

In the matter of State of Ohio, Ohio Department of Commerce, Division of Industrial Compliance v. Ohio Civil Service Employee's Association, Grievant Anthony Wiencek, Case #COM-2021-01527-07.

This Arbitrator issued the Award for the above-styled grievance on June 6, 2022. The Award partially sustained the grievance. This Arbitrator reinstated the Grievant to his position as a Building Code Inspector 3 Official with full seniority and benefits but no back pay and directed the Employer to retrain Grievant on all policies, procedures, and the Ohio Building Code. Following the issuance of the Arbitration Award, the parties disagreed upon interpreting a provision of the Award that dealt with the time-served suspension imposed. At the request of the Union, the parties reconvened on this matter on June 16, 2022, and requested clarification of the Award.

Union contends that the Arbitrator's Award of a time-served suspension completely resolves the matter, and the discipline does not remain active in the Grievant's personnel file for three years. The Employer contends that the discipline was changed to a suspension, and the length of the suspension is from the date of discharge to the date of the Arbitrator's Award. The Employer argues that the suspension is retained on the Grievant's record for three years from the removal date.

Article 24.07 - Prior Disciplinary Actions states that All records relating to oral and/or written reprimands issued before July 1, 2015, will cease to have any force and effect and will be removed from an employee's personnel file twelve (12) months after the date of the oral and/or written reprimand if there has been no other discipline imposed during the past twelve (12) months. All records relating to written reprimands issued on or after July 1, 2015, will cease to have any force and effect and will be removed from an employee's personnel file twenty-four (24) months after the date of the written reprimand if there has been no other discipline imposed during the past twenty-four (24) months. Records of other disciplinary action issued before July 1, 2015, will be removed from an employee's file under the same conditions as oral/written reprimands after twenty-four (24) months if there has been no other discipline imposed during the past twenty-four (24) months. Records of other disciplinary action issued on or after July 1, 2015, will be removed from an employee's file under the same conditions as written reprimands after thirty-six (36) months if there has been no other discipline imposed during the past thirty-six (36) months. The retention period may be extended by a period equal to employee 96 leaves of fourteen (14) consecutive days or longer, except for approved periods of vacation leave. Employees who are terminated and subsequently returned to work

without any discipline through arbitration shall have the termination entry on their Employee History on Computer (EHOC) stricken.

The second part of the stipulated issue is the remedy. An arbitrator has broad discretion to fashion a remedy commensurate with the proven offense. This Arbitrator opined that a time-served suspension was reasonable given the seriousness of the facts and circumstances of this case. A time-served suspension only represents the duration, the number of days for the suspension, and the date of termination through reinstatement. A time-served suspension does not affect the retention period unless expressly stated. The retention period, in this case, is as specified by Article 24.07.

Dated: August 24, 2022

/s/ *Meeta A. Bass*

Arbitrator Meeta A. Bass
Reynoldsburg, Ohio

Certificate of Service

I certify that a true and accurate copy of the foregoing clarification of Opinion and Award that was served upon the following individuals via electronic mail this 24th day of August 2022:

Keith Cutright, Labor Relations Officer
Ohio Department of Commerce
77 South High St., 23rd Floor
Columbus, OH 43215
Email: keith.Cutright@com.ohio.gov

Mykal L. Riffle Staff Representative
Ohio Civil Service Employees Association
390 Worthington Rd., Suite A
Westerville, OH 43082
Email: mriffle@ocsea.org Page