THE PUBLIC REVIEW BOARD
INTERNATIONAL UNION, UAW

APPEAL OF:

ANDREA KILMARTIN, et al.,

Appellants

-vs- CASE NO. 1698

LOCAL UNION 602, UAW
(Lansing, Michigan), REGION 1C
(THE UNITED AUTOMOBILE, AEROSPACE
AND AGRICULTURAL IMPLEMENT
WORKERS OF AMERICA),

Appellee.
_____/

DECISION
(Issued October 6, 2014)

PANEL SITTING: Prof. James J. Brudney, Chairperson, Prof. Janice R. Bellace, Dean Harry C. Katz, and Prof. Maria L. Ontiveros.

APPEARANCES: Andrea Kilmartin and Jennifer Snook on behalf of appellants; Rick Isaacson, Allen R. Wilson, Michael Grimes, Melvin C. Coleman, and James Britton on behalf of the International Union; Willard C. Reed from Local Union 602.

Appellants argue that they should have moved into jobs with traditional wages and benefits after becoming permanent employees at General Motors Lansing Delta Township (LDT) plant because they were performing traditional assembly line jobs and not "non-core" functions as indicated by their classification on the company's seniority list.

FACTS

Appellants are employees at General Motors LDT plant in a bargaining unit represented by UAW Local Union 602.[1] They were part of a group of 750 temporary

[1] Andrea Kilmartin is the spokesperson for the following appellants: John Kish III, David Menninga, Jordan Hinton, Jennifer Mogyoros, Amanda Younglove, Matthew Beck, Jonathan Spencer, Jennifer Snook, Joel Spitz, Ryan Prochazka, Denise Holmes, Michael Nicohls, Harold Nicohls, Daniel Hough,

employees hired at LDT between November 2006 and August 2007. Following ratification of the 2007 UAW-GM National Agreement, 205 of the temporary employees at LDT were made permanent employees with traditional wages and benefits and assigned a seniority date of October 15, 2007.[2] On January 31, 2008, the 205 permanent employees and all the temporary employees were laid off.[3]

The 2007 National Agreement introduced the idea of "entry level" employees and established a reduced wage rate for such employees. The 2007 Agreement contains a Memorandum of Understanding UAW-GM Entry Level Wage and Benefit Agreement ("the Entry Level Memorandum") regarding entry level employees. The Entry Level Memorandum describes its applicability as follows:

> "The terms of this Memorandum apply to all entry level employees at all GM facilities covered by the UAW-GM National Agreement. 'Entry level employees' means regular employees hired on or after the date of this Memorandum into the non-core work functions identified on Attachment A of this Memorandum. The entry level wage rate identified in this Memorandum shall apply to any such entry level employees until such employee becomes a regular, non-entry level employee as provided in Appendix A of the 2007 GM-UAW National Agreement."

Attachment A to the UAW-GM Entry Level Wage and Benefit Agreement defines three levels of non-core jobs. The jobs Attachment A identified as "non-core" in the Entry Level Memorandum published in the 2007 National Agreement are other than assembly line jobs.

In July 2008, GM began recalling the temporary employees who had been laid off to permanent positions as entry level employees. Appellant Andrea Kilmartin signed an "Application for Temporary Employees to Entry Level Regular Employment" on July 11, 2008. The application contains the following acknowledgement of the wage rate for the position:

> "Upon becoming a regular entry level employee, I understand that:
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> I will continue to receive the entry level wage rate and continue in my current wage progression. I may be eligible for additional benefits per the current contract."[4]

Arnold Jessen, Brian Mantei, Linda Jorae, Samuel Morena, Jennifer Anderson, Levi Cranson, Matthew VanMalsen, Nathan Root, John Seeley, Earl Swan, Brant Feldpausch, Dale Spitzley, Roy Rodriguez, Anita Metevier, Shelly Reimbold, and Rhonda Muscat. (Record, pp. 13-18)

[2] Record, p. 56.

[3] Record, p. 68.

[4] Record, p. 118. Kilmartin's application and those of most of the other appellants were introduced during the hearing we conducted on this appeal.

The other appellants signed similar applications.

On February 7, 2012, Local Union 602 filed Grievance C1151877 for appellants. The grievance states:

> "I am protesting management putting 2 Tier employees on the seniority list as non-core employees. I demand management to fix this problem in People Soft so all employees are listed appropriately – we do not have non-core employees."[5]

Grievance C1151877 indicates that it was settled on May 3, 2012, based on the following response from management:

> "On the next seniority list printed, non-core will be removed. [These are] the seniority lists that are posted in the plant."[6]

Andrea Kilmartin filed an appeal from the settlement of Grievance C1151877 on May 8, 2012. Kilmartin argued that appellants were incorrectly classified in GM's personnel software and that the removal of the word non-core from the seniority list posted in the plant did not address the problem. Kilmartin's appeal states:

> "We are not now, nor have ever been, non-core employees. The fact [is] that we are now, and have always been since our hire date in 2007, core employees with all of us on the production line in general assembly since 2008. This coupled with the fact that as management and the UAW International and Local 602 agreed in May of 2008 – there are no non-core jobs at LDT, substantiates our claim that we are misclassified in the GMTKS system. This being only one of the factors that forbids us from being properly recognized as equal, whole, and traditional workers."[7]

Kilmartin presented a motion to appeal the settlement of her grievance to the Local 602 membership at a meeting on May 20, 2012. The minutes of that meeting indicate that the motion failed.[8]

On May 24, 2012, the Local 602 recording secretary notified Kilmartin that the membership had denied her appeal of the settlement of Grievance C1151877.[9] Kilmartin appealed the membership's action to the International Executive Board (IEB) on June 14, 2012.[10] In support of her appeal, Kilmartin explained that the grievants'

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[5] Record, p. 1.

[6] Record, p. 1.

[7] Record, p. 6.

[8] Record, p. 3.

[9] Record, p. 9.

[10] Record, pp. 10-25.

incorrect classification came to light in 2010, when one of the appellants was injured on the job. Kilmartin described the discovery as follows:

> "The point of discovery was in November of 2010 when one of our co-workers injured herself on the job. When she went to Medical, the staff member told her she would have to return to work as she was listed as non-core in the system and therefore they could not restrict her from the job on the line as she was not supposed to be on the line. Upon discovering this fact, we asked our group leader, Phil Rathburn, to check our coding in the GMTKS system. He did and discovered what he called an 'odd coding of FO51.' I then went upstairs to check with Jill Ploughman in personnel and she informed me that it was correct and that the coding was for non-core workers. Protest of the fact that we were not non-core was answered by her with the fact that we were Tier II employees and it was all one and the same. …"[11]

Kilmartin asserted that this was incorrect. She maintained that she and the other appellants were hired as production workers and were therefore incorrectly classified as non-core. Kilmartin pointed out that there are no non-core jobs at LDT in the bargaining unit represented by Local Union 602.[12]

In her appeal to the IEB, Kilmartin stated that the International Union was aware of the problem at LDT, but had taken no action to correct it. Her appeal states:

> "…We have continually been meeting with union officials and have twice went to our membership and been granted their support in our struggle. We realize you are aware of this as we have submitted previous documents (copy enclosed) to you for your review regarding this matter. We have presented this to Servicing Rep. Mel Coleman at the Region 1-C office as well as discussed it personally with him. Joe Ashton along with Bryan Czape at the International level is aware of the situation as well."[13]

Kilmartin explained that the membership denied her appeal after the local shop chairperson advised them that this was the appropriate way to refer the matter to the International Union for resolution. She described the action at the membership meeting as follows:

> "At the general membership meeting on Sunday, May 20, 2012, after we made our motion for the appeal and before the vote was taken, our shop chair, Rick Martinez, explained a couple of things to the membership. One, he apologized for not fully understanding the demands of the

[11] Record, pp. 10-11.

[12] Record, p. 11.

[13] Record, p. 11.

> grievance, and two, stated that if the membership denied the appeal rather than support it, it would, in his words, 'clear the pathway for us to take it to the International level, which is where this more than likely needs to be in order to be satisfied.' …"[14]

Kilmartin reported that she had been told the International Union regarded appellants' concern as a local issue and an insignificant matter. She stated that the issue has significance beyond the appellants being recognized as equal employees. She wrote:

> "…Being classified as non-core also means that we do not receive the equal pay for equal work, the proper seniority, or benefits. How can misrepresenting us as non-core workers in the GMTKS system be allowed to continue no matter the number? We find it frustrating that the local officials see fit to pass it along rather than deal with it and that the International representatives feel the need to pass it down rather than deal with it."[15]

Kilmartin attached a timeline to her appeal explaining the steps she had taken to correct appellants' classification as non-core employees when they are actually performing assembly line jobs in production.[16] The timeline describes meetings with local union officials and correspondence with the UAW-GM Department. Kilmartin reported that she met with the newly elected local union president William Reed and the newly elected shop chairperson Rick Martinez in June 2011 to discuss the problem.[17] According to Kilmartin's timeline, President Reed and Shop Chairperson Martinez assisted her and Jennifer Snook in drafting a letter to the UAW-GM Department in an effort to have their status corrected. Appellants' letter to the GM Department, dated June 21, 2011, reports that approximately 110 former temporary employees at LDT are still being treated as tier 2 employees even though they were actively working on January 2, 2008. The letter explains that all of these members had been told when they were hired that their second tier status would only be temporary because language in the 2007 National Agreement would be used to transition them into traditional status with full wages and benefits.[18]

Kilmartin reports that she received a response to her letter from GM Department Coordinator Bryan Czape on August 22, 2011.[19] Czape observed that appellants' reference to their active employment on January 2, 2008, has its basis in Document 162

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[14] Record, p. 11.

[15] Record, p. 11.

[16] Record, pp. 19-24.

[17] Record, p. 21.

[18] Kilmartin's and Snook's letter to the UAW-GM Department is in the record at p. 56.

[19] Czape's August 22, 2011 letter was introduced into the record for the first time during our hearing on August 9, 2014. It appears on pp. 119-120 of the record.

of the 2007 National Agreement, which provides that temporary employees still working at LDT on that date would become permanent employees. Czape responded that the parties had adopted a Memorandum of Understanding that allowed temporary employees targeted for layoff from the LDT plant to continue working an additional six to eight weeks in order to qualify for holiday pay. Czape reported that this Memorandum waived the hiring requirements of Document 162 with respect to temporary employees at LDT.[20] In response to appellants' claim that they should have moved into traditional jobs after accepting permanent entry level positions in 2008, Czape pointed out that the 2009 Modifications to the 2007 UAW-GM National Agreement suspended the language of Appendix K.[21] In her timeline, Kilmartin reported that appellants still did not understand why they continued to be classified as non-core employees when they were all working on the assembly line performing core functions, so they requested that a grievance be written for them to get an answer to their questions.[22]

On October 9, 2013, the International Union issued an Order dismissing Kilmartin's appeal. The Order stated that the appeal was being dismissed because there was no additional relief available. According to the Order, management's response to Grievance C1151877 grants all of the relief requested in the grievance so nothing further could be accomplished through the appellate procedure. The Order states:

> "The appeal procedure of Article 33 of our International Constitution is remedial. An appeal cannot be used to rewrite or supplement a written grievance. Based on the grievance as written no further relief is available. It is for this reason that we are without weapons to further champion this grievance."[23]

Kilmartin and Snook appealed the International Union's dismissal of their appeal to the Public Review Board (PRB) on October 29, 2013.[24]

In support of their appeal to the PRB, Kilmartin and Snook provided copies of handouts that Local Union 602 distributed to the temporary workers at LDT prior to the ratification of the 2007 UAW-GM National Agreement. The handouts and newsletters regarding the new agreement explained the introduction of the entry level wage rate and reported that it would only apply to non-core operations. A UAW-GM Report dated September 2007 states:

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[20] Record, p. 120.

[21] Record, p. 120.

[22] Record, p. 19.

[23] Record, p. 31.

[24] Record, p. 33.

> "…GM will have the right to hire entry-level workers at a lower wage rate for certain 'non-core' operations."[25]

The report gives further information about the new wage and benefit structure and the concept of non-core operations. It states:

> "To keep work in UAW-GM plants, and to create a realistic possibility of adding work for future growth, the proposed agreement establishes a new pay structure for entry-level employees. The new structure applies to what GM calls 'non-core' jobs in all its facilities.
>
> Examples of 'non-core' jobs include, but are not limited to, material movement, general stores management, finished vehicle driving, paint mix room, chemical management and subassembly.
>
> Workers hired in under the entry-level structure will have the opportunity for traditional UAW-GM jobs as positions become available."[26]

Leaflets purporting to explain how the new agreement would affect the temporary employees at LDT suggested that the current temporary employees at LDT would not be affected by the two-tier wage system in the new National Agreement and that they would transition into permanent traditional openings.[27] A leaflet titled, "2007 National Agreement: Just the FAQs" states:

> "The 500 current Temps at LDT will also have opportunities to be hired as permanent employees as other members of the bargaining unit retire, etc., at master wage rate under Paragraph 98 of the National Agreement."[28]

In addition, Kilmartin and Snook referred to the letter of understanding regarding temporary employee placement that was included in the 2007 National Agreement as Document No. 162. That letter states that any of the LDT temporary employees still working on January 2, 2008, would become permanent employees with a traditional wage rate and a plant seniority date equal to the effective date of the 2007 GM-UAW National Agreement.[29] Finally, Kilmartin and Snook stated that when they were hired in July 2008 at entry level wages, they were told that they would eventually move into traditional openings, but no one seemed to know what would trigger the transition or when it would occur. Their appeal states:

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[25] Record, p. 63.

[26] Record, p. 76.

[27] Record, pp . 59-62.

[28] Record, p. 60.

[29] Record, p. 65.

> "July 2008 GM began hiring temporary employees under the new entry level employee wage structure per the 2007 National Agreement, being told several times that we will move up to traditional employee wages eventually, however no one seemed to be able to answer our questions about how and when this was to occur. We were told we will remain entry level employees until traditional jobs open up in the plant. Most of us are confused by this as we are all working on the production line doing production work with the same job requirements as our traditional counterparts."[30]

We initially reviewed the record in this appeal on March 24, 2014. We observed that the appeal submitted by appellants raised issues concerning the application of the two-tier wage structure and the definition of "core" and "non-core" employees under the 2007 and 2011 UAW-GM National Agreements. Furthermore, it appeared that the definition of core employees had been significantly revised under the 2011 Agreement. Despite the complexity of the contractual issues raised, the record forwarded to us with Kilmartin's appeal lacked any interpretation of the contract language from the UAW-GM National Department. We could not determine the contractual basis for the International Union's position from the documents in the record. On March 31, 2014, therefore, we sent a letter to the International Union asking for clarification of the concepts of "core" and "non-core" and an explanation of how these terms relate to the two-tier wage levels described in the 2007 and 2011 National Agreements.

In response to this inquiry, President Bob King forwarded a memorandum prepared by Assistant Director Michael Grimes of the UAW-GM Department. Grimes explained that all new employees hired after the effective date of the 2007 UAW-GM National Agreement were classified as "entry-level non-core employees," regardless of their job assignment. He stated that the National Parties reached an agreement on March 3, 2008, under which the terms "core" and "non-core" no longer referred to the work being performed, but only to the wage and benefit package and Appendix A transfer provisions applicable to the positions.[31] Grimes provided a copy of the "Core/Non-Core and Entry Level Job Assignment Clarification dated March 3, 2008 ("the Core/Non/Core Clarification") to his memorandum. The preface to the Core/Non-Core Clarification states:

> "This National Letter of Understanding will serve to clarify issues concerning the implementation and application of the core/non-core and entry level provisions of the 2007 National Agreement between the parties.
>
> As discussed in the Entry Level Wages and Benefits Subcommittee of those 2007 National Negotiations, it was clearly understood by the parties

[30] Record, p. 74.

[31] Record, p. 98.

> that: '*Transitioning the workforce may result in employees working together as either an entry level or non-entry level employee.*'"[32]

Grimes also provided a copy of a Memorandum of Understanding dated September 9, 2011, that extends the terms of the transition period described in the Core/Non-Core Clarification over the duration of the 2011 UAW-GM National Agreement.[33]

We conducted oral argument on August 9, 2014, to explore the contractual issues presented by appellant's claim that they should have been classified as core employees or else should have transitioned into traditional employee status under the terms of the 2007 UAW-GM National Agreement.

ARGUMENT

A. Andrea Kilmartin and Jennifer Snook on behalf of appellants:

We have always, since our original date of hire in 2007, performed traditional core work. Prior to our layoff in January 2008, our wage rate had progressed to $28.00 an hour as traditional core employees. Our re-employment at LDT in July 2008 violated the terms of Paragraph (98) of the 2007 National Agreement. In reference to employees performing traditional core work, Paragraph (98) provides as follows:

> "Such an employee who is laid off prior to acquiring seniority and who is re-employed at that plant within one year from the last day worked prior to layoff shall receive a rate upon re-employment which has the same relative position to the maximum base rate of the job classification as had been attained by the employee prior to layoff. Upon such re-employment, the credited rate progression period of an employee's prior period of employment at that plant shall be applied toward their rate progression to the maximum base rate of the job classification."[34]

When we were rehired as permanent employees in July 2008 within one year of being laid off, we should have retained the rate of pay we achieved prior to being laid off. Instead, our wages were reduced to $14.00 per hour, the rate applicable to non-core, entry level employees. We agreed to accept the lower wage rate in order to move into these permanent positions, but we all understood at the time that we were on track to become permanent employees with traditional wages and benefits.

When we met with local union representatives at the Glass House on July 11, 2008, to discuss the terms of our re-employment, they presented the paper to sign accepting employment as entry level employees. There was no option not to sign the

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[32] Record, p. 99. Emphasis from original.

[33] Record, p. 100.

[34] *Agreement between the UAW and General Motors Corporation*, September 26, 2007, p. 76.

application for permanent employment as entry level employees. GM was no longer offering to employ us as temporary employees with first tier wages. Nevertheless, we were told that the classification would only be temporary because language in the National Agreement would be used to transition us into the traditional employee designation with full wages and benefits. Representative Randy Thayer stated that we would be traditional workers within a month. When that did not happen, we began to complain to our local union representatives. They advised us to be patient and said they were working on it. They told us it was an International Union matter and that there was nothing they could do about it. Finally, they promised us that it would be fixed in the next contract.

We did not know how to file a grievance. We did not have a copy of the UAW Constitution. We did not even obtain a copy of the 2007 National Agreement until 2010. We have submitted a timeline with our appeal outlining our efforts to have this contractual issue addressed. No one could even explain the contractual basis for our classification as non-core employees. We kept asking for a grievance, but our local representatives said that the International Union negotiates wages and benefits and that a grievance was not an option. Finally on February 7, 2012, Committeeperson Todd Trout filed the grievance that initiated this appeal.

Why is it that we are just seeing this March 3, 2008 Core/Non-Core and Entry Level Job Assignment Clarification for the first time in response to the PRB's inquiry in April 2014? Even with the March 3, 2008, agreement, we still believe that we should have moved into traditional jobs as older workers left the unit. No one has explained why that did not happen. There is a drastic difference between the treatment of core and none-core employees under the 2007 National Agreement. As core employees we would have received the higher wage rate and also the benefits package due to traditional employees. Yet, the International Union responded to our appeal as if our designation as non-core employees was a matter of little consequence.

B. Administrative Assistant Rick Isaacson on behalf of the International Union, UAW:

Paragraph (98) of the 2007 UAW-GM Agreement has no application to this situation because appellants were not hired pursuant to Paragraph (98). No one was hired at GM pursuant to Paragraph 98 after the effective date of the 2007 Agreement. All employees who did not become traditional employees on the effective date of the 2007 National Agreement were hired as "entry level non-core" employees pursuant to the Memorandum of Understanding UAW-GM Entry Level Wage and Benefit Agreement published in the 2007 Agreement. The 2009 Modifications to the 2007 Agreement and Addendum to the VEBA Agreement (the "2009 Settlement Agreement") extended the new employees' status as entry level employees through the term of the 2011 National Agreement. The 2009 Settlement Agreement was presented to all represented employees at GM in May 2009 along with a message explaining the need for the modifications. With respect to entry level employees, the 2009 Settlement Agreement states as follows:

> "All newly hired employees who start their employment prior to the expiration of the 2011 UAW-GM National Agreement on September 14, 2015, shall be hired as Entry Level employees. No Entry Level employee shall transition to traditional employee status during that time. …"[35]

The Entry Level Memorandum was established during the 2007 negotiations as part of an agreement to apply a moratorium on outsourcing of UAW represented jobs. The crisis referred to in the May 2009 message to UAW members at GM was already taking shape when negotiations commenced for the 2007 National Agreement. When those negotiations began, GM announced that it intended to outsource all jobs other than assembly line jobs in order to cut its financial losses. GM management did not want to pay traditional wages and benefits for this work that could be done at a lower cost by outside contractors. This would have eliminated in excess of 16,000 jobs represented by the UAW in GM plants.[36] In order to avoid this catastrophe, the International Union agreed to a competitive wage for non-core work in return for an outsourcing moratorium. This bargain is described in the UAW-GM Report issued in September 2007, as follows:

> "GM also agreed to a moratorium on outsourcing, a pledge to *insource* more than 3,000 UAW jobs and a commitment to hire 3,000 temporary workers as permanent GM employees."[37]

The parties originally agreed to establish a lower wage and benefit package, sometimes referred to as "tier 2" wages, for the non-core operations that GM had intended to outsource. These functions are described in Attachment A to the Entry Level Memorandum; Attachment A identifies three levels of non-core operations. When this proposal was presented to local union leaders, however, they immediately raised objections to it, because high seniority GM workers frequently use their seniority to get off the assembly line and obtain the less stressful, non-core assignments. If the parties had retained the meaning of "non-core" to designate work other than assembly line jobs, that would have meant that high seniority employees earning traditional wages and benefits could not move into these easier jobs or would take a big pay cut to do so. The parties agreed, therefore, to classify an established number of jobs as "non-core entry level jobs," regardless of what the employee was doing. The March 3, 2008 Core/Non-

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[35] Record, p. 109.

[36] The "Product Both Current and Future Allocations Commitment & Opportunities for Future Insourcing Overview" that was developed by the parties pursuant to the letter of understanding regarding "Entry Level Employees," Document No. 161, states:

> "During these negotiations the parties have identified Non-Core product and process work totaling in excess of 16,766 jobs represented by the UAW that will be retained through a moratorium on outsourcing for the term of the 2007 National Agreement or for the lifecycle of the product." (Record, p. 113)

[37] Record, p. 106.

Core Clarification acknowledges the fact that employees on the same job assignment may be either entry level or traditional.

The March 3, 2008 Core/Non-Core Clarification also describes the process for determining how non-core jobs will be allocated at the different GM plants. It provides as follows:

> "The national parties will review existing work and shall determine the initial number of non-core jobs at each facility identified in the National Agreement.
>
> Subsequent to the designation of the initial number of non-core jobs at each location, the local parties, with national party oversight, will be responsible to continue to review and record the number of non-core jobs at each facility as those numbers adjust to the normal flow of conducting business (insourcing, productivity improvements, volumes, etc.)."[38]

On March 28, 2008, the parties established the actual numbers of "non-core" jobs for the plants covered by the Core/Non-Core Clarification.[39] Appendix A to that agreement indicates that the Lansing Delta Township Assembly plant has 448 "non-core" jobs.[40] By this point, the designation "non-core" had nothing to do with the employee's job assignment, but only referred to the number of entry level employees at the particular plant. The March 3, 2008 Core/Non-Core Clarification anticipated that employees hired as "non-core entry level" employees could eventually transition to job openings with traditional wages and benefits. It states:

> "In the event an opening occurs for a new hire and the existing hierarchy for job placement of seniority employees has been exhausted for that facility and the number of entry level employees currently working at that facility equal the number of non-core jobs identified at that location, the Company may hire a new entry-level employee and the most senior entry level employee will transition to traditional employee status, as established in the 2007 National Agreement.[41]

Once the numbers were established, however, no such transitions occurred, because no plant ever reached the quota of "non-core" jobs established by the parties. The number of "non-core entry level" employees at the LDT Assembly plant never reached

[38] Record, p. 99.

[39] Record, pp. 113-117.

[40] Record, p.116.

[41] Record, p. 99

448, so there was no opportunity for appellants to transition into traditional positions prior to 2009. In 2009, all such transitions were frozen through September 14, 2015.

Appellants were classified as temporary employees on the effective date of the 2007 Agreement. On October 22, 2007, GM announced that it was eliminating the third shift effective November 21, 2007, and would be laying off its temporary employees. On October 25, 2007, GM agreed to continue third shift operations through December 21, 2007, and to continue to employ the temporary employees through the holidays to the extent possible. A Memorandum of Understanding Regarding the Lansing Delta Township Assembly Plant, dated October 25, 2007, states as follows:

> "During the month of January 2008, the Reduction in Force provisions of the Local Seniority Agreement will be implemented in order to allow displaced seniority employees the opportunity to level into jobs which are still operating. Lower seniority employees and some temporary employees may be utilized to facilitate employee movement and training. The temporary employees will be released at the point their services are no longer required, no earlier than January 4, 2008, and no later than January 31, 2008."[42]

As part of this agreement the parties waived the provisions of the letter entitled, "Temporary Employee Placement." The agreement states:

> "It is agreed that as they relate to LDT, the terms of the letter entitled, 'Temporary Employee Placement,' contained in the 2007 Agreement are superseded by this understanding and are hereby waived."[43]

This is the letter appellants refer to as Document 162 of the 2007 National Agreement. It provides that temporary employees still working at LDT on January 2, 2008, would become seniority employees. The agreement to retain appellants as temporary employees past that date waived this provision. Consequently, appellants did not become seniority employees prior to July 2008.

We do not understand why the local union could not explain to appellants why they were classified as non-core employees despite their assignment on the assembly line. The Region would have forwarded all of the documents we have provided here today to the local union. The terms of the Entry Level Memorandum were developed in response to a crisis in the industry that was becoming increasingly worse. In the beginning, local union leaders may have believed that a significant number of the appellants would move into traditional jobs covered by Paragraph (98) of the National Agreement. Nevertheless, all of the appellants signed the application for employment in

[42] Record, p. 110. This Memorandum was introduced for the first time at the hearing we conducted on August 9, 2014.

[43] Record. P. 110.

July 2008 that plainly stated they were accepting employment as entry level permanent employees. They knew from their first day as permanent employees that they were receiving the wages applicable to "entry level non-core" employees. A grievance about that circumstance now would be untimely. Essentially, what the appellants are seeking here is an interpretation of the National Agreement as it applies to them. We have now reviewed all the relevant provisions and determined that it was properly applied to appellants. There is no further relief due to them.

C. Rebuttal by Andrea Kilmartin:

When we signed the application for permanent entry level status in July 2008, we were not told anything about quotas of entry level employees. We were told that we would transition into traditional positions. The 2009 Settlement Agreement that modified the terms of the 2007 National Agreement does not explain our status from July 2008 to May 2009. We should already have moved into traditional slots by the time those transfers were suspended. When we met with our local president Brian Fredline in January 2011, he said nothing about the decision to treat assembly line workers as non-core. We kept asking where assembly fit into the Entry Level Agreement, but he did not know. He said he would have to refer the matter to the UAW-GM Department. He took our information and said he would present it to Bryan Czape at the next Council meeting. After that, Fredline was promoted to the Region and we never heard back from him. We have been asking questions about our classification as non-core since 2010. Assembly was not listed in any of the groups of entry level employees described in the Entry Level Memorandum. Yet, no one could explain the basis for our classification.

DISCUSSION

The contracts supplied by Assistant Director Mike Grimes in response to our initial inquiry explained why appellants were being told they were "non-core entry level" employees, but not the contractual basis for doing so. The Memorandum of Understanding in the 2007 UAW-GM National Agreement that established a separate wage and benefit package for entry level employees was specifically applied to non-core employees as defined in Attachment A to the Memorandum. The jobs defined as non-core in Attachment A to that Memorandum are jobs other than assembly line jobs. The 2009 modifications to the 2007 National Agreement provided that all employees hired after May 2009 would receive the lower wage rate regardless of job assignment, so that the distinction between "core" and "non-core" was effectively eliminated from that point on. Yet, appellants were hired prior to May 2009 and there is no dispute that they have always been performing assembly line jobs. The March 3, 2008 Core/Non-Core Clarification states that it is designed to clarify issues concerning the "core/non-core" and "entry level" provisions of the 2007 Agreement. This language suggested that there had already been some kind of agreement to classify new hires as "non-core, entry level" employees regardless of their job assignment, or else some local memorandum of understanding that applied specifically to appellants' plant, but there was nothing in the record about any such prior agreement.

During the hearing, the International Union explained appellants' status under the UAW-GM National Agreement and the reason why they did not transition into jobs with traditional wages and benefits. The appellants' status was part of a negotiated agreement to prevent the outsourcing of UAW represented jobs other than assembly line jobs throughout the entire GM operation. It had nothing to do with the work appellants were performing at LDT. Shortly after the 2007 Agreement was ratified, the parties abandoned the idea of basing the lower wage rate on job assignments, but they retained the term "non-core" to describe the number of jobs at each location that would be limited to entry level wages. The parties adopted this artificial definition of the term "non-core" to protect the right of high-seniority employees to continue to receive traditional wages and benefits while performing what GM had unilaterally labeled non-core functions.

We appreciate that the introduction of the entry level wage and benefit package in the 2007 National Agreement was necessary to save the industry. The International Union's bargain to obtain the outsourcing moratorium in return for applying this entry level wage to non-core jobs was an excellent one for the Union as a whole. Now that it has been explained, the decision to protect the right of high seniority employees to continue to perform the non-core jobs that were saved through the moratorium makes sense. Nevertheless, we can understand appellants' perplexity at the information they received from the local union and the International Union's dismissal of their concerns. The information distributed prior to the ratification of the 2007 National Agreement and the language in the agreement itself supports their claim that their classification and compensation package was incorrect. The application for permanent employment that appellants signed in July 2008 acknowledges that the applicant is accepting entry level wages. Significantly, it says nothing about the applicant's classification as core or non-core. Despite the fact that the National Parties had agreed prior to appellants' re-employment as permanent employees that a specified number of positions would remain at the "non-core" compensation level, appellants' local representatives continued to suggest that transition to positions with traditional wages and benefits would occur as older employees left the workforce. Appellants observed older employees leaving the workforce, yet no one could explain why none of their group was being moved into traditional jobs governed by Paragraph (98) of the National Agreement. Appellants quite reasonably assumed that their apparently erroneous classification as non-core employees was what was preventing them from moving into jobs with traditional wages and benefits.

Appellants' inquiries about their classification were set in motion in 2010 after a member of GM's medical staff refused to restrict one of the appellants from her job on the line because she was coded "non-core." By this time, all transitions to traditional jobs had been frozen and all new hires were coded "non-core," but no one at the local union level seemed to understand that the designation "non-core" no longer related to job assignment; at least, no one explained this to the appellants. Even if the Region provided the local union leadership with the documents we received during our hearing, it is likely that the local union representatives were also confused by the terminology

being used to explain the deal that had been struck. The documents are far from clear. The incident involving the GM medical department demonstrates that even members of GM's personnel department were confused by the shift in terminology; the medical staff member apparently still believed that "non-core" signified something other than assembly line work.

The International Union's at times interchangeable use of the terms "non-core" and "tier 2" to refer to the basis for appellants' compensation package was unfortunate and confusing, because these terms had specific meanings in the context of the collective bargaining agreement that bargaining unit employees understood. The idea of assembly line work as the core of an automobile plant is a logical and expected application of the term. Furthermore, this is the use explained in the materials distributed to the membership prior to the ratification of the 2007 National Agreement. The incident in 2010 illustrates the extent of the confusion at the plant level over the use of these terms. As this event had health and safety implications for the workers on the assembly line, it ought to have elicited a thorough and documented explanation of how the meaning of these terms had been altered shortly after the 2007 National Agreement was ratified.

The record shows that appellants diligently pursued the relief they demanded in their 2012 grievance. The removal of the word "non-core" from appellants' classification on the seniority list in the plant did not address their concerns because their compensation package remained unchanged and there was no explanation for why they were not moving into traditional jobs in accordance with the terms of the 2011 National Agreement. Because there was no IEB investigation in response to their appeal, it cannot now be determined exactly what the local union leadership communicated to the membership about negotiations at the International level, but it is clear that Kilmartin and others in her position did not understand why they were not receiving traditional wages when they were performing assembly line, core jobs.

We recognize that this was an enormously complicated and delicate situation. Negotiations over the application of the Entry Level Memorandum continued for a considerable period of time following ratification of the 2007 National Agreement and the situation evolved over that period. Notwithstanding the complexity of the parties' negotiations, the UAW's represented employees are entitled to a timely and comprehensible explanation of the contractual basis for their wages and benefits. Appellants did not receive that. If the IEB had conducted an investigation and developed a record in response to this appeal, it would have discovered what had been communicated to appellants by the local union and it would have determined why appellants misunderstood their contractual rights. However, the union's failure to conduct an investigation is not the basis for any relief under the collective bargaining agreement. During our hearing, the union established that appellants are being compensated in accordance with the applicable agreements. They did not incur any loss as a result of the incorrect information they were given after they accepted employment as entry level employees.

The appeal is denied.