

BENCH DECISION AND AWARD

ARBITRATOR: Robert G. Stein

HEARING DATE: 12/15/97

GRIEVANT: Timothy Owens

GRIEVANCE #: 27-11-951016-0369-0103-S

DEPARTMENT: DR & C

UNION: UCSEA

MANAGEMENT ADVOCATE: Rodney Simpson
Rhonda Bass

UNION ADVOCATE: Robert Jones

ISSUE

3 day suspension for Rule 5 and Rule 12 violation

AWARD

Grievance sustained. 3 days back pay and reprimand to be removed from record. The polygraph evidence supports the testimony of inmate Harper, but only to the extent that he secured a sawzee blade. It did not establish the source from which he secured said blade. I find it conceivable that the contractor may have left behind some blades as indicated by the evidence of Union Ex 2 and 5. Presumably, the contractor was given the benefit of the doubt, yet the finding of scrap sawzee blades by inmates on June 5, 1998 contradicts the contractor's assertion that "None were left behind at the job site" (See September letter in Employer Exhibit 1). Absent credible evidence linking the broken sawzee blades to the grievant, the benefit of the doubt in this case must go to this employee of 16 years.

ISSUED AT:
DATE: Lebanon Correctional

ARBITRATOR'S
SIGNATURE:

Robert A. Stein