

BEFORE THE ARBITRATOR

In the Matter of:

STATE OF OHIO, DEPARTMENT
OF REHABILITATION AND CORRECTION

and

OCB Griev. No. G86-0418

OHIO HEALTH CARE EMPLOYEES
UNION, DISTRICT 1199

DECISION

I find from the evidence that the facts on which the demotion was based were substantiated and would, under ordinary circumstances, justify the demotion. However, although the contract permits demotions and/or discharge, on August 15, 1986, the employer unilaterally established a Standards of Conduct, effective September 1, 1986, which provides in part as follows:

"... Demotions are a proper form of discipline
for union exempt employees only."

Although the conduct of the grievant which gave rise to the demotion occurred before the issuance of the policy, at the time of the hearing in early September and at the time of the decision on September 17th, the aforementioned policy was in effect.

In view of the foregoing, it is the Arbitrator's belief

that the demotion in question violates the Standards of Conduct directive of the employer and, therefore, cannot stand. Accordingly, I am converting the grievant's demotion from Parole Officer Supervisor I to Parole Officer I to a suspension from that position from the date that the demotion became effective until the beginning of the next ensuing payroll period following the issuance of this decision, at which time he is to be reinstated. As a condition to reinstatement, the grievant is to be placed on probation for one year from the effective date of his reinstatement and should he be unable to perform his duties and correct the deficiencies which gave rise to the demotion, the employer may institute additional disciplinary action against the grievant based on the Standards of Conduct policy then in effect at the final step of progressive discipline as set forth in Article 8.02 of the collective bargaining agreement. The Arbitrator retains jurisdiction for the period of the probation.



JONAS B. KATZ, Arbitrator

Issued at Cincinnati, Hamilton County,
Ohio, this 10th day of February, 1987.