for its basis, the panel did not consider that this precluded use of the newer method of contrast sensitivity testing to measure visual acuity.

Consequently, the panel directed that Ms. Dixie be restored to her prior position with appropriate credit given to her retirement plan. The panel also concluded that no additional remedy was required, since Ms. Dixie, in agreement with the SLA, had continued to operate her facility pending the outcome of the arbitration proceedings.

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

Dated: October 11, 1995.

Howard Moses,

Acting Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 95–25617 Filed 10–16–95; 8:45 am]

BILLING CODE 4000–01–P

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 December 20, 1993, an arbitration panel rendered a decision in the matter of *C. Gene King* v. *Indiana Department of Human Services, Office of Services for the Blind and Visually Impaired (Case No. R–S/91–11).* 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 C. Gene King.

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, S.W., 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 and other property.

Background

The Indiana Department of Human Services, through its Office of Services for the Blind and Visually Impaired (OSBVI), is the State licensing agency under the Randolph-Sheppard Act. In 1985, on an experimental basis, OSBVI offered vending locations that included both sides of the interstate highway system. Only one vendor, Mrs. Tetzlaff, who was a member of the State Committee of Blind Vendors, took a two-sided location. The other locations later were bid to commercial vendors. After studying the revenue from the highway locations, OSBVI decided that one-sided highway locations provided adequate income to a vendor, thus giving more blind vendors an opportunity to participate in the Randolph-Sheppard program. In May 1990, after consultation with the State Committee of Blind Vendors, OSBVI changed its policy and announced that highway locations would be opened and placed for bid as Randolph-Sheppard facilities, awarding only one location per vendor, with the understanding that one location meant on one side of the highway only.

Mr. C. Gene King, complainant, is a blind vendor licensed by the Indiana Department of Human Services. Mr. King has participated in the program since 1980, successfully managing a facility in Indianapolis. Mr. King contends that OSBVI discriminated against the blind in the awarding of vending facilities located along the interstate highway system by allowing Mrs. Tetzlaff to retain her vending facility located on both sides of the highway awarded to her in 1985. Mr. King believed the decision to change policy was biased since Mrs. Tetzlaff was on the State Committee of Blind Vendors. Mr. King also contended that OSBVI restricted upward mobility opportunities for blind vendors in May of 1990 when it made additional highway locations available.

Arbitration Panel Decision

On the issue of whether the decision by OSBVI to change the policy of awarding Randolph-Sheppard facilities was improperly influenced by Mrs. Tetzlaff, the panel found in favor of the State agency. The panel found that, even though Mrs. Tetzlaff was a member of the State Committee of Blind Vendors, she did not vote in any of the meetings pertaining to the policy change regarding the facilities located on the interstate highway system. The panel found that the State agency had the authority to establish new Randolph-Sheppard locations without participation of the State Committee of Blind Vendors.

The panel also found that OSBVI did not restrict the upward mobility and income of vendors in the State of Indiana. The OSBVI was within the scope of the enabling legislation by providing additional locations in May 1990, thus creating more opportunities for additional blind vendors to earn a fair income. The panel decided that no further action was required because Mr. King could not support his contentions.

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

Dated: October 11, 1995.

Howard R. Moses,

Acting Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 95–25718 Filed 10–16–95; 8:45 am]

BILLING CODE 4000–01–P

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 December 27, 1994, an arbitration panel rendered a decision in the matter of *Jeana Martin* v. *California State Department of Rehabilitation (Docket No. R–S/92–13).* 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 Jeana Martin.

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, S.W., 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 and other property.

Background

The complainant, Jeana Martin, a licensed blind vendor, was assigned to operate the facility at the United States Post Office General Mail Facility (GMF) in Santa Ana, California, in 1985 by the California Department of Rehabilitation, the State licensing agency (SLA) responsible for the Randolph-Sheppard Vending Facility Program in California.

The facility consists of a snack bar/lunchroom and vending machines

located in the breakroom areas throughout GMF. At the time the complainant began operating the GMF facility, there were 40 vending machines, 11 of them under the management of Ms. Martin. Complainant received monies from the remaining vending machines in accordance with the income-sharing provisions of the Randolph-Sheppard Act (the Act) and implementing regulations and the California Code of Regulations.

Following her placement at the GMF facility, Ms. Martin submitted a request to the SLA for remodeling and expansion of the facility as the result of requests from patrons and the Federal property managing officials to increase her service level. In August 1989, the SLA began working with complainant, the Postal Service, and an architect to develop plans for the remodeling of the GMF vending facility.

Subsequently, in September 1989, a dispute arose between the SLA and the Postal Service regarding the 29 vending machines at GMF not under Ms. Martin's management. Prior to this time, the SLA had informed postal officials at the GMF Facility of its desire to participate in the bidding process when the contract for these vending machines would be opened for bid. However, without formal notification to the SLA, the Postal Service began negotiations with a private vending company regarding the renewal of the contract. The negotiations culminated in a renewed contract between the Postal Service and the private vending company, which implemented a ''break-even'' vending machine arrangement with the Postal Service. That arrangement affected the complainant's income by eliminating the income-sharing of profits from the sales of the vending machines under the previous contract arrangement.

Shortly after the ''break-even'' pricing of the contract with the private vending company was instituted, complainant requested assistance from the SLA to stop what she termed unfair competitive pricing practices by the private vending company.

In October 1989, staff of the SLA's Business Enterprise Program informed the facility manager at GMF that the Postal Service was in violation of the Act and implementing regulations and that the ''break-even'' policy was adversely affecting the income of the complainant.

In April 1990, Ms. Martin filed a complaint with the SLA requesting a fair hearing on the matter. This request was heard by the SLA in May 1990. The SLA agreed with the portion of her complaint that dealt with the ''break-even'' policy of the private vending company. However, the SLA found no basis for granting an administrative remedy.

Subsequently, in March 1991, Ms. Martin filed an appeal of this decision. The Appeals Board found that the complainant had suffered as the result of the ''break-even'' pricing. The Appeals Board ruled, however, that the SLA had taken steps to correct the problem, although those efforts were unsuccessful.

In October 1990, the SLA filed a request for arbitration with the U.S. Department of Education against the United States Postal Service, seeking cancellation of the ''break-even'' policy at GMF. This dispute was resolved in a negotiated settlement between the parties.

After the settlement between the SLA and the Postal Service, complainant alleged that she continued to operate the GMF facility with the same level of expenses and a decreasing level of income.

By August 1991, complainant made a decision to leave the GMF facility as its manager and to relocate with the assistance of the SLA to other vending locations in Southern California. However, complainant's relocation efforts did not produce sufficient income to enable complainant to pay the sales tax and business suppliers she owed while managing the GMF facility.

By letter dated June 25, 1992, the SLA notified the complainant that her license would be terminated for non-payment of the sales tax and other financial obligations pursuant to State rules and regulations. Subsequently, complainant's license was revoked and on June 29, 1992, complainant filed with the Secretary of the U.S. Department of Education a request to convene a Federal arbitration panel. A hearing was held on April 14 and 15, 1994.

Arbitration Panel Decision

The issue before the arbitration panel was whether the California Business Enterprise Program failed to fulfill its obligations to complainant in its capacity as the State licensing agency charged with the operation and administration of the Randolph-Sheppard vending program in California.

In a majority opinion, the panel ruled that the SLA violated the Act in its relationship with complainant by failing to protect the priority accorded to the complainant as a licensed blind vendor under the Act; by failing to insist upon remittance to the SLA's vending program all vending machine income to which the SLA and complainant were entitled; by failing to stand firm against the promulgation and continuance of a ''break-even'' contract; by the lack of completed renovation of the GMF facility; and by the termination of complainant's license without sufficient foundation.

In a separate opinion on remedy, the panel awarded monetary compensation, including damages, restitution, and fees and expenses in the amount of $449,923.70. The panel ordered the respondent to pay this amount, with interest to be determined in accordance with California law, to complainant within 30 days following the date of the award.

The arbitration panel further directed the respondent to reinstate complainant's license to operate a vending facility and to place her in a vending facility comparable to the GMF facility. In the event no comparable facility was immediately available, respondent was directed to pay compensation to complainant each month, beginning January 1995, in an amount equal to the net income complainant would have received had she been placed in such a facility. The panel fixed this amount as $5,731.94 per month based upon the records submitted in the arbitration hearing.

The panel retained jurisdiction of the case for 90 days following the date of the award. One panel member concurred with the award in its entirety and one panel member dissented from the award of monetary compensation for damages.

The decision of the arbitration panel has been appealed to the United States District Court for the Central District of California, *Brenda Premo, Director of the Department of Rehabilitation, State of California* v. *Jeana Martin, United States Department of Education, Richard Riley, Secretary of Department of Education and DOES I-XX, Case No. 95–0546 JGD (CTx).*

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

Dated: October 11, 1995.

Howard R. Moses,

Acting Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 95–25719 Filed 10–16–95; 8:45 am]

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