

ARBITRATION AWARD SUMMARY

OCB Award Number: 408

JB Grievance Number: 27-24-891108-0048-01-06 Robert Stoughton

Union: OCSEA/AFSCME

Department: RAC

Arbitrator: Jerry Fullmer

Management Advocate: Wyatt McDowell

Union Advocate: John Fisher

Arbitration Date: 4-18-90

Decision Date: 4-18-90

Decision: Denied

ARBITRATION
BENCH DECISION AND AWARD

Arbitrator: JERRY A. FULMER

State of Ohio

Grievance No. 27-24(11/8/89)-48-0406

Department CORRECTIONS

Grievant ROBERT T. STOUGHON

Union OCSEA, LOCAL 11

Date of Hearing 4/18/90

Issue(s): WAS THE GRIEVANT DISCIPLINED FOR
JUST CAUSE? IF NOT, WHAT SHOULD BE
THE REMEDY?

Appearances:

For the Employer: (Advocate) WYATT McDOWELL
ASST. YVONNE POWERS

For the Union: (Advocate) JOHN FISHER
ASST. LOU KITCHENS

AWARD: GRIEVANCE DENIED. THE GRIEVANT WAS "
GIVEN SPECIFIC INSTRUCTIONS ON TWO OCCASIONS
(JULY 11, 1989 AND OCTOBER 5, 1989) TO REPORT TO WORK
CLEAN SHAVED SO HE COULD BE PROPERLY FITTED FOR
THE RESPIRATOR". HE DID NOT & WAS GIVEN A
THREE DAY SUSPENSION FOR THE OCTOBER 5
REFUSAL.

A CARDINAL PRINCIPLE IN ARBITRATION OF
INSUBORDINATION CASES IS "OBEY NOW, GRIEVE LATER".
AN EXCEPTION IS THAT WHERE PERFORMANCE WILL
CAUSE DANGER TO LIFE OR LIMB. THIS ARBITRATOR
HAS ALSO SET ASIDE DISCIPLINE IN STATE/OCSEA
(OVER)

Issued at LANCASTER Ohio.

4/17/90
Date

Jerry A. Fulmer
Arbitrator's Signature

EXPEDITED CASES WHERE THE EMPLOYEE CLAIMED TO BE DISABLED FROM THE TASK (E.G. BAD BACK + TRAUMATIZED). THOSE MATTERS SHOULD PROCEED ON THE DISABILITY TRACK.

THIS CASE DID, BETWEEN JULY + OCTOBER. GRIEVANT DID NOT ESTABLISH DISABILITY.

BY OCTOBER 5 HE COULD NOT CLAIM DISABILITY + WAS REQUIRED TO OBEY + THEN ATTEMPT TO SET ASIDE THE EMPLOYER'S POLICY THROUGH SOME LEGAL PROCEEDING, I.E. GRIEVANCE PROCEDURE, OR CRIMINAL COURTS,