

ARBITRATION SUMMARY AND AWARD LOG

OCB AWARD NUMBER: 1376 Expedited

OCB GRIEVANCE NUMBER: 1) 07-00-980811-0091-01-13

GRIEVANT NAME: 1) Dan Gelfius

UNION: OCSEA/AFSCME Local 11

DEPARTMENT: Commerce

ARBITRATOR: Craig A. Allen

MANAGEMENT ADVOCATE: 1) John P. Downs

2ND CHAIR: Rodney Sampson

UNION ADVOCATE: Robert W. Steele, Sr.

ARBITRATION DATE: June 24, 1999

DECISION DATE: June 24, 1999

DECISION: 1) GRANTED

CONTRACT SECTIONS: 1) 11, 24

HOLDING: 1) Grievance was GRANTED. Grievant refused to operate a chemical hood because he felt it was unsafe. He disobeyed a direct order from his supervisor to operate the hood and was charged with insubordination. After the Employer disciplined the Grievant, the chemical hood was found to be safe to operate. The Arbitrator found the Grievant clearly expressed his safety concern. Just because the hood was subsequently found to be safe to operate did not make his concern unreasonable.

COST: \$

BENCH DECISION AND AWARD

ARBITRATOR: Craig A Allen

HEARING DATE: June 24, 1999

GRIEVANT: Dan Gelfius

GRIEVANCE #: 07-00-98-08-11-0091-01-13

DEPARTMENT: Commerce

UNION: OCEA

MANAGEMENT ADVOCATE: John P. Downs
Labor Relations Administrator

UNION ADVOCATE: Robert W. Stools SR

ISSUE

Was the Discipline for just Cause?

AWARD

I uphold the grievance. Article 11.03 says that if the employee and Supervisor disagree the Faculty Safety Designee shall be notified and an inspection shall be made and equipment deemed safe. The evidence is clear that Gelfius clearly expressed his safety concern in a timely manner. The malfunctionation charge was written without benefit of inspection by the Designee. The fact that

ISSUED AT: OCB Columbus, Ohio
DATE: June 24, 1999

ARBITRATOR'S
SIGNATURE:

Craig Allen

a subsequent test by ORES showed the equipment was all right does not necessarily make Gits fear unreasonable. The fact that Gits went to another hood and did the work also supports the fact that he was more concerned with safety than insubordination.

BENCH DECISION AND AWARD

ARBITRATOR: Craig A Allen	HEARING DATE: June 24, 1999
GRIEVANT: Dan Gelfius	GRIEVANCE #: 07-00-98-08-11-0091-01-13
DEPARTMENT: Commerce	UNION: OCEA
MANAGEMENT ADVOCATE: John P. Downs Labor Relations Administrator	UNION ADVOCATE: Robert W. Stooler SR

ISSUE

Was the Discipline for just Cause?

AWARD

I uphold the grievance. Article 11.03 says that if the employee and Supervisor disagree the Faculty Safety Designee shall be notified and an inspection shall be made and equipment deemed safe. The evidence is clear that Gut clearly expressed his safety concern in a timely manner. The malfunctionation charge was written without benefit of inspection by the Designee. The fact that

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a subsequent test by ORES showed the equipment was all right does not necessarily make Brits fear unreasonable. The fact that Brit went to another hood and did the work also supports the fact that he was more concerned with safety than insubordination.