

ARBITRATION
BENCH DECISION AND AWARD

Arbitrator: JERRY A. FULLMER

State of Ohio

Grievance No. 31-04-890329-0021-01-06

Department TRANSPORTATION

Grievant EDWIN DAVIS BAILEY IV

Union DCSEA LOCAL 11

Date of Hearing 11/21/89

Issue(s): "WAS THE WRITTEN REARRANGEMENT ISSUED TO THE GRIEVANT FOR JUST CAUSE? IF NOT, WHAT SHALL BE THE REMEDY"

Appearances:

For the Employer: (Advocate) SALLY P. MILLER

For the Union: (Advocate) GERALD B. VAUGHAN

AWARD: The Union may be correct in its interpretation of Art. 28 vs. The ODOT vacation policy. But, its position should be tested either by an interpretation grievance or by a grievance from an employee who appears for work & then grieves the denial of his vacation day. Here the applicable maxim is that of "work now, grieve later." The disciplinary penalty is a mild one and is justified under the circumstances.

Issued at Fairlawn, OHIO

11/21/89
Date

Jerry A. Fullmer
Arbitrator's Signature

ARBITRATION
BENCH DECISION AND AWARD

Arbitrator: JERRY A. FULLMER

State of Ohio

Grievance No. 31-04-890225-0010-01-06

Department TRANSPORTATION

Grievant EDWIN DAVID BAILEY IV

Union OCSEA

Date of Hearing 11/21/89

Issue(s): "WAS THE GRIEVANT'S 4-DAY SUSPENSION ISSUED FOR JUST CAUSE? IF NOT, WHAT SHALL THE AGENCY BE?"

Appearances:

For the Employer: (Advocate) MILLER

For the Union: (Advocate) BUNTING

AWARD: CONVERT TO WRITTEN REPRIMAND FOR Rule 3 violation 2 a. & b. violation NOT ESTABLISHED because Grievant not told to change blouse now. Rule 3 violation established. Neutral witness verified "stick up ass" language and grievant admitted at least using word "ASS". Rule 19 violation NOT ESTABLISHED because no showing vehicle was operated in "unsafe" manner.

GRIEVANT AWARDED FOUR DAYS BACK PAY FOR SUSPENSION PERIOD

Issued at Fairlawn Ohio

Jerry A. Fullmer
Arbitrator's Signature

Date 11/21/89

ARBITRATION
BENCH DECISION AND AWARD

Arbitrator: Jerry A. Fullmer

State of Ohio

Grievance No. 11-03-890130-0002-01-09

Department OBES

Grievant Maureen J. Diana

Union OSCEA

Date of Hearing 11/21/89

Issue(s): "Was the grievant's 5-day suspension issued for just cause? If not, what shall be the remedy?"

Appearances:

For the Employer: (Advocate) Miller

For the Union: (Advocate) FALCIONE

AWARD: Grievance denied. Record indicates no medical documentation submitted by grievant for 120 hours (8/17-9/6) "Telephone Threat" period. Hours must thus be considered unexcused and justifying the five day suspension. Union cites "Timeliness" provision of last paragraph of § 24.02. This is UNQUESTIONABLY APPLICABLE AND WAS CONSIDERED by arbitrator. BUT, in this case there was no showing that the processing of discipline prejudiced the grievant. (In cases where the facts are more important, along with "fresh" testimony, e.g. a "fight" case, prejudice would be easier to show).

Issued at Fairborn, Ohio
11/21/89
Date

Jerry A. Fullmer
Arbitrator's Signature