

ARBITRATION SUMMARY AND AWARD LOG

OCB AWARD NUMBER: 1233 Expedited

OCB GRIEVANT NUMBER: 1) 27-30-970508-0496-01-03
2) 27-30-970508-0497-01-03
3) 27-30-970508-0498-01-03

GRIEVANT NAME: 1) Gary Nussbaum
2) Darron Minard
3) Mike Taylor

UNION: OCSEA

DEPARTMENT: Rehabilitation & Corrections

ARBITRATOR: Rob Stein

MANAGEMENT ADVOCATE: John McNally

UNION ADVOCATE: B. Wiley

ARBITRATION DATE: November 5, 1997

DECISION DATE: November 5, 1997

DECISION: 1) Denied
2) Denied
3) Sustained

CONTRACT SECTIONS 1) 2 Day Suspension
2) 3 Day Suspension
3) 1 Day Suspension

HOLDING:

1) The Arbitrator found that management provided the necessary testimony and evidence to support the discipline imposed. The grievant violated rules 7 & 42.

2) Arbitrator Stein found that the grievant's actions created a greater risk to security and the opportunity for conflict with the inmate involved. He did not have sufficient reason to be in segregation and acted inappropriately in his conduct towards the inmate.

3) The Grievant shall be make whole for all back pay, roll call pay and lost benefits. The Employer failed to prove the allegations against the grievant that he lost control of bolt cutters.

COST: \$

BENCH DECISION AND AWARD

ARBITRATOR:

R. Stein

HEARING DATE:

11/5/97

GRIEVANT:

Officer Michael Taylor

GRIEVANCE #:

27-30-970508-0415-01-03

DEPARTMENT:

DR & C

UNION:

OCSEF

MANAGEMENT
ADVOCATE:

J. McNally

UNION

ADVOCATE:

B. Wylie

ISSUE

1 day suspension Rule 28 violation

AWARD

Grievance Sustained. The Grievant is to be made whole for all back pay, roll call pay and lost benefits.

The Employer did not provide sufficient evidence and testimony in support of its allegation that the Grievant violated the above cited rule. The evidence provided by the Union supports the Grievant's contention that he never lost control of the hot cutter from 1:15pm to 2:00pm (end of his shift). The Employer's documentation states, "C/O Taylor was relieved from his post by second shift, Officer H. Baker. The Grievant testified he informed Officer Baker of the hot cutter's location and the call to the yard officer. This testimony appears to be credible and was not refuted by Officer Baker. Officer Buchanen's statement does not refute the Grievant's statement. Captain Scruggs only spoke with Officer Buchanen and did not have any direct knowledge concerning Officer Baker's interaction with the Grievant. The evidence and testimony support the Union's contention that in this case control of the hot cutter was the responsibility of Officer Baker once the second shift began.

ISSUED AT:

North Central

DATE:

11/5/97

ARBITRATOR'S

SIGNATURE:



BENCH DECISION AND AWARD

ARBITRATOR: R Stein	HEARING DATE: 11/5/97
GRIEVANT: Darren Minard	GRIEVANCE #: 27-30-970508-0497-01-03
DEPARTMENT: DR & C	UNION: OCSEA
MANAGEMENT ADVOCATE: J McNally	UNION ADVOCATE: B Wiley

ISSUE

3 day suspension for violation of DR & C standards
Rule 7, 42 & 44

AWARD

Grievance denied.

The inmate in this case was placed in segregation, therefore he represented a greater security risk. A higher level of discretion and judgment is required in such situations.

The Employer provided sufficient evidence and testimony to establish that the Grievant violated the above cited rules. The actions of officer Minard created a greater risk to security and the opportunity for greater conflict with the inmate. Officer Minard did not have a reason to be in segregation on March 9, 1997 and acted inappropriately in his conduct toward the inmate.

ISSUED AT: North Central
DATE: 11/5/97

ARBITRATOR'S
SIGNATURE:

Tobias Stein

BENCH DECISION AND AWARD

ARBITRATOR: R Stein

HEARING DATE: 11/5/97

GRIEVANT: Gary Nussbaum

GRIEVANCE #: 27-30-970508 -0496-01-03

DEPARTMENT: DR & C

UNION: OCEA

MANAGEMENT
ADVOCATE: J McNally

UNION
ADVOCATE: B. Wiley

ISSUE

2 day suspension for violation of DR & C standards
Rule 7 and 42

AWARD

Grievance denied.

The inmate in this case was placed in segregation, therefore he represented a greater security risk. A higher level of discretion and judgment is required in such situations.

The Employee provided sufficient evidence and testimony to establish that the Grievant violated the above cited rules. Officer Nussbaum created a situation that could have resulted in prison conflict between the inmate and officer minor and other. This was an error in judgment, officer Nussbaum should have handled inmate Roberts behavior differently.

ISSUED AT: North Central
DATE: 11/5/97

ARBITRATOR'S
SIGNATURE: R Stein