

ARBITRATION SUMMARY AND AWARD LOG

OCB AWARD NUMBER: 1306 Expedited

OCB GRIEVANT NUMBER: 1) 27-21-970923-1469-01-03 3) 27-21-970801-1443-01-03
2) 27-21-971016-1486-01-03 4) 27-21-971016-1486-01-03

GRIEVANT NAME: 1) Keith Kirtley
2) Vaughn George
3) William Breckenridge
4) Regina Harris

UNION: OCSEA

DEPARTMENT: Rehabilitation & Corrections

ARBITRATOR: Sandra Furman

MANAGEMENT ADVOCATE: William Blaney
2ND CHAIR: Heather Reese

UNION ADVOCATE: John Horton

ARBITRATION DATE: July 24, 1998

DECISION DATE: July 24, 1998

DECISION: 1) Modified 3) Denied
2) Modified 4) Denied

CONTRACT SECTIONS 1) 5 Day Suspension
2) 3 Day Suspension
3) 5 Day Suspension
4) 1 Day Suspension

HOLDING: 1) The Grievant was charged with failure to call off. This was the Grievant's fifth like offense within a two year period . However, the Arbitrator felt there were mitigating circumstances because of the Grievant's asthma and modified the discipline to a three day suspension. 2) The Grievant was charged with using offensive/derogatory racial terms and language on two separate occasions. Management did not present any witnesses to substantiate the use of the word "Nigger" by the Grievant. On the second occasion the Grievant was involved in an argument, but it was not clear to the Arbitrator that he was the aggressor. Therefore, the three day suspension is modified to a 2 day suspension. 3) The Grievant was charged with failure to report. The Union claimed that his failure to report was due to a family emergency. The Grievant had not provided any evidence to support this claim to management and Arbitrator Furman denied the grievance. 4) The Grievant is charged with failure to call off in a timely manner on two occasions. She had received two prior written reprimands for the same offense and Arbitrator Furman denied the grievance.

COST: \$

BENCH DECISION AND AWARD

ARBITRATOR:

FURMAN

HEARING DATE:

7-24-98

GRIEVANT:

KIRTHEY

GRIEVANCE #:

27-21-9709-23-1468-03

DEPARTMENT:

QDR+C

UNION:

CSEA Loc #11

MANAGEMENT
ADVOCATE:

Blaney

UNION
ADVOCATE:

Horton

ISSUE

Did Mgmt have just cause to discipline the G?

Was the discipline progressive, reasonable, & commensurate?

AWARD

The facts are not in dispute. G, due to illness, which allegedly came upon him immediately prior to reporting time, failed to call off according to contract & rule. A first time violation would not support a five day suspension. This is, however, the 5th like offense within a less than 2 yr period. The arbitrator notes that the nature of the illness, asthma, would seem to preclude an employee from being able to predict 10 min. prior to 6⁰⁰ AM.

ISSUED AT:
DATE:

Orion
7-24-98

ARBITRATOR'S
SIGNATURE:

that he ^{or she} would be ~~sick~~. The Arb. does
know, nor would she be able to consider the
merits of the other disciplines, she does know
that they are of record.

~~An employee who gets~~

The Arb. would have been greatly
assisted in her determination of the
mitigating circumstances by an explanation
from G. as to why he called off at 5:42 AM
if he had to be at work at 6:00 AM. Unless he
lives within a close distance of the park,
he would likely have been late anyway. The Arb.
is aware of facts furthering the severity
of his asthmatic condition. That fact alone would have been
helpful but is not critical to her determination.
The discipline is progressive but the Arb. knows
is not convinced it is reasonable nor commensurate
therefore she modifies the discipline from a
5 day suspension to a 3 day suspension. It is a notice
that he must ~~produce~~ exert best efforts despite
his condition, to follow known, established
procedures.

It is so Truly Ordered.



#1306

BENCH DECISION AND AWARD

ARBITRATOR:

FURNIAU

HEARING DATE:

7-24-98

GRIEVANT:

George

GRIEVANCE #:

2721-970703-428-0103

DEPARTMENT:

O R & C

UNION:

CCGEA Local 11

MANAGEMENT
ADVOCATE:

Bill Blaney

UNION

ADVOCATE:

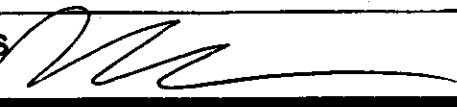
Jim Horton

ISSUE

~~Was G. disruptive of the work of the full court? If not, what is the appropriate remedy?~~
 Did I have just cause to discipline G? Was the discipline appropriate & commensurate?

AWARD

This case involves allegations that occurred on 2 sep. dates - Feb & Mar 1997. The first incident involves allegations of use of the word "niggers" being specifically directed to a group of parties by G. G denies that the word "niggers" was used in the context alleged but admits its use. No witnesses were presented by management at the hearing to corroborate its version of how the word was used. The Arbitrator was not advised of the use of the word is utterly unknown in a prison setting but will take notice that no evidence was presented as to whether G

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7-24-98ARBITRATOR'S
SIGNATURE:


S.O.E.C. 14/12

I and ~~Officer~~ G had some words with the
Bourne was the aggressor or not clear to the Minister.
to direct G to back

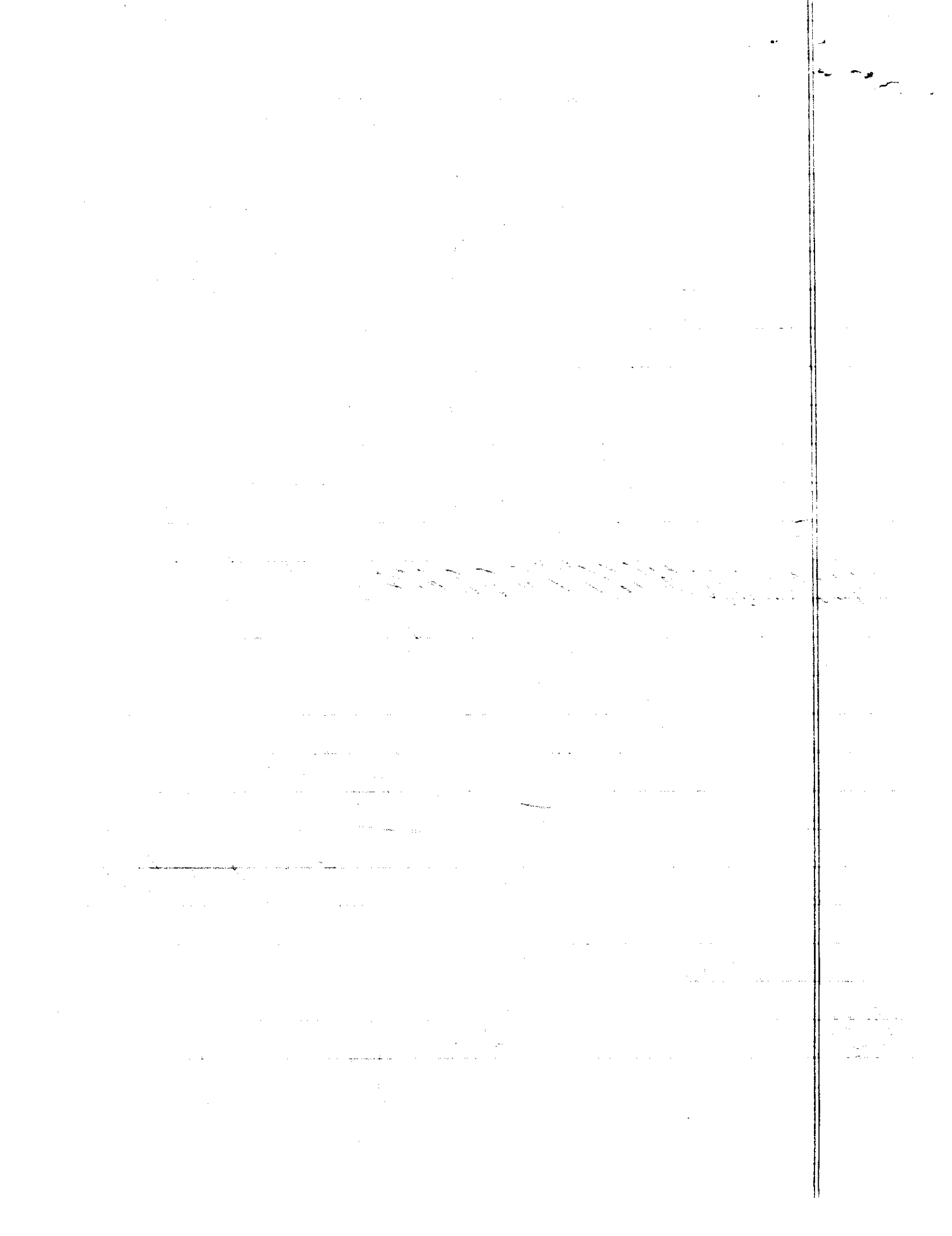
of an aggravating situation, where a
him & an inmate. R. admits not immediately
returning to Max, when directed to do so. That Rice
R's conduct was not

did not sufficiently make it clear that the
was in fact a part of the appraiser's own journal.
~~The context of the appraiser's own journal~~
~~However, the use of "fact" by the appraiser in the context~~
he described, as well as his feeling to get his affairs out
seems inconsistent with conduct expected of a C.A.
Therefore, the use of the "W" word, in whatever
context, by a C.A. should not be condoned.

G. was, at the time of the incident, an
18 mo tenured employee. His prior disciplinary
record was not significant. ~~However~~
~~After the day~~ ^{day} suspension would not be
too severe if management had made it
clear through testimony G was the aggressor.

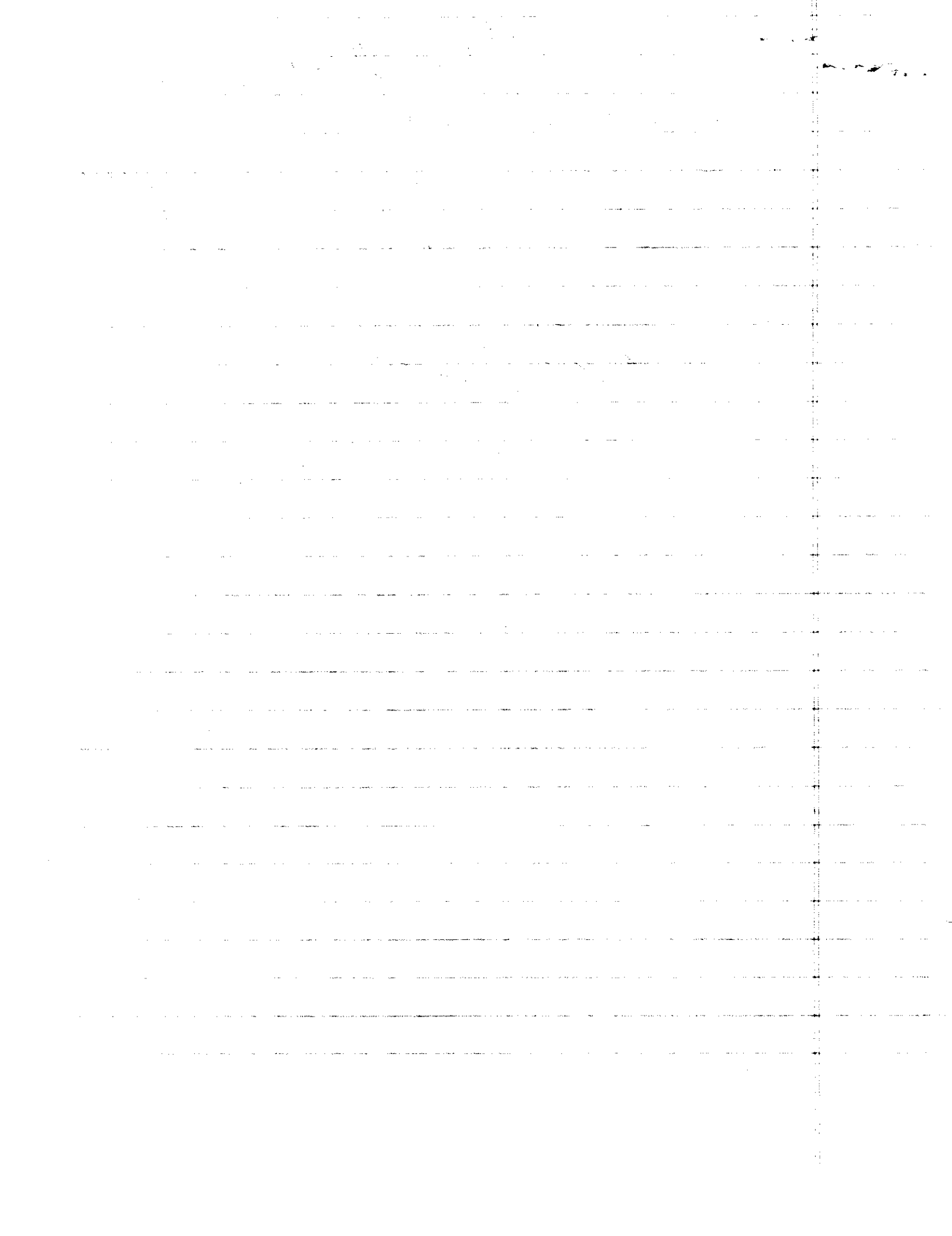
3-9-97.

~~and for the purpose of the station~~ Only G was
"hot" that day. Even if provoked, his conduct is
failing to immediately leave the area when ordered by the
troubled the arbitrator. ^{Regarding all type allegations} ~~There is a whole~~ the arbitrator
modifies the suspension to a two day ~~is totally~~
~~and~~ ~~his~~ ~~should~~ G is now a
~~notice~~ notice that an order, even if given in a purportedly
argatory manner, must be obeyed, and that



use of profanity (or ethnic slurs or
casual language) when
directed at staff or inmates is unacceptable.
It is so truly ordered.

A large, stylized handwritten signature in black ink, consisting of several loops and a long horizontal stroke at the end.



#1306

BENCH DECISION AND AWARD

ARBITRATOR:

FURMAN

HEARING DATE:

7-24-98

GRIEVANT:

W Broadbridge

GRIEVANCE #:

27-21-97-08-01-1443-01-03

DEPARTMENT:

OR+C

UNION:

OSEA

MANAGEMENT
ADVOCATE:

Bill Bang

UNION
ADVOCATE:

John Horton

ISSUE

Did Mgmt have just cause to discipline the Grievant
 Was the discipline progressive, reasonable, commensurate?

AWARD

The parties were presented with a full opportunity to present argument, testimony, and documents. Grievant is a long tenured employee. He was on a two week shift when he received notice of a family crisis. ^{According to G-1} He advised another that due to the crisis, he needed to leave, and was to be in on 3-14-97. The 2nd he purportedly informed Lt. Henderson, did not testify. The next day, G-1's report, this fact is not in dispute. The call off policy provides for a 90 min. pre shift report off procedure.

ISSUED AT:

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DATE:

7-24-98

ARBITRATOR'S
SIGNATURE:

M 2

The Union argues that G's oral notice to Lt. Henderson was sufficient notice. In the absence of countervailing testimony from Henderson, the Arbitrator will credit G. that he told Henderson he was being notified. However, in light of the clear notice to G both of the work rule on call off and fact he had been recently disciplined for #3B & #3H infractions, it was imprudent and inappropriate for him to make assumptions that the Employer would accept his oral notice to Lt. Henderson. The exigencies of a family crisis may, under different circumstances, support mitigation. However, G. has had 16 months to provide support of his mitigating circumstances. His offer, today, the date of the hearing is too late. The Arbitrator will therefore, based upon the notice issue and progressive discipline being previously recently issued, sustain the suspension.

It is so hereby ordered:-

MZ

Argument that he was not a peer of Lt. Henderson on the date in question does not mitigate or excuse the failure to call off, unavail Cooks herein.

#1306

BENCH DECISION AND AWARD

ARBITRATOR:

FURNACE

HEARING DATE:

7-24-98

GRIEVANT:

Regina Harris

GRIEVANCE #:

27-21-97-10-16-1486-01 c3

DEPARTMENT:

ODR+C

UNION:

OCSEA local 11

MANAGEMENT
ADVOCATE:

Blane

UNION
ADVOCATE:

Horton

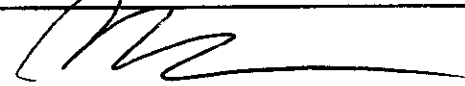
ISSUE

Did Mgmt have just cause to discipline G?

Was discipline progressive, reasonable, & commensurate?

AWARD

The facts are not in dispute; G called off $\frac{1}{2}$ hr. late on one occasion, and 17 min. late on another on sep dates in April and May 1997. Neither of the call offs were after shift report-in time, but were not within the 90 minute window. G's reasons for the late call off on 5-16-97 ~~appear~~ reasonable: it was only her babysitter's absence that caused her not to be able to work. If these two late call offs are isolated with the mitigating circumstances described, the Arb would not

ISSUED AT:
DATE:Orient, Ohio
7-24-98ARBITRATOR'S
SIGNATURE:

affirm the discipline for either of the two dates ~~as~~
However, G was on notice through prior written
reprimands that his conduct needed to ~~be~~
conform ~~more closely~~ to the required work and on
call off. I am reluctantly compelled, because
of the prior written reprimands, to affirm the
discipline, ~~and through this action~~ as ~~to the~~

It is so Herby Ordered.

