

RECEIVED
DEC 20 2024
W R & R

KATHERINE J. THOMSON
Arbitrator
El Cerrito, California
(510) 528-3005 (Phone and Fax)

Arbitrator's Case No. 650-OLC
County Grievance Nos. 85034-521
80771-521

**IN ARBITRATION PROCEEDINGS PURSUANT TO
AGREEMENT BETWEEN THE PARTIES**

In the Matter of a Controversy between

**SEIU LOCAL 521,
Employee Organization,**

and

**COUNTY OF SANTA CLARA,
Employer,**

Involving, Meal Reimbursement Grievances

**ARBITRATOR'S
OPINION AND AWARD**

December 17, 2024

APPEARANCES:

On behalf of the Employee Organization:

Kerianne Steele
Weinberg Roger & Rosenfeld
1375 55th Street
Emeryville, CA 94608
(510) 337-1001

On behalf of the Employer:

Jeffrey Gaskill
Principal Labor Relations Representative
County of Santa Clara
70 West Hedding St. East Wing, 8th Floor
San Jose, California 95110-1770
(408) 234-7343

This arbitration involves two consolidated grievances for James Foreman, Mariann Waddel and all affected employees. It arises pursuant to the agreement between the COUNTY OF SANTA CLARA, hereinafter the County or Employer, and SEIU LOCAL 521, hereinafter the Union. KATHERINE J. THOMSON was selected as Arbitrator pursuant to Section 19.6 of the agreement between the parties, under which this award is final and binding on the parties.

The parties had full opportunity to call witnesses and present evidence and argument during an evidentiary hearing, which was held by videoconference on October 10, 2024. Witnesses were sworn. A verbatim record of the hearing was prepared, and a transcript was made available. The record was closed on November 12, 2024, when the Arbitrator received a post-hearing brief from the Union, oral closing argument having been made by the County, and the matter was submitted for decision. The parties stipulated that the Arbitrator will retain jurisdiction over the award resulting from this proceeding for a period of 12 months for purposes of resolving any dispute over implementation of the remedy, if any, but not to reconsider the merits of the decision, which is final.

STATEMENT OF THE ISSUE

The parties were unable to stipulate to the issue to be determined, but stipulated at the hearing that the Arbitrator may craft the issue statement based on their proposals, the collective bargaining agreement, the grievance, and their arguments and evidence. The Union proposed:

Whether the County violated Section 8.4(b) and Article 27 of the MOAs by failing to pay Social Services Agency employees \$14 when the employees were assigned and worked two (2) or more hours of overtime work contiguous to the workers' regular work shift and/or for every seven (7) hour period of overtime completed thereafter; and if so, what is the appropriate remedy?

The County proposed:

1. Is the matter properly before the Arbitrator; and

2. If so, did the county violate Section 8.4(b), of the 2019 to 2023 MOA and the 2023 to 2026 MOA when it failed to reimburse SSA employees qualified for an overtime meal reimbursement when those employees teleworked?

The Arbitrator notes that only the first grievance cited Article 27 and there was no argument from either party about Article 27. The Arbitrator will decide the following issues:

1. Is the matter properly before the Arbitrator?
2. If so, did the county violate Section 8.4(b), of the 2019 - 2023 MOA and the 2023 - 2026 MOA when it failed to pay Social Services Agency employees \$14 when the employees were assigned and worked two (2) or more hours of overtime work contiguous to the workers' regular work shift and/or for every seven (7) hour period of overtime completed thereafter; and if so, what is the remedy?

RELEVANT CONTRACT LANGUAGE

The parties' collective bargaining agreement (MOA), effective March 9, 2020 through June 25, 2023, (Joint Exhibit 2), and their successor agreement effective August 14, 2023, (JX 1) stated:

ARTICLE 8.4 MEAL PERIODS

... b) Overtime Meals

If a worker is assigned and works two (2) or more hours of overtime work contiguous to the worker's regular work shift or is called in within three (3) hours of the worker's scheduled quitting time and then works two (2) or more hours of overtime work, the County will pay a meal reimbursement of fourteen (\$14.00) dollars. Workers shall be provided an additional reimbursement as above for every seven (7) hour period of overtime completed thereafter. If a worker is called in after three (3) hours of his/her scheduled quitting time and if less than two (2) hours prior notice is given and the worker then works four (4) or more hours of overtime, then the County will pay a meal reimbursement of fourteen (\$14.00) dollars. Workers authorized meals pursuant to Section 8.4(c) or otherwise provided meals at no cost, are not eligible for meal reimbursement as outlined in this section.

ARTICLE 19 - GRIEVANCE PROCEDURE

Section 19.1 - Grievance Defined

...[A]n alleged violation, misinterpretation or misapplication of the provisions of this Memorandum of Agreement, Department Memoranda of Agreement and/or Understanding, Merit System Rules, or other County ordinances, resolutions, Policy and/or Procedure Manuals, or alleged infringement of a worker's personal rights (i.e., discrimination, harassment) affecting the working conditions of the workers covered by the Agreement, except as excluded under MOA section 19.1(b).

Section 19.1(b) excludes from consideration under the grievance procedure:

- ...
7. Items within the scope of representation and subject to the meet and confer process.

...

ARTICLE 27 – FULL AGREEMENT

It is understood this Agreement represents a complete and final understanding on all negotiable issues between the County and its Departments and the Union. This Agreement supersedes all previous memoranda of understanding or memoranda of agreement between the County and its Departments and the Union except as specifically referred to in this Agreement. All ordinances or rules covering any practice, subject or matter not specifically referred to in this Agreement shall not be superseded, modified or repealed by implication or otherwise by the provisions hereof. The parties, for the term of this Agreement, voluntarily and unqualifiedly agree to waive the obligation to negotiate with respect to any practice subject or matter not specifically referred to or covered in this Agreement even though such practice, subject or matter may not have been within the knowledge of the parties at the time this Agreement was negotiated and signed. In the event any new practice, subject or matter arises during the term of this Agreement and an action is proposed by the County, the Union shall be afforded all possible notice and shall have the right to meet and confer upon request. In the absence of agreement on such a proposed action, the County reserves the right to take necessary action by Management direction.

FACTUAL SUMMARY

Mariann Waddel and James Foreman are social workers in the County Social Services Agency. Waddel has also been a Union steward. The agency has three departments: Family and Children Services (DFCS), Aging and Adult Services, and Eligibility and Benefit Services (DEBS).

In 2019 and 2020, social worker Alex Lesniak worked in the Department of Family and Children Services in the Dually-Involved Youth unit. She testified she and her coworkers were offered the choice to work either an alternative schedule or to telework one day per week in 2019. Lesniak teleworked one day a week prior to March 2020, either Wednesdays or Thursdays. She would sometimes work entirely from home on her telework day. Sometimes she worked at home and in the field.

Lesniak consistently worked overtime, even on telework days, and received a meal allowance if she worked at least two hours contiguous with her shift. At that time, the time cards did not require the employee to specify whether the overtime work contiguous to a shift was at home, at a County facility, or in the field. (UX 10, pp. 1, 2) She had never been required to state where she performed overtime work to obtain a meal allowance. She had never had to provide a receipt or attest that she did not bring food

from home. The meal allowance was taxable income on her paystub, not an expense reimbursement. (UX 9)

In evidence was an emailed request for timecard amendment to claim overtime pay and the meal allowance for Wednesday, July 10, 2019, and Thursday, July 11, 2019. (UX 8) The Wednesday was a telework day; on Thursday she worked off-site. She received meal allowances for both days. Later in the month she also worked overtime for at least two hours contiguous to her shift eight times in the two-week pay period. She received 8 meal allowances, including two for overtime on Wednesdays and two for overtime on Thursdays. (UX 10) She sometimes began a telework day at home and then went into the field. Her supervisor would not necessarily know where she worked from looking at the timecard or overtime authorization documentation.

Valerie Pickering was a supervisor in DFCS during a pilot¹ telework project before the pandemic. She worked overtime when she was teleworking one or two days per week. She testified there was a lot of mandatory overtime for social workers at the time. She approved social worker overtime and timecards. She was not required to ask for receipts or ask where the social workers obtained their meals. She knew of no distinction in eligibility for meal allowances between teleworked overtime work and overtime worked in the field or office. She testified it was common for social workers to complete work at home on overtime, although it was not officially considered telework.

The Grievants were required to fill in a form for overtime approval. It did not require employees to state where they performed the overtime work. (UX 10, p.2) The timecard also did not have a place to indicate that the employee teleworked.

Mariann Waddel was a social worker in Emergency Response until 2022, when she became a social work supervisor. When she was in Emergency Response unit, she did overtime work at home, even though it was not officially teleworking. She received the meal allowance when she worked the requisite amount of contiguous overtime. She

¹ County witness Wendy Kinnear-Rausch did not recall this pilot project in DFCS in 2019. It appears her attention is focused on issues other than employment matters, as she also believed meal reimbursements were not available for contiguous overtime work while she was in SEIU-represented classifications prior to 2010. The provisions have existed essentially the same since 1996.

received the allowance whether she worked overtime in the field, at home, or at the office.

Waddel testified that her work on a child abuse hotline prevents her from leaving her desk to prepare or get a meal. She has three monitors, which allow her to take notes, look up family history, consult with a supervisor, and type a report during the call and then submit it to clerical employees. Handling a call in her kitchen would breach confidentiality requirements. She is unable to eat a meal while working.

Ana Labrador, a program manager in DEBS during the pandemic, explained that when working overtime past the end of shift, there is no meal break.

Due to the COVID-19 pandemic, the County issued a shelter-in-place order on March 16, 2020 (County Ex. 1). Beginning in March, much of the County workforce transitioned to full-time telework pursuant to public health orders dated March 31, May 4, May 18, July 2 and October 5, 2020 (CX 1). The majority of social workers and eligibility workers in the Social Services Agency began teleworking.

In evidence was a memorandum dated March 30, 2020, reminding employees to submit timecards and overtime authorization sheets. (UX 1) The reminder memo instructs recipients to provide total hours worked, start and end times, case number, and OT or comp time. It continues,

Meal Allowance: If you worked your regular 8 hour shift and continued working for an additional 2 hours, you are entitled to 1 meal allowance unit (\$13). Indicate on timecard in line #22. This also applies to 1 hour before your schedule and 1 hour after your schedule.

Pickering received this email, which was similar to other reminders she had received. Lesniak received a similar one from the administrative assistant in her unit after she began teleworking more often in March 2020.

James Foreman, an Eligibility Worker II in DEBS, started teleworking for the first time in early April 2020. No pilot teleworking project in DEBS had been introduced prior to the pandemic. He created a work station at home and sound-proofed the closet in

which he works due to the confidentiality of the information he handles. While teleworking full-time, he did not work overtime. Beginning in 2023, he began to telework two days a week and often worked overtime while teleworking. Foreman never has received a meal allowance for overtime he worked while teleworking. Prior to the pandemic he received meal allowances for overtime work contiguous to his shift. It was done automatically; he did not have to submit paperwork for it.

On April 3, 2020, the Social Services Agency received from the County Labor Relations office direction that it was “not to pay overtime meal for employees who are teleworking and working overtime hours.” (JX 8, p. 12) On April 7, Waddel contacted Labor Relations requesting that the County cease and desist violating Article 8.4 (b) and give an explanation. (JX 8, p. 11)

Labor Relations Representative Jeff Gaskill responded that the intent of section 8.4 was to provide compensation for a meal if extra hours were required to be worked and access to additional nourishment was not “readily available.” If working from home, he contended, meals would be readily accessible. (JX 8, p. 9)

On June 19, 2020, Employee Services Agency Director John Mills announced a new pay code for telework. (UX 11) He explained the reason for the new code as follows:

...To collect accurate data going forward regarding the number of employees teleworking on a part-time or full-time basis, a new payroll code Telework ST – 100, has been created to be used Countywide for all coded employees. This pay code is effective Pay Period 20/14 (Monday, June 15, 2020 through June 28, 2020) and should be used by all employees and timekeepers to report any hours teleworking/working from home or working in a non-County facility for the current pay period and on a go forward basis. ...

The Grievances

Waddel and two other stewards filed a grievance on April 29, 2020, citing violation of Article 8.4 and Article 27 and alleging the County had unilaterally changed the compensation. (JX 8, p. 1)

In its response, the County asserted both that working conditions had changed because of the emergency and that the Union's interpretation of Section 8.4 was erroneous. It asserted that the intent of the meal allowance was for "occasions an employee can not readily have access to a meal without an additional cost of purchasing it. ...Conceptually, when fully teleworking the employee does not have to leave their home for an additional meal and nourishment is readily available at home versus being away from home like a non-telework day." (JX 8, p. 5) He pointed to the exception in section 8.4 (b) that makes an employee ineligible for the meal allowance if an employee is provided a meal at no cost. He also affirmed that meal allowances would be paid for those working overtime in the field even on a teleworking day.

The Union filed a second grievance on September 7, 2023, signed by James Foreman under the 2023-2026 MOA. (JX 8, 028) It again alleged a violation of Section 8.4 (b).

Successor Negotiations

By the time of the second grievance, the parties had reached a successor collective bargaining agreement. California's Public Health Emergency had terminated on March 1, 2023, and the SSA had begun planning for a "rebalancing" of the structure of in-office work and telework that required working on-site three days a week effective July 1, 2023. (CX 5)

In Spring 2023, the County attempted to change the language of Section 8.4 in negotiations. It proposed excluding overtime work at telework sites from eligibility for the overtime meal allowance. It also proposed a requirement to provide a receipt for reimbursement. (UXs 2, 3)

The Union viewed the proposal as a takeaway and refused to agree. The proposed change was an outstanding issue when the unit members threatened to strike. On the last day of negotiations, the County dropped its proposal and agreed to the current contract language. (UX 4) The County's chief executive explained that the County dropped the language to resolve the negotiations. He noted that the parties had a difference of

interpretation of the language, but there were other forums to deal with the interpretation dispute.

Prior MOA Language

In the 1975, 1979 and 1981 MOAs, the language differed substantially in one respect. A clause obligated the County either to “provide a meal and time to eat” it or to reimburse meals “actually purchased and consumed by the worker on his/her own time.” (JX 4, 6, 7) In the July 1996 MOA, the language requiring actual purchase and consumption of the meal was deleted and the payment became a fixed allowance. (JX 5)

In the 2015 MOA, the parties included a new provision on telework. The language in Section 8.4 did not change. (JX 3) The County and the Union negotiated changes to the County’s draft policy as well as impacts. The Telework policy, issued July 2015, provided that there would be no change in salary and benefits, and other conditions of employment would not change unless addressed in the policy. (JX 8, p. 20)

POSITION OF THE UNION

The County violated Section 8.4(b) when it halted the payment of an overtime meal allowance to social workers who worked overtime from home for at least two hours contiguous to the start or end of their shift.

The plain language of the contract mandates a ruling in the Union’s favor. An employee is eligible for the meal allowance in three scenarios. The parties’ use of the phrase “called in” in the second and third scenarios indicates that they know how to specify the location where overtime work will be performed. If the parties wanted to limit eligibility in the first scenario to employees who work the contiguous overtime at a County facility or in the field, they would have expressly said so.

The circumstances that disqualify an employee from a meal allowance refer to instances when employees receive a County-provided meal. If the meal allowance was only intended to be provided when food was not readily available, the language would require receipts or a statement that a meal was not readily available.

Parole evidence should be disregarded. The testimony of Kinnear-Rausch, Labrador, Bovadilla, and Cottrel about the intent of the language is parole evidence that cannot be used to contradict, vary, supplement or amend the written contract.

Social workers who worked from home before the pandemic received the meal allowance when they performed overtime at home. They received the meal allowance at the start of the pandemic when they were teleworking because of the shelter-in-place orders until the County halted the practice. They have always received the meal allowance for contiguous overtime work in the field.

The allowance acknowledges employees' continuous work during the work day past the end of their shifts. It is not a reimbursement of expenses. Never before did the timecard contain a field for the employee to indicate they were teleworking. Employees have never had to demonstrate that food was unavailable to them to receive the meal allowance. Nor have they had to provide receipts for a "reimbursement." The meal allowance pay is reported in the employee's paycheck as earnings. Taxes are withheld.

The fact that the County did not have a telework pay code prior to June 19, 2020 is proof that the County never before considered or cared where the Social Services Agency employees performed the contiguous overtime for purposes of determining their eligibility for the meal allowance.

The County's proposal in 2023, to exclude telework overtime and require receipts, was not a mere clarification to conform the contract language to the County's existing practice. It is an admission by the County. The County abandoned its 2023 proposal to exclude teleworking overtime eligibility. Its abandonment must be viewed as an unsuccessful bargaining demand.

The grievance is properly before the Arbitrator. This is not a meet and confer. It was unnecessary for the Union to file an unfair practice charge with PERB because the contract promises the meal allowance.

The Grievants and all affected should be compensated retroactively for missed meal allowances with interest. The Arbitrator should order the County to pay meal

reimbursements to eligible teleworking social workers and to prepare a list of names of SEIU Local 521 represented Social Services Agency employees who performed at least two (2) hours of contiguous overtime at home and did not receive the meal allowance.

POSITION OF THE EMPLOYER

The grievances alleging violation of Article 8.4 are excluded from the grievance and arbitration process. The proper venue to file a complaint about unilateral changes is PERB.

It is undisputed the County did not pay a meal reimbursement under Section 8.4(b) to otherwise eligible workers while working from home, but did pay the allowance to those workers who qualified for the meal reimbursement while performing their duties away from their home at a County facility or in the field.

County employees did not work from their home full time prior to the pandemic. Public health orders forced the County to maximize telework, and many employees began to telework full time. A geographic change in one's location is a change in working conditions, which triggers a meet and confer obligation upon request under Article 27.

The parties have agreed to exclude from the grievance and arbitration process items subject to the meet and confer process in Section 12.1 of Appendix G of the MOA, Section 10.1 of Appendix I, and Section 19.1 of the Master MOA because the proper forum to appeal the issues related to the scope of representation is through PERB.

How to apply Section 8.4(b) is one of the bargainable effects of performing duties at home.

There is a latent ambiguity on how to apply the language when performing duties at home, since there is no language that expressly provides the meal reimbursement when teleworking.

One can reasonably assume when there is no cost for a meal, there is no need to be reimbursed. An individual has meals readily available at no additional cost when they

are home versus having to purchase something when they are at a County work site or in the field.

When reviewing Section 8.4(b) in its entirety, including the clauses on “calling in,” one can infer the intent for reimbursement is related to working away from home. There was no telework in the 1970s. The original provision required a receipt for reimbursement. Although the receipt requirement was dropped, the intent of the provision did not change. Several other MOA provisions provide benefits only when one is working away from home. Section 8.8 Non-Contiguous Overtime (and G.8.2 and I.7.2 in the Appendices) provides a guarantee of four hours of premium pay when called in to work or having to return to a County work site. Section 16.3 speaks to County business travel where an employee may qualify for a per diem because they are away from home. One will not qualify for per diem if they take the training online at home.

During successor negotiations for the 2019 to 2023 MOA, the County proposed language only to clarify the ambiguity and resolve any future disputes on the interpretation and application of Section 8.4.

The Union did not prove that employees received the meal allowance when teleworking prior to the pandemic. They were very inconsistent whether they received a meal allowance while teleworking or they received a meal allowance in a hybrid model.

The Arbitrator should deny the grievances. Any remedy should be limited to after the state of emergency ended and the work force returned to the status quo, which was not performing their duties at a County facility 100% of the time.

DISCUSSION

Arbitrability Challenge

The County argues that the Union’s claims are excluded from the arbitration process pursuant to Section 19.1(b)7, as well as the substantially identical provisions in the appendices, G.12.1 and I.10.1. There were varying contentions about the asserted intent and effect of the exclusionary provisions.

Former Labor Relations director Cottrell explained that the grievances should be excluded because the Union has a new interpretation of Section 8.4(b). The Union, he asserted, should have raised the meal reimbursement issue when the parties negotiated a telework policy in about 2015; but the Union did not bargain it and should not be able to grieve it now.

It is clear, however, that the parties understood that there were benefits and other terms and conditions that had not been discussed during the telework negotiations, as the policy specifically states that benefits would not change for teleworking employees and that terms and conditions that were not addressed in the policy would not change. Thus, the parties came to an agreement in 2015; that meet and confer process is finished. Therefore, assuming Cottrell's interpretation of Section 19.1(b)7 is correct, the grievance would not be excluded since it is no longer subject to that meet and confer process. If any inference arises from the 2015 negotiations, it would be that the parties did not see a problem with providing the meal allowance when employees teleworked overtime.

In closing argument, the Employer's argument has changed somewhat. The Employer contends that the Union should have demanded to meet and confer the effect on meal reimbursement when the great majority of its unit members were sent home to telework full time. Because the Union had this meet and confer option, the County asserts that Section 19.1(b)7 and the corresponding exclusionary provisions apply to exclude this matter from the grievance process.

The Arbitrator agrees that if the Union had demanded to meet and confer and then grieved the failure of the County to reach agreement, Section 19.1(b)7 would exclude that "interest" dispute from grievance and arbitration. Here, the matter is not "subject to the meet and confer process" because the Union did not demand to bargain the meal provision. Instead, it asserted that the existing benefit in Section 8.4(b) encompassed overtime while teleworking.

To the extent the County contends that the Union should file an unfair practice charge at PERB if it wants to challenge the County's decision, the grievance exclusionary clauses do not provide that a dispute that could be pursued before PERB cannot instead

be challenged as a contractual violation. The true issue is a contractual one—whether Section 8.4(b) applies when the employee is teleworking at the time that they work at least two hours overtime contiguous to their shift.

Section 8.4(b)

On its face, Section 8.4(b) does not preclude employees from receiving the meal reimbursement when they are teleworking overtime contiguous to their shift. As long as the employee is working contiguous to the shift for at least two hours, there is no language that requires the employee to work overtime away from home.

The County argues that a teleworker at home incurs no cost for their meal and thus is ineligible for the reimbursement under the phrase “otherwise provided meals at no cost.” This phrase was introduced into the MOA at the time that the language, “County will provide a meal and the time to eat” was deleted in 1996. The Sec. 8.4(c) exception in the same sentence applies when an employee receives a meal at no charge from a County facility when on duty during meal time. The inclusion of the “otherwise provided... at no cost” in the same sentence shows an intent to prevent double-dipping from the County—receiving a meal allowance from the County while having already received a no-cost meal from the County. However, a meal an employee prepares or purchases after teleworking two hours is not “provided” at no cost. Therefore, teleworking employees are not made ineligible for the meal reimbursement by the last sentence of Section 8.4(b).

The County contends that Section 8.4 (b) applies only when the employee is not working at home. It urges an interpretation consistent with the Noncontiguous Overtime Guarantee of four hours overtime pay that does not apply when an employee teleworks at some time after stopping work at the end of the shift. That provision has a latent ambiguity as this Arbitrator noted in a prior case, but different bargaining history and past practice make the interpretation of the noncontiguous overtime guarantee not relevant to the current question.

The County points out that Section 8.4(b) has a latent ambiguity because two of the three circumstances where the meal allowance is earned involve employees being

“called in” to work. The County notes the parties would not have contemplated teleworking when meal reimbursement was first introduced into the contract in the 1970s. Although it is true that the parties could have explicitly required contiguous overtime work to be in the office or field, it is also true that the parties may have just assumed that overtime work would not be done at home.

On balance, however, the County has not shown that the phrase “in the office or field” should be read into the language. The provision changed significantly in the 1996 contract. The payment was no longer limited to meals an employee actually purchased. At that point, employees became entitled to the overtime meal payment whether they purchased a meal or not, as long as the County had not provided them a meal.

There was no testimony or bargaining notes about the reason for the change. However, the parties were beginning to think about telecommuting at the time, and agreed to form a labor-management committee to study it. Thus, it cannot be assumed that the parties did not contemplate telework when they changed the language to provide the current benefit.

The parties also did not address the meal benefit or change the language when they negotiated the telework policy and fleshed out Section 8.18 prior to 2015. They clearly intended not to change benefits for teleworkers unless altered expressly in the policy or MOA. This was a chance for the County to review the MOA and recognize an unintended consequence if the County in fact did not intend to provide a meal allowance to a teleworking employee. The subject was not addressed.

In fact, following the establishment of the telework policy, employees in DFCS were paid the meal allowance when teleworking overtime. This practice supports the Union’s interpretation that the allowance applies even when the employee is teleworking overtime. The County asserts the evidence of this practice is weak, but the Arbitrator is persuaded that employees who teleworked two hours overtime contiguous to the shift did receive the meal allowance. Lesniak was particularly attentive to whether she was receiving meal allowances because she had had to remind the administrative staff in her units over the years to include the meal allowance when she worked the requisite

overtime. The issue was significant enough to her that she educated coworkers about the benefit. She would have been aware if the County had made a distinction between telework and other overtime work when paying the meal allowance. She testified the County did not differentiate between teleworked overtime work and overtime worked in another location. In addition, supervisor Pickering was unaware of any distinction to be applied when she approved timecards. The County did not point to any contrary practice.

The County argues that there is no need for the meal allowance when an employee is teleworking overtime because meals are readily available. With so little evidence of bargaining history, the exact purpose of the provision as amended in 1996 is not evident, except that it is not intended to be a cost reimbursement. The parties may have recognized that merely working overtime, no matter the location, delays and disrupts meal schedules and meal preparation and agreed to compensate employees for the inconvenience.

The Union has shown that the County violated Section 8.4(b) when it ceased paying the meal reimbursement to employees who teleworked overtime contiguous to their shift for at least two hours with approval.

AWARD

The grievances are arbitrable.

The County violated Section 8.4(b) of the 2019-2023 MOA and the 2023-2026 MOA when it failed to pay Social Services Agency employees \$14 when the employees were assigned and worked two (2) or more hours of overtime work contiguous to the workers' regular work shift.

The Grievants and all eligible affected teleworking SSA employees should be compensated prospectively and receive back pay for missed meal allowances. Post-award interest shall accrue beginning the date of this Award. The County shall prepare a list of names of SEIU Local 521 represented SSA employees who performed at least two (2) hours of overtime work contiguous to their regular shift at home and did not receive the meal allowance, beginning April 2020 to the time the County resumes paying the meal reimbursement.

DATE: December 17, 2024.


Katherine J. Thomson, Arbitrator