrator.

**IF THERE IS ANY QUESTION ABOUT ANYTHING IN THIS GRIEVANCE, PLEASE CONTACT THE LOCAL PRESIDENT.**