

ARBITRATION AWARD SUMMARY

OCB Award Number: 139
OCB Grievance Number: G87-1128 / Dion Dortch
Union: OCSFA/AFSCME G87-0397 / Willa Johnson
Department: Mental Health
Arbitrator: Henry Helling, III
Management Advocate: Jennifer Dworkin
Union Advocate: —
Arbitration Date: 1-6-88
Decision Date: 1-8-88
Decision: Granted / Denied

LAW OFFICES
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January 8, 1988

Ms. Jennifer Dworkin
Labor Relations Specialist
Office of Collective Bargaining
65 East State Street
16th Floor
Columbus, Ohio 43215

RE: Expedited Arbitrations: Dion Dortch, Willa Johnson

Dear Ms. Dworkin:

Enclosed please find the Award decisions in the
aforementioned cases.

Sincerely,



Henry E. Helling, III
Arbitrator

HEH/ch

Enclosures (2)

BEFORE THE ARBITRATOR

In the Matter of:

STATE OF OHIO, DEPARTMENT
OF MENTAL HEALTH

January 6, 1988
Grievance G87-1128

THE EMPLOYER

Grievant: Dion Dortch

and

OHIO CIVIL SERVICE
EMPLOYEES ASSOCIATION,
LOCAL 11 AFSCME, AFL-CIO

THE UNION

Arbitrator: Henry E. Helling, III

AWARD

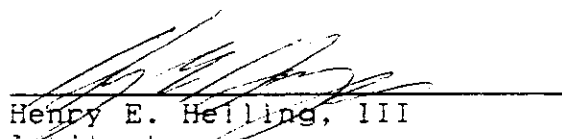
The grievance in this matter is upheld. Grievant Dion Dortch, a Correction Officer II at the Dayton Mental Health Center, was suspended for two days for neglect of duty. Said neglect of duty charge was the result of Grievant being found in a room which was deemed off limits to all Corrections Staff. The Inter-office Communication dated September 10, 1986, which placed the room in which employee Dortch was found off limits to all Correction Staff seems to be the controlling evidence of the Employer. There was no dispute that the IOC did exist and that the employees saw it at one time or another. This Inter-office Communication, however, appeared to carry no weight as far as any of the employees of the Control Center were concerned. The Grievant testified that he used the room off the visitation area regularly as did other correction staff. The Union called two witnesses, both in the same classification as the Grievant who testified that they used the room in question regularly for breaks and have never had disciplinary problems as a result.

In addition to the witnesses, another control center employee, Mirlam Works, submitted a notarized statement that she often used the room in question for breaks and was never restricted therefrom. There is no question that Grievant Dion Dortch was in the room in question. Whether he was tending to his injured foot as he stated, laying down as Lt. Osborne stated, or whether his shoe was off or on are irrelevant facts to the charge in this case.

Entirely too much weight was placed on a memorandum issued some five months previous to the date of the offense and obviously ignored by the Control Center personnel. Witnesses testified that they as employees used the room for breaks, that there was no regular break schedule, and that Grievant advised control center that he was going to the room to tend to his injured foot and was in fact told to do so by his co-workers.

The arbitrator finds that Grievant was on an authorized requested break in the room that was used regularly by both Grievant and his fellow workers for these purposes.

The suspension should be rescinded and the Grievant paid for these two days which he was unable to work.


Henry E. Helling, III
Arbitrator

Issued January 8, 1988

BEFORE THE ARBITRATOR

In the Matter of:

STATE OF OHIO, DEPARTMENT
OF MENTAL HEALTH

January 6, 1988
Grievance: G87-0397

THE EMPLOYER

Grievant: Willa Johnson

and

OHIO CIVIL SERVICE
EMPLOYEES ASSOCIATION,
LOCAL 11, AFSCME, AFL-CIO

THE UNION


Arbitrator: Henry E. Helling, III

AWARD

Grievant Willa Johnson, a Psychiatric Attendant Coordinator at the Dayton Mental Health Center, was suspended for two days for neglect of duty resulting from excessive tardiness. It was stipulated by the parties that Grievant reported to work late a total of 5.3 hours during the period of August 1 through October 27, 1986. She was late a total of eleven (11) days during this period, said tardiness ranging in length from .1 hour to 1.9 hours. Grievant testified that family illness and transportation difficulties were the cause of her tardiness and that she had asked for flextime to help alleviate the problem. While this arbitrator sympathizes with Grievant and finds her to be a credible witness, she presented no evidence of a written request for flextime nor did she present any witnesses to testify to the existence of an oral request made to the appropriate party. Grievant testified that she asked a supervisor about flextime in June but never heard anything more about it. Knowing that she was having these problems and that it appeared that they would continue. Grievant should have actively pursued flextime and continued to do so until she got an answer one way or another.

Inasmuch as all of these instances of tardiness were based on the same problems it does not appear that there were extenuating or mitigating circumstances for each occurrence.

I also find that the discipline received by the Grievant was progressively administered and commensurate with the offense based on the evidence submitted at the arbitration. Grievance is denied accordingly.



Henry E. Helling, III
Arbitrator

Issued January 8, 1988