

BEFORE THE ARBITRATOR

#145

In the Matter of:

STATE OF OHIO, DEPARTMENT  
OF MENTAL RETARDATION AND  
DEVELOPMENTAL DISABILITIES

January 27, 1988  
Grievance: G87-~~0000~~  
1167

THE EMPLOYER

Grievant: Leadell Dawkins

and

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

THE UNION

Arbitrator: Henry E. Helling, III

AWARD

Grievant Leadell Dawkins, a Hospital Aide at Columbus Developmental Center was suspended for five days for sitting at a table in the Living Area of Doren Hall and failing to interact with his 1:1 client on January 21, 1987. Testimony and evidence presented showed that it was not unusual for staff to be seated at this particular table and nobody had been disciplined for doing so prior to this incident. There was no evidence presented that he was not tending to the hand-washing or toileting duties of his 1:1 client as required at that time by the master schedule. Evidence showed that although his 1:1 client may not have been at arms length from Grievant, he was not far enough away that Grievant could not take care of him should something occur that would require the immediate attention of Grievant. There was evidence of a written policy stating how close a Hospital Aide must remain to his client on a 1:1 assignment.

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Based on the evidence presented in this matter along with the fact that no employees have been previously disciplined for sitting at the table, the punishment in this case would not be commensurate with the offense. The arbitrator finds that the employer did not establish just cause for the disciplinary action in this matter, the suspension of Grievant should be rescinded, the Grievant paid for the five days that he was unable to work, and that this incident be expunged from his record.



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Henry E. Helling, III  
Arbitrator

Issued January 28, 1988

BEFORE THE ARBITRATOR

In the Matter of:

STATE OF OHIO, DEPARTMENT  
OF MENTAL RETARDATION AND  
DEVELOPMENTAL DISABILITIES

January 27, 1988  
Grievance: G87-0928

THE EMPLOYER

Grievant: Susan Laywell

and

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

THE UNION


Arbitrator: Henry E. Helling, III

AWARD

Grievant Susan Laywell, a Hospital Aide at the Columbus Developmental Center was suspended for one day for being observed on November 21, 1987, sitting with three co-workers at a table in the Living Area of Doren Hall and not interacting with clients. Testimony and evidence presented showed that it was not unusual for staff to be seated at this table and nobody had been disciplined for doing so prior to this incident. Grievant testified further that she was seated at the table to ask a co-worker how long two clients that she was in charge of were required to be in the restroom for toileting. There was no evidence presented that she was not tending to the hand-washing or toileting duties of her clients as required at that time by the master schedule.

Based on the evidence presented, the arbitrator finds that the employer did not establish just cause for the disciplinary action in this matter.

The suspension of Grievant should be rescinded, the Grievant paid for the day that she was unable to work, and that this incident be expunged from her record.



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Henry E. Helling, III  
Arbitrator

Issued January 28, 1988

BEFORE THE ARBITRATOR

In the Matter of:

STATE OF OHIO, DEPARTMENT  
OF MENTAL RETARDATION AND  
DEVELOPMENT DISABILITIES

January 27, 1988  
Grievance: G87-1533

THE EMPLOYER

Grievant: Kathy Frye

and

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

Arbitrator: Henry E. Helling, III

AWARD


Grievant Kathy Frye a Hospital Aide at Columbus Developmental Center was suspended for one day for using profanity in front of two clients. Said incident took place on January 6, 1987, in the Carlson Building located at the Columbus Developmental Center. Said profanity consisted of Grievant shouting "Kiss my ass" to one of her clients.

Unit Manager Robert Basinger testified that he not only heard Grievant use the profanity, he actually observed her doing so. Mr. Basinger testified that prior to his observation of this, he heard Grievant say "shit" two times. He did not observe anyone saying this but assumed that it was Grievant.

The Union presented evidence that the client that Grievant was with cursed frequently and that it possibly could have been him and not Grievant that used said profanity. Giving the benefit of the doubt to Grievant, even if it was in fact the client who used the initial profanity, Grievant was observed making the latter statement to wit: "Kiss my ass".

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Based on the evidence presented, the arbitrator finds that the Grievance is denied. The one day suspension was not excessive punishment for the offense committed by Grievant.

  
Henry E. Helling, III  
Arbitrator

Issued January 28, 1988