

#732

IN THE MATTER OF ARBITRATION

BETWEEN

OFFICE OF COLLECTIVE BARGAINING
STATE OF OHIO

AND

FRATERNAL ORDER OF POLICE
UNIT #1

ARBITRATION AWARD

CASE NUMBER: 15-03-910910-0092-04-01
15-03-911017-0107-04-01
GRIEVANT: Sharon Yiannaki
HEARING DATE: December 13, 1991
ARBITRATOR: John E. Drotning

I. HEARING

The undersigned Arbitrator conducted a Hearing on December 13, 1991 at the Office of Collective Bargaining, 65 East State Street, Columbus, Ohio. Appearing for the Union were: Paul Cox, Esq., Ed Baker, Trooper William Jones, Richard Miller (Chairman of the Bargaining Committee), and the grievant, Sharon Yiannaki. Appearing for the Employer were: Anne Arena, Paul Kirshner, Lt. Rick Corbin, Lt. Richard Nickison, Pat Alexander, Tom Mock, Capt. Stephen R. Lamantia, and Lt. John Isoldi.

The parties were given full opportunity to examine and cross examine witnesses and to submit written documents and evidence supporting their respective positions. Post hearing briefs were filed on or about February 7, 1992 and the case was closed. The discussion and award are based solely on the record described above.

II. ISSUE

The parties jointly asked:

Was the grievant disciplined for just cause?

III. STIPULATIONS

The parties jointly stipulated to documents identified as Joint Exhibits #1, #2, #3, #4, and #5.

IV. TESTIMONY, EVIDENCE, AND ARGUMENT

A. MANAGEMENT

1. TESTIMONY AND EVIDENCE

Mr. Pat Alexander, weekend anchor and producer of Channel 23, Eyewitness News, Youngstown Ohio, testified he worked at the Youngstown station for about four years and he writes and plans TV shows. In addition, Alexander gets stories, plans coverage, produces the show and also reads the news.

Alexander testified that he interacts with State Highway Patrol people and noted that his office has a scanner to pick up various incidents which then go on the air. Alexander said he called police dispatchers to get information and that he routinely contacts the State Highway Patrol.

Alexander continued by saying that he called the Highway Patrol's Canfield post in May 1991 about an accident. Alexander said when he called the dispatcher about the accident, the dispatcher cut him off before he could state his concern. Alexander said the same situation occurred on previous occasions. Alexander reiterated that he was cut off before he could ask the dispatcher his question.

Alexander was asked to listen to a tape which he did and he reiterated that the dispatcher cut him off.

On redirect, Alexander testified that it is important for him to get appropriate information from dispatchers.

Mr. Tom Mock, news director for ABC affiliated station WYTU in Youngstown, testified he had worked in both Dayton and Cincinnati prior to his position in Youngstown. Mock testified

he was the chief operating officer for the TV station and he supervises about twenty-five employees.

Mock said that he interacted with law enforcement personnel on a daily basis. Mock said he started work at 5:00 A.M. and he noted that he covers Mahoning, Trumbull, Columbiana counties in Ohio and Lawrence and Mercer counties in Pennsylvania. He said that he contacts state police. Mock said he has an ongoing relationship with the Ohio State Highway Patrol and there are numerous emergencies when he has to cut in on a program because of an incident, etc.

On 6/6/91, Mock said he called the Canfield post and asked for a phone number for the Hiram post and he was put on hold and after about three to five minutes, he received no response and he hung up. Mock said he called the Canfield post on the next day, 6/7/91, and he said the dispatcher responded to his request, although he felt she was curt.

As a consequence, Mock said he talked to Lt. Isoldi and he wrote up Management Exhibit #1.

Stephen A. Lamantia, a captain in the Ohio State Highway Patrol, testified that he supervises six posts in northeast Ohio and that District 4 has about 212 employees. Lamantia testified that there are about 31 dispatchers in District 4.

Lamantia said he was familiar with Yiannaki's termination and he identified Management Exhibits #2 and #3. He said dispatchers are trained in two or three months and that Yiannaki had been on the job for at least two years.

The leads-system, said Lamantia, gives data on motor vehicles, etc. and he indicated that Sharon Yiannaki at one time asked to ride with troopers to familiarize herself with the area.

Lamantia testified that Joint Exhibit #3 which includes Management Exhibits #6A-#6F talks about a personal department record of Sharon E. Yiannaki. He said the documents deal with her inefficiency and unacceptable performance standards. He said he talked to Mrs. Yiannaki and told her what progressive discipline involved and that he had suggested that she get involved in a employee assistance program (EAP).

Lamantia testified that he evaluates employees twice in the first year and then once on an annual basis.

Lamantia said that Yiannaki said there were a number of reasons for her problems; namely, personal problems which caused her stress. He also said that when he told her she responded inadequately to the public's calls at times, she said she felt that they were dumb calls because people would call in and say to her, "Is it snowing?" and she acknowledged she might not respond graciously. He said that Yiannaki also blames supervision for insufficient guidance.

Capt. Lamantia testified that Management Exhibit #7 was Yiannaki's employee performance review of 1989 which shows she was rated below standards except with the fact that she met expectations on information processing and the use of office equipment. In short, Lamantia said that Yiannaki did not do her job well and she could not handle more than one job at a time and apparently personal problems always caused her difficulties. He noted that she did not complete her logs, that she had poor

morale, etc. He acknowledged that she was good on equipment but asserted she was very poor in dealing with people. Lamantia went on to say Management Exhibit #8, Yiannaki's performance review in 1990, again identifies that she is above average in using office equipment but below average on quantity, quality, cooperation, information processing as well as dealing with the public.

Lamantia said that Yiannaki has not changed her behavior and progressive discipline has not worked.

On redirect, Lamantia said he has never had a dispatcher who was consistently as poor in handling problems as Yiannaki.

When Captain Lamantia was recalled, he testified that he never was involved in a shouting match with Sharon Yiannaki and he was not out to get her.

Lamantia said that Yiannaki gave him a document which involved a personal problem and this also contained a note in which Yiannaki indicated she might want to do something about a problem with some other person. In any event, he said that she had a document which contained a form which dealt with an alcohol treatment program. He went on to say that he told the Major that the document should go back to the trooper and Yiannaki should not have given that to him.

Lt. John Isoldi, Commander of the Canfield post, testified that there are three shifts, day, afternoon, and midnight and that more than 50% of the phone calls occur during the day whereas the other 50% occur between afternoon and midnight with most of latter being afternoon calls.

Isoldi said that he was aware of Yiannaki's problems and that he evaluates dispatchers.

Isoldi testified that Management Exhibit #15, Yiannaki's performance review in June 1991, indicates that she is again below average but that she meets expectations on office equipment and dealing with the public. Isoldi said he talked to Yiannaki about her problems in detail and in effect he said to her she ought to try to be "on the same page" as all of the other dispatchers.

Isoldi said he received a complaint from Pat Alexander so he investigated it. He also said that Yiannaki told him she was going to try to clean up her act.

Isoldi testified about a number of incidents. In one case, he said, a man had a car disabled and called from a car phone to Yiannaki to get help from the troopers and she simply responded negatively.

Isoldi said a lady from a Banner Elementary School called for information about the turnpike and Yiannaki hung up on the lady who called.

Isoldi said that some times, she does good work and at other times, Yiannaki just hangs up on callers.

Isoldi went on to say that a Canadian driver called back to Yiannaki more than once and on the second time, the Canadian and the telephone operator both tried to talk to Yiannaki and apparently Yiannaki shut the telephone operator down.

Isoldi said that another caller was concerned about a seat belt and he said that Yiannaki handled that call adequately. He also noted that at one point, a caller asked for a tow truck because apparently the individual was stuck on I-80 in Mercer County and she gave him the correct information.

In another situation, Lt. Isoldi said that a person called to get directions to a state park and Yiannaki simply said she could not give him that information.

Again, Isoldi testified that a trucker called who said he was at gate 15 and that there was an accident on the turnpike on I-80 east and I-76 and she did not expedite the call. In short, Isoldi said that Yiannaki strung the caller along when she knew exactly where the accident had occurred because she knew I-80 and she knew the position of the 220 mile post.

In another situation, Isoldi said Yiannaki took a call which involved a double homicide and suicide in Mahoning County. Isoldi said that the caller was concerned over that situation and what Yiannaki did was put the caller off and told him that there wasn't anything she could do on Friday and therefore he should call back on Monday.

In another situation, Isoldi said that an employee called Yiannaki asking a question about liquor and she simply said she had no information and was abrupt and rude to that employee.

Isoldi said that ended the tapes that he monitored.

Isoldi said that Yiannaki received a five day suspension for the incident with Alexander and Mock.

Isoldi went on to say that on July 23, 1991, four individuals were involved in a robbery at McDonald's and apparently an individual in a truck observed the situation and followed their car which got off at I-680 heading into Youngstown and they were in a blue Oldsmobile. This observer apparently called Yiannaki and after he explained the situation to her, she said, "Wait a minute. Were you involved?" and of course he was not but rather he had attempted to follow these four people. Isoldi was asked whether Yiannaki should have taken action and he said sure she should have dispatched the data to a trooper so they could make the arrest. The person who called Yiannaki even tried to give Yiannaki the license plates of the car and he was following these four people in the blue oldsmobile using a cellular phone but she did not ask him for his name, etc. In any event, as a result, the case died and they never found those four individuals in the blue oldsmobile. Isoldi said that Yiannaki should have gotten the name of the individual driver in the truck and she should have called the Youngstown police as well. In short, Isoldi said that Yiannaki did not handle that situation effectively.

Lt. Richard Nickison was recalled as a rebuttal witness and he testified that he never told Yiannaki that he would make her life miserable. In any event, the documents that Yiannaki looked at were not even confidential. He said he never told Trooper Jones that he wanted to get "paper" on Yiannaki.

Nickison said he was in no way out to "get" Yiannaki.

The Employer also cross examined Sharon E. Yiannaki who testified that no Canfield supervisor ever told her not to take calls from Pennsylvania. She said she had been trained to take call backs.

Yiannaki said she was physically abused in May of 1988 and she discussed that situation with a supervisor in 1989.

Yiannaki was asked whether Trooper X assaulted her at work and she said No. She was asked whether she had a relationship with Trooper X and she said Yes, it was a friendship and intimate relationship but they broke up prior to January of 1989. She said there were continuing assaults by that officer between May of 1988 and June of 1989.

Trooper William Jones was not cross examined.

Mr. Ed Baker on cross testified that there have not been many grievances by dispatchers.

2. ARGUMENT

Management states that the issue is whether Sharon Yiannaki was disciplined for just cause under Articles 19 and 7 of the Contract?

The facts of the case indicate that Yiannaki was first employed by the Highway Patrol in 1984 at Canfield and transferred to Warren and then returned to Canfield in October of 1990.

Yiannaki's record indicates that she has been disciplined verbally and has received three written reprimands and a one day suspension and then a two day suspension prior to the cases involved in this grievance.

The Employer asserts Yiannaki was suspended and terminated for just cause. Yiannaki, notes the Employer, received job training and as the dispatcher, she accompanied troopers on their duty assignments in order to become familiar with the geographic area and with the duties and concerns of a road trooper.

Yiannaki had a dispatcher desk manual available to her and it contained instructions regarding telephone interaction which is a significant dispatcher responsibility.

The Employer notes that Yiannaki had been disciplined on prior occasion and in a progressive manner as noted under Article 19.05. Moreover, Management asserts that Yiannaki was aware of her duties and capable of performing them. She was trained to take phone numbers for call-back purposes, etc. In short, she was familiar with the procedures of a dispatcher.

The Employer also points out the testimony of Capt. Lamantia as well as that of Thomas Mock, a newscaster with the local radio station, and that of Lt. Isoldi.

The evidence, argues the Employer, proves that the grievant violated the Patrol rules and regulations and the parties had provided the Arbitrator with copies of the tapes of the incident.

The Employer also states that the Union's asserts the complaints against Yiannaki are unfounded and that here was a Highway Patrol plot to remove her from the dispatcher position.

The Employer goes on to say that Yiannaki would place callers on hold because she was handling more important road traffic as well as other calls. However, the Employer notes that dispatchers must make decisions, decide which is a more appropriate call, etc. and they must operate in an efficient and effective manner, especially when there is some stress involved. Yiannaki was trained and she was aware of what she should do.

The Employer claims that Yiannaki was abrupt with calls from the general public and it cites a situation in which a caller requested information on a crash report and he became exasperated by Yiannaki's unwillingness to help him. The tape notes that she signed audibly and said to the caller, "Fill it out the best you can - it's self-explanatory". That sort of response, said Management, was totally inappropriate.

The Employer goes on to say that when Yiannaki accepted a call from an individual asking directions to the Pennsylvania park, she did not give him the specific information and did not give him the Pennsylvania information number and she had that number at her fingertips.

The Employer indicates that Yiannaki took three calls from a Canadian stranded in Pennsylvania and she provided him with no information after his third call. Management notes that because of the Canfield proximity to Pennsylvania Turnpike information calls should be readily available to Ms. Yiannaki in the Canfield post.

Management cites Yiannaki's interaction with a caller about a double homicide murder as well as the situation involving a robbery assault on July 23, 1991. Apparently, Yiannaki tried to cut the caller off saying "We don't handle a turnpike".

Management asserts that Yiannaki's lack of judgement after seven years as a dispatcher was inexcusable.

The Union, notes Management, attempted to develop a Management plot to terminate Yiannaki and the Union drilled Mr. Mock about his connections with the Patrol and Lt. Isoldi. However, Isoldi and Mock had never spoken to each other prior to the incidents giving rise to the five day suspension.

Management also states that Yiannaki alleged she was physically abused by a fellow employee she was dating in May of June of 1988 and apparently filed criminal charges and reported some of the relationship to her supervisor, etc.

Management also points out that Yiannaki brought a document relating to annual inspections to the attention of her post commander and that document listed the names of employees, and their reasons for sick leave. That information is not confidential nor is a medical record but she testified that it was confidential. Essentially, Yiannaki said that her post commander told her he would make her life miserable if she contacted the Department of Administrative Services.

Management said that Trooper Jones, the Warren post Union Steward, testified that he knew the grievant as a result of problems she was having at the Warren post with telephone and radio communications. He said he overheard a conversation concerning something about the fact that "they wanted to get

"paper" on her. However, Jones could not remember who made the statement and he did not testify about the context.

In short, Management said that the above incidents do not support or form the basis for the Union's discrimination claim.

The Employer notes that the parties have provided the Arbitrator with tape recordings and the evidence speaks for itself. There is no plot, asserts the Employer, on the part of Management to remove Yiannaki from her position. The grievant's five day suspension and her termination were based on just reasons. Yiannaki was an inefficient dispatcher and she was discourteous towards callers. Her conduct conflicts with the mission of the Ohio State Highway Patrol.

The Employer notes that the tapes indicate that Yiannaki is capable of working as a dispatcher but apparently, she elects not to perform acceptably under various occasions. Moreover, the Employer's efforts to change Yiannaki's behavior through performance evaluations; the imposition of progressive discipline; and various options were to no avail. Management argues that given that Yiannaki was trained and capable of carrying out her job efficiently, by electing not to do so, she flagrantly violated the Employer's procedures.

In this case, Management said that to reinstate Yiannaki would be improper. Just cause standard for discipline has been met and this employee is not what is viewed as a long-term person. She has no outstanding record. She has not received favorable performance evaluation during a reasonable period and, therefore, the Employer's decision to terminate the employee is totally appropriate.

B. UNION

1. TESTIMONY AND EVIDENCE

Sharon E. Yiannaki testified that she was a radio dispatcher #1 for seven and one-half years and worked three years at the Canfield post, three years at the Warren post, and then returned to the Canfield post in October 1990.

Yiannaki said that she recalled a phone conversation with Pat Alexander and she said she was busy and she told him that she would get back to him. She was asked whether she hung up on him and she said no but rather she put him on hold. Yiannaki said she put Alexander on hold because she had priority duties to take care of. She was asked what duties occurred and she said she could not recall that.

Yiannaki testified that a Canadian person did call three times and she said that she had no contact with the Pennsylvania state police and that he would have to contact them in Pennsylvania.

Yiannaki said that the supervisors at the Warren post were either Sgt. Horsley or Sgt. Carnifax.

She testified she received a call from a person from an elementary school who was concerned about the turnpike.

She was asked why she did not hand the caller off to a sergeant and she said because that was a call she could handle. She said she talked to the person and he wanted to know how to get to Pennsylvania. She was asked why she did not give him the number for the Pennsylvania State Police and she said that he did not ask for it.

Yiannaki said she did not know why she did not take more

information and in any event, she did not need any more information. Yiannaki said she did not ask for further information about the accident on I-80 at the 220 mile post because she had sufficient information. She testified she did not get the caller's name.

With respect to the situation where she told the caller to call back on Monday, she said the reason was she had had two previous phone calls from a particular brother-in-law and gave information about the caller to a Sgt. Andrews but she could not get ahold of Lt. Isoldi. She went on to say there were two calls that were not recorded by the same brother-in-law.

Yiannaki went on to say that the truck in evidence in the killings was cleaned out and based on the information that she got, it made sense for her to have the caller contact Trooper Pasku on Monday, June 10th since he was not available on Friday, June 7th.

In the situation of the lady talking about a blood myogram, Yiannaki said she asked the trooper about that and he said he did not know what that meant. She was asked whether she was abrupt and rude to the lady and she said no.

Her termination incident, said Yiannaki, involved a robbery and she was not incorrect in the way she handled that.

Yiannaki testified that Isoldi told her that she should have taken the name and the phone of the individual who was following the four people in the blue oldsmobile and she said that that was not necessary because he was going back to McDonald's. She said she gave whatever information he had to the Berea police.

Yiannaki said there are a lot of complaints about her and she thinks that people are out to get her.

Yiannaki said that she was mentally and physically abused in May and June of 1988 because a trooper tried to kill her. She said she eventually reported it to the Youngstown police and she also talked to a Lt. Paul McIntyre.

Yiannaki said that she talked to Capt. Lamantia and that he screamed at her and told her he did not want to hear her make any more complaints about that.

Yiannaki testified that Trooper X was violent towards her and then he cried and she took him to the hospital for treatment.

Yiannaki said she filed a case with the Youngstown police in January of 1989 and she gave Lt. Nickison a form in January. She said she told Lt. Nickison about the physical violence from Trooper X and she wanted him to be aware of the situation. She said she got along with Lt. Nickison but he did not treat her fairly.

Yiannaki then testified about some yearly report which contained medical information and she said Lt. Nickison said to her that if she went to the Department of Administrative Services, her life would be miserable.

Yiannaki said Trooper William Jones, a Union representative, told her that Lt. Nickison asked him to get "paper" on her.

The Union also called Trooper William Jones who testified he had been at the Warren post for thirteen years and he represents personnel on union-management issues. Jones said that he tried to represent Yiannaki and that she did talk to him about her relationship with Trooper X.

Jones said he did not know who but he had heard that someone was trying to get "paper" on Yiannaki.

Mr. Ed Baker, Staff Representative for the Ohio Labor Council, testified that he worked for the Columbus Police Department and was a lieutenant before retiring. Baker said he was involved in radio traffic while on patrol and he communicated with other patrol vehicles as well as the division headquarters.

He said he received the tapes which have been given to the arbitrator and in listening, he did not conclude that Yiannaki did anything wrong. He said a radio dispatcher will cut people off if he/she is busy.

The Union also cross examined Management witnesses. Mr. Pat Alexander testified that he talked to Lt. Isoldi about the problem with Yiannaki and he told Isoldi that he had a problem with one of his dispatchers who never responded to his questions. He said that the dispatcher cut him off. Alexander listened to a tape which involved himself and Lt. Isoldi and it lasted about ten minutes. Alexander said that he effectively told Lt. Isoldi that he wanted Yiannaki to be much nicer to him when he made those calls.

Mr. Tom Mock on cross testified that after the second phone call to Yiannaki, he then talked to Lt. Isoldi sometime between the 6th and the 13th. He said his telephone conversation required breaking in to his broadcast. However, Mock testified that traffic accidents do not require him to break into his station.

Mock was asked whether he could obtain a telephone number from the phone company and whether it was quicker to call a dispatcher or the phone company operator and he said one may not get a response from the phone company.

Mock said that when the interstate closes, he gets information from the State Highway Patrol about the situation.

Mock said he talked to Lt. Isoldi and he noted he had a bad experience on June 6th and 7th with a dispatcher. He said he also talked to Pat Alexander.

Capt. Stephen A. Lamantia testified on cross that he tried to train Yiannaki and Management Exhibits #7 and #8 show her deficiencies.

Lamantia said that Yiannaki had the ability to do the job but what she needed was some kind of behavioral change.

Lamantia said he did not send Yiannaki out for formal training and he did not know whether she asked to work with a senior dispatcher.

Lamantia testified about a step program which is a federally funded program aimed at apprehending drunk drivers. He said that at the dispatchers office there is a police radio, scanners, a CB radio.

He said most dispatchers must prioritize their work and troopers calls come in before a citizen's call. Moreover, he said the dispatcher must decide what call must be made.

Lamantia said that he did not have a lot of contact with Yiannaki.

Lt. John Isoldi on cross testified he issued Management Exhibit #15 and he did not talk to the post commander about Yiannaki's performance.

Isoldi said that Yiannaki handled Mock's call correctly but she was a bit curt. He also acknowledged that the Ohio State Highway Patrol cannot respond to a Canadian called in Pennsylvania.

Isoldi said that he did not think Yiannaki intended to get back to the Canadian caller. In short, he said she could have tried to get some assistance but she did nothing.

Isoldi said that Yiannaki could have given the Canadian the number for the Pennsylvania State Police.

Isoldi said Yiannaki did not provide information and he disagreed with her judgement.

Isoldi testified he talked to Yiannaki about her problems and asked for her response.

He said Yiannaki did not get the appropriate information from the robbery at McDonald's and she should have gotten that data from the person who was following or chasing the blue oldsmobile.

Lt. Isoldi said that when Yiannaki called the Youngstown police, he believed her.

Lt. Richard Nickison on cross testified that what he was talking about was a line evaluation document. He said he did not dispute Yiannaki over that document and, in fact, he said there was nothing confidential about that document.

2. ARGUMENT

The Union acknowledges that the issue is whether the grievant was disciplined for just cause?

The Union indicates the Employer charged Yiannaki with failing to respond adequately to telephone inquiries and for engaging in inappropriate behavior on the phone as of July 31, 1991. There are tape recordings of the telephone conversations and the Arbitrator is urged to review that data in order to consider the situation. The Employer disciplined the employee for being rude and that is highly subjective.

The Union argues that Yiannaki carried out her tasks adequately and that she was implementing policies that she felt were applicable.

Moreover, in each and every incident, Yiannaki acted correctly and followed Patrol procedures and instructions.

Finally, the Union argues that there is animosity towards the grievant by the supervisor and, in fact, they simply do not like Yiannaki and want to fire her.

The second case dated 9/12/91 involves the Employer's charge that Yiannaki failed to obtain and process information from a witness to an armed robbery when that witness called the Patrol post.

Yiannaki spent several minutes on the phone with the witness and she solicited details which she relayed to the appropriate law enforcement panel, both highway patrol and local. The perpetrators of the crime, unfortunately, were not apprehended and the Employer seeks to blame Yiannaki for not catching the crooks.

The Employer asserts that Yiannaki is to blame because she did not take additional action or did not ask additional questions. However, the Union notes that the Employer's conclusions are speculative.

Yiannaki took several actions after receiving this call and she did notify law enforcement agencies and the appropriate Highway Patrol personnel. Yiannaki took the perpetrator's license plates and ran the numbers and other possible numbers through her terminal and, therefore, she acted appropriately. The reason Yiannaki has been terminated is because the crooks were not apprehended, but Yiannaki is no more responsible for that situation than any other law enforcement personnel. The Union argues that it would have been nicer if the perpetrators had been caught but only fate prevented their apprehension. Yiannaki should not be terminated for failing to identify the guilty ones.

The Union goes on to say that the tape reveals some quotes in which the Employer talked about the fact that Yiannaki is just plain rude, etc. and in addition, there is some information in which Lt. Isoldi is heard saying, "How would you like to file a complaint about her?" In short, Management investigated the case without first talking to Yiannaki.

Moreover, Lt. Isoldi solicited the complaint from Mr. Tom Mock and in a sense, this is a somewhat non-innocence attempt to determine truth. In short, Lt. Isoldi wanted to discipline Ms. Yiannaki and he went out and got evidence to support his own preconceived positions.

Thus, the Union argues that the Arbitrator should review the tapes carefully. Yiannaki is not a bad employee and she does not deserve discipline. The Union notes that Yiannaki was busy but she tried.

For all these reasons, the FOP asks that the five day suspension and termination of Ms. Yiannaki be reversed and she be restored to her position with full back pay.

V. DISCUSSION AND AWARD

The issue is whether Sharon Yiannaki was disciplined for just cause?

The Employer issued Yiannaki a five day suspension on September 3, 1991 for inadequately handling phone calls on May 29, June 6, and June 7, 1991. Yiannaki was terminated on October 3, 1991 after the Employer investigated an incident occurring on July 23, 1991 where Yiannaki failed to obtain and to process complete information regarding an armed robbery.

The Employer received a complaint from Mr. Alexander about Yiannaki's cutting him off on May 29, 1991. Mr. Mock indicated to the Employer that on June 6th, Yiannaki was rude and curt when responding to his telephone request. These led to an investigation in which the Employer found Yiannaki guilty of rude and inappropriate telephone behavior to eleven callers on 5/29, 6/6, and 6/7 (see Joint Exhibit #3). Yiannaki did not deny behaving in such a manner but explained her behavior on the basis that she had several simultaneous personal problems (see Management Exhibit #16).

However, the sensitive and critical nature of a dispatcher's job (see Management Exhibits #2 and #3) requires the employee to put aside personal problems while working and not to have them affect their work performance. Responding to the public's phone calls is an important although perhaps not primary function of a police dispatcher and personal problems do not mitigate against disciplining for rude, discourteous, and curt replies to the public. There is no basis to overrule the Employer's decision

that Yiannaki's behavior on May 29, June 6, and June 7 required disciplinary action.

On July 23, 1991, Yiannaki received a call from a witness to an armed robbery at McDonald's. The Union argues that Yiannaki was disciplined because the perpetrators of the crime were not apprehended and she served as a scapegoat. The evidence does not show any relationship between Yiannaki's discipline and that the criminals were not apprehended. Even if they had been found, the evidence shows that Yiannaki handled the call in a somewhat sloppy and inefficient manner. It is clear that Yiannaki failed to obtain obviously significant information such as the caller's name and call back number.

Thus, there is support for the Employer's decision to discipline Yiannaki for her inadequate job performance on the dates in question. The five day suspension and termination were part of the Contract's progressive discipline. Yiannaki's past discipline between 1988 and the beginning of 1991 consisted of a verbal warning, two written warnings, a one day suspension, another written warning, and a two day suspension (see Joint Exhibit #3).

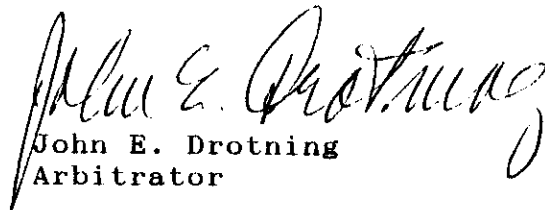
The widely accepted concept of progressive discipline acknowledges that the final incident(s) leading to termination does not necessarily have to be a major offense. Termination results from a continuing series of infractions. Taken separately, each may not be sufficient cause for suspensions or terminations, but taken together, a pattern of uncorrected behavior is established which is unacceptable to the employer.

The final incident becomes the "straw that broke the camel's back".

In Yiannaki's case, she had sufficient warnings that the Employer was not satisfied with her performance. She had been disciplined several times in the past. Certain aspects of her job evaluations were below expectations. Yet, incidents continued to occur indicating lack of attention to her job, inefficiencies, and discourteous telephone conduct.

The Employer successfully argues that she was trained and was capable of performing the job but that she just did not maintain the standards expected of her. The grievant's notion that her supervisors were out to "get paper" on her and sought out complaints about her is not substantiated by the evidence.

For all these reasons, it is concluded that the grievant was disciplined for just cause. The grievance is denied.


John E. Drotning
Arbitrator

February 14, 1992