

IN THE MATTER OF ARBITRATION
UNDER THE 1986-89 CONTRACT

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Between: *

State of Ohio *
Department of Rehabilitation *
and Correction *
Lima Correctional Institute *

Grievance No.
27-12-890403-0042-01-03

THE EMPLOYER *

-and- *

The Ohio Civil Service *
Employees Association, *
Local No. 11, AFSCME, *
AFL-CIO *

Grievant: Richard Bradford

THE UNION *

Hearing Date: July 11, 1990

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Before: JAMES M. KLEIN, ARBITRATOR

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OPINION AND AWARD:

July 16, 1990

CASE DATA

SUBJECT

One day suspension for violation of the DR&C Standards of Employee Conduct, Rule 26 - Loss of control of any instrument that could result in a breach of security and/or jeopardize the safety of others, e.g., to include but not limited to class "A" tools, keys, communication devices, etc.

APPEARANCES

For The Union:

Bob Rowland, Staff Representative, OCSEA, presenting the case
Terry Hawk, Local Union Steward
Richard Bradford, Correction Officer II, Grievant

For The Employer:

Louis Kitchen, Representative
Harry Russell, Superintendent, LCI
Jerry Hunt, Corrections Supervisor III, LCI

THE FACTS

Grievant, a Corrections Officer II at Lima Correctional Institute (LCI) received a one (1) day suspension for violation of Rule 26, Standards of Employee Conduct- (Received October 23, 1987), which prohibits "the (l)oss of control of any instrument that results in a breach of security and/or jeopardize the safety of others." On January 11, 1989, grievant forgot to retrieve his handcuffs after escorting an inmate to Security Control. Grievant did not realize that they were not on his person until several hours after he left Security Control. It appears from

the testimony that the handcuffs were located and secured by an officer in Security Control shortly after grievant left them there. However, due to a mix-up in the serial numbers (which was not the fault of the grievant), the officer at Security Control refused to return the cuffs to the grievant when he returned to Security Control to retrieve them. The grievant was given a one (1) day suspension because the cuffs were out of his possession for some three hours.

ISSUE

Was the grievant, Richard Bradford, disciplined for just cause? If so, what shall the penalty be?

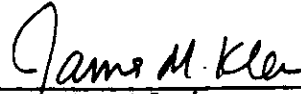
EVALUATION

The Union contends that grievant's discipline was disparate to that received by another Officer who lost her cuffs on January 10, 1989. The Warden justified the disparity by stating that in the latter case, the cuffs were returned to the Officer "almost immediately," while grievant's cuffs were missing for three hours. However, if it were not for the mix-up in serial numbers, there is a strong likelihood that grievant's cuffs would have been returned to him by Security Control.

Consequently, the Arbitrator finds that the grievant's conduct did violate the Standards of Employee Conduct, Rule 26, but the penalty is reduced to a written reprimand.

AWARD

The grievant was disciplined for just cause. Penalty reduced to written remand. Reimbursement of one (1) day with back pay and benefits.



James M. Klein
Arbitrator

IN THE MATTER OF ARBITRATION
UNDER THE 1986-89 CONTRACT

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Between: *

State of Ohio *
Department of Rehabilitation *
and Correction *
Lima Correctional Institute *

Grievance No.
27-12-880119-0003-01-03

THE EMPLOYER *

-and- *

The Ohio Civil Service *
Employees Association, *
Local No. 11, AFSCME, *
AFL-CIO *

Grievant: Richard Bradford

THE UNION *

Hearing Date: July 11, 1990

* * * * *

Before: JAMES M. KLEIN, ARBITRATOR

* * * * *

OPINION AND AWARD:

July 16, 1990

CASE DATA

SUBJECT

One day suspension for excessive absenteeism.

APPEARANCES

For The Union:

Bob Rowland, Staff Representative, OCSEA, presenting
the case
Terry Hawk, Local Union Steward
Richard Bradford, Correction Officer II

For The Employer:

Louis Kitchen, Representative
Harry Russell, Superintendent, LCI

THE FACTS

Grievant, a Corrections Officer II at Lima Correctional Institute (LCI), was given a one day suspension for violation of the Standards of Employee Conduct prohibiting excessive absenteeism. From December 1, 1986 through November 29, 1987, the grievant called in sick 26 times and left the Institution prior to the end of his shift on three other occasions. All sick days were approved by the employer. The warden testified that excessive absenteeism of a corrections officer can adversely affect staffing at the Institution, which, in turn, increases the risk caused by improper supervision of inmates. The grievant testified that he was suffering from work-related stress that this contributed to the sick days during the period in question. The record also reflects that the grievant received corrective

counseling on March 11, 1986 and written reprimand on January 1, 1987, both for tardiness. On May 19, 1987, the grievant received an unrelated one day suspension.

ISSUE

Was the grievant, Richard Bradford, disciplined for just cause? If so, what shall the penalty be?


EVALUATION

There is no dispute that the grievant called in sick 26 times during the period not exceeding one year. The Union's contention is that the discipline was not issued until more than a year after the grievant received prior written reprimand on the subject. The Agreement (24.02) requires that disciplinary action be initiated as soon as reasonably possible, consistent with the requirement of other provisions of this Article 24. In the present case, the one day suspension was issued on January 5, 1988. The 26 sick days occurred over an eleven month period ending November 26, 1987. The written reprimand for tardiness was given on January 6, 1987, which was more than one year after the last discipline relating to this issue. The Agreement requires the Arbitrator to consider timeliness in beginning the disciplinary process. In this case, the Arbitrator does not find that the Employer was untimely in imposing the one day suspension. The grievant's attendance was measured for a one year period following the written reprimand. While there were no corrective counselling sessions during this period, the grievant

was aware of the number of times he called in sick. From this the Arbitrator concludes that the one day discipline imposed by the Employer was proper.

AWARD

There was just cause for the one day suspension. The grievance is denied.



James M. Klein
Arbitrator

IN THE MATTER OF ARBITRATION
UNDER THE 1986-89 CONTRACT

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Between: *

State of Ohio *
Department of Rehabilitation *
and Correction *
Lima Correctional Institute *

Grievance No.
27-12-101488-66-01-03

THE EMPLOYER *

-and- *

The Ohio Civil Service *
Employees Association, *
Local No. 11, AFSCME, *
AFL-CIO *

Grievant: Steven Hatcher

THE UNION *

Hearing Date: July 11, 1990

* * * * *

Before: JAMES M. KLEIN, ARBITRATOR

* * * * *

OPINION AND AWARD:

July 16, 1990

CASE DATA

SUBJECT

One day suspension for violation Rule 4 and 6c of the Standards of Employee Conduct.

APPEARANCES

For The Union:

Bob Rowland, Staff Representative, OCSEA, presenting the case
Terry Hawk, Local Union Steward
Steven Hatcher, Corrections Officer II, Grievant
Timothy Tuttle, Corrections Officer II, Witness
Ernest conner, Corrections Officer II, Witness

For The Employer:

Brenda Shelly, Representative
Dolly Ramsey, Supervisor II, LCI

THE FACTS

Grievant, a Corrections Officer II at Lima Correctional Institution (LCI), received a one day suspension for violation of Rules 4 and 6c of the Standards of Employee Conduct:

4a Carelessness resulting in loss, damage, unsafe act . . .

6c Failure to follow post orders

Post Orders require employees to keep all equipment properly secured at all times and that employees never leave security equipment laying around or unsecured. Grievant admitted that on June 14, 1988 he left two sets of handcuffs on a desk in his assigned area while he left the area to perform other tasks. At

the time, there was an inmate, a porter, near the unattended cuffs.

ISSUE

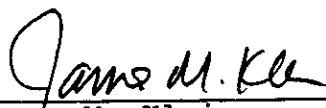
Was the grievant disciplined for just cause? If so, what shall the remedy be?

EVALUATION

The unrefuted evidence shows that the grievant left two sets of handcuffs on a desk in his assigned area and when he went to perform another task. Other testimony established that the grievant turned himself in by coming forward and admitting that he left his cuffs on the desk. If it were not for this voluntary act, he never would have been disciplined. There also is some doubt whether grievant was properly notified that his meeting with Officer Ramsey on June 22, 1988 was an investigatory interview and as such, he would be entitled to union representation. Notwithstanding the grievant's display of honesty and the possible procedural defect in the investigatory interview (which was cured at the pre-disciplinary hearing where he did have union representation), the Arbitrator finds that the grievant's conduct did constitute a violation of Post Orders and Rules 4 and 6c of the Standards of Employee Conduct.

AWARD

The grievance is denied.



James M. Klein
Arbitrator

IN THE MATTER OF ARBITRATION
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* * * * *

Between: *

State of Ohio *
Department of Rehabilitation *
and Correction *
Lima Correctional Institute *

Grievance No.
27-12-101388-65-01-03

THE EMPLOYER *

-and- *

The Ohio Civil Service *
Employees Association, *
Local No. 11, AFSCME, *
AFL-CIO *

Grievant: Timothy Tuttle

THE UNION *

Hearing Date: July 11, 1990

* * * * *

Before: JAMES M. KLEIN, ARBITRATOR

* * * * *

OPINION AND AWARD:

July 16, 1990

CASE DATA

SUBJECT

One day suspension for violation Rule 4 and 6c of the Standards of Employee Conduct.

APPEARANCES

For The Union:

Bob Rowland, Staff Representative, OCSEA,
Terry Hawk, Local Union Steward
Timothy Tuttle, Corrections Officer II, Grievant
Steven Hatcher, Corrections Officer II, Witness

For The Employer:

Brenda Shelly, Representative
Dolly Ramsey, Supervisor II, LCI

THE FACTS

Grievant, a Corrections Officer II at Lima Correctional Institution (LCI), received a one day suspension for violation of Rules 4 and 6c of the Standards of Employee Conduct:

4a Carelessness resulting in loss, damage, unsafe act, or delay in work production . . .

6c Failure to follow post orders . . .

Post Orders require employees to keep all equipment properly secured at all times and prohibit employees from leaving security equipment laying around or unsecured.

On June 14, 1988 the grievant was assigned to the dayroom of E Block, a high security area. When grievant left the desk to go to another area, he left two sets of handcuffs on a desk with an inmate (porter) in the near vicinity. While the keys were signed

out to another Officer (Hatcher), the grievant was responsible for securing the handcuffs before he left the desk. Grievant contends that it was the usual practice to leave the cuffs on the desk. This allegation was corroborated only by Officer Hatcher, who by his admission left the keys on the desk on the day in question.

ISSUE

Was the grievant disciplined for just cause? If so, what shall the remedy be?

EVALUATION

The grievant does not deny that the handcuffs were left unsecured on the desk on the day in question. His defense is that the keys were not assigned to him and that it was usual practice to leave the cuffs on a desk in E block because it was a secured area. The Arbitrator concludes that there is insufficient evidence to support a finding that this usual practice exists. The Posted Orders clearly prohibit employees from leaving security equipment laying around or unsecured. The cuffs were on the desk in E block when grievant left them unattended and this constituted a violation of the stated rule. Consequently, the Arbitrator finds that the grievant's discipline was for just cause and the one (1) day suspension is upheld.

AWARD

The grievance is denied.



James M. Klein
Arbitrator