

NATIONAL GRIEVANCE  
NG-07/25/2012

**Date:** July 25, 2012

**To:** Leslie Wiggins  
Deputy Assistant Secretary,  
Labor – Management Relations  
Department of Veterans Affairs  
810 Vermont Avenue, NW  
Washington, DC 20420

**From:** Ibidun Roberts, Attorney, National Veterans Affairs Council (#53) (NVAC), American Federation of Government Employees (AFGE), AFL-CIO

**Subject:** National Grievance in the matter of the Department of Veterans Affairs (VA) failure to comply with Article 29 of the MCBA concerning maintenance of a safe and healthy environment for employees.

STATEMENT OF CHARGES

Pursuant to the provisions of Article 43, Section 11 of the Master Agreement Between the Department of Veterans Affairs and the American Federation of Government Employees (2011) (MCBA), American Federation of Government Employees/National Veterans Affairs Council (Union) is filing this national grievance against you and all other associated Department of Veterans Affairs (“VA”) officials and/or individuals acting as agents on behalf of the VA for violations as it relates to its failure to comply with Article 29 of the MCBA concerning maintenance of a safe and healthy environment for employees.

Specifically, on or about June 25, 2012 and continuously thereafter, the VA, by and through its representatives and/or agents, has:

- (1) Furnished a place for Union Officials in a building containing various hazards, such as mold, water damage, and dust without proper abatement.
- (2) Permitted a Union Official entry into an unsafe building, resulting in personal injury.

In doing so, the VA has violated the following provisions:

- (1) Article 29 of the MCBA;
- (2) 29 C.F.R. 1960; and
- (3) Any and all other relevant articles, laws, regulations, customs and past practices not herein specified.

## STATEMENT OF THE CASE:

### **I. Background**

On June 25, 2012, there was fire in Building 40 of VAMC in Mountain Home, TN ("Agency"). This building was furnished to AFGE Local 1967 ("Local"). The fire caused water damage and smoke to remain in the building. The Agency moved the Local to Building 41 until the damage could be abated. However, Building 41 required abatement as well for the pigeon droppings, dirt, and dust. On June 25, 2012, a crew cleaned pigeon droppings from the attic of Building 41 while Local officers remained in the building.

On July 2, 2012, Brenda Stromski, an NVAC Health and Safety Representative, whose office was also moved to Building 41 due to the fire, notified Luanne Bays, Engineering Interior Designer, that pigeon droppings, dirt, and dust was present in the room designated as her office. Ms. Bays referred Ms. Stromski to Kevin Milliken, Assistant Chief of Engineering. While waiting for Mr. Milliken to become available, Ms. Stromski asked Ms. Bays if she could enter Building 40 to retrieve items to move to Building 41. Ms. Bays radioed someone to allow Ms. Stromski access. Miriam Trivette, Industrial Hygenist, and Mark Treadway, Maintenance Unit C Supervisor, accompanied Ms. Stromski to Building 41 and observed the droppings. Ms. Trivette told Ms. Stromski that the droppings would be cleaned. Later, Mr. Treadway allowed Ms. Stromski into Building 40 and told her that when she was done she should "shut the front door and make sure it is locked." No one warned Ms. Stromski that the building was unsafe.

The heat and smell in the room caused a burning sensation in Ms. Stromski's eyes, nose, throat and upper chest. She opened the windows as she gathered some items, but was still unable to breathe. She transferred a few items to Building 41 and went to meet with Mr. Milliken. Mr. Milliken stated that he was aware of the droppings, but refused to discuss the other safety issues relating to Building 41. He stated that he had "nothing else" for the Local and that this was all he could give them.

Ms. Stromski continued to have pain in her throat and chest. She left work early on July 5, 2012 and was absent on July 6, and 9-10, 2012 while seeking treatment.

On July 17, 2012, Shiryll Durham, President of Local 1687, and Ms. Stromski met with Mr. Milliken and Mr. Treadway to discuss the safety issues in Building 41. The droppings still had not been cleaned. They scheduled a walk-through of the building.

On July 19, 2012, Ms. Stromski observed that a cooling system drain tray was over flowing in the attic which was causing the dampness and mold in her office.

On July 20, 2012, the environmental care group met for the walk through. Mr. Milliken and Mr. Treadway were not present. The Local was not given a timeline or plan for addressing the issues.

## **II. Violations**

The Agency unlawfully failed to inspect Building 40 prior to furnishing it to the Local. In addition, the Agency officials improperly refused to promptly inspect the area after it received reports of unhealthy conditions and unlawfully failed to promptly abate the conditions. Finally, by allowing Ms. Stromski to enter Building 40, the Agency unlawfully breached its duty to ensure that a danger no longer existed prior to readmittance.

## **III. Remedy Requested**

The Union asks that to remedy the above situation, the VA agrees to the following:

- (1) To agree to work jointly to immediately furnish a place free of recognized hazards and unhealthy working conditions;
- (2) To agree to work jointly while abating the hazards in Building 40 consistent with Article 29 of the MCBA;
- (3) To make Brenda Stromski and any other affected employee whole, including, but not limited to, converting any leave used to attend to injuries to administrative leave; and
- (4) To agree to any and all other remedies appropriate in this matter.

## **IV. Time Frame and Contact**

This is a National Grievance and the time frame for resolution of this matter is not waived until the matter is resolved or settled. If you have any questions regarding this National Grievance, please feel free to contact me at (202) 480-0064.

Ibidun Roberts  
Attorney  
AFGE/NVAC

Cc: Alma L. Lee, President, AFGE/NVAC  
William Wetmore, Chairperson, Grievance and Arbitration Committee, AFGE/NVAC