

ARBITRATION SUMMARY AND AWARD LOG

OCB AWARD NUMBER: 1406 Expedited

OCB GRIEVANCE NUMBER: 1) 31-03-981019-0067-01-06
2) 24-01-980403-0223-01-14

GRIEVANT NAME: 1) Donald Roth
2) Byron Hull

UNION: OCSEA/AFSCME Local 11

DEPARTMENT: Transportation, MR/DD

ARBITRATOR: Craig A. Allen

MANAGEMENT ADVOCATE: 1) Clayton Morris
2) Ruth Rehak

2ND CHAIR: Andy Shuman

UNION ADVOCATE: 1) Butch Wylie
2) James Melle – private attorney

ARBITRATION DATE: November 18, 1999

DECISION DATE: November 18, 1999

DECISION: 1) GRANTED
2) GRANTED

CONTRACT SECTIONS: 1) 24
2) 24

HOLDING: 1)

Grievance was GRANTED. Grievant was given a five-day fine for neglect of duty, failure to carry out an assignment, and other actions which may harm the general public. The Employer argued the Grievant failed to put up proper signs at a work zone. The Union argued the Grievant was a sixteen-year employee with no prior discipline; the five-day fine was too severe.

The Arbitrator granted the grievance. He found problems with the Employer's case in that other work locations were to receive higher priority, and the particular location involved in this case was not even ODOT's responsibility. The Arbitrator found that the Grievant had reason to believe that if signs were to be put up that someone else would have done it.

2)

Grievant was suspended for two days for falsifying official reports. The Employer argued the Grievant had claimed a starting time of 8:00 a.m. on his timecard and travel expense report. However a restaurant receipt showed a transaction time of 8:25 a.m. and the provider the Grievant was to audit did not open until 8:30 a.m. The Grievant argued he did begin work at 8:00 a.m., despite the time of the restaurant receipt.

The Arbitrator granted the grievance. He found the evidence concerning the work times on the expense report and the restaurant receipt to be unconvincing. The Grievant presented testimony that showed he arrived before the provider employee and she always arrived at 8:15 a.m. The Arbitrator also noted a memo that gave employees leeway in using flex time. He found the Grievant was entitled to rely on this memo when working and reporting his time.

COST: \$350.00

#1406

BENCH DECISION AND AWARD

ARBITRATOR: Craig A. Allen

HEARING DATE: November 18, 1999

GRIEVANT: Donald Roth

GRIEVANCE #: 31-0361017-01-06

DEPARTMENT: ODOT

UNION: OCSA

MANAGEMENT ADVOCATE: Clayton Morris

UNION ADVOCATE: Butch Wyle

ISSUE

Was the five day suspension for just cause?

AWARD

I grant the grievance. I did not find the Debra arbitrator's decision on point. In that buson without the fogger there were no safety devices. In this case there were cone codes and road closed signs. The dispute here concerns the interval warning signs. I find Mr. Siper's testimony and Butch's not contradictory. I am persuaded by Mr. Reed's testimony concerning the manual of traffic control and the testimony concerning the problem in Wayne County being uncorrected for several

ISSUED AT: OCB

DATE: November 18, 1999

ARBITRATOR'S SIGNATURE:

Craig A. Allen

#1406

BENCH DECISION AND AWARDARBITRATOR: *Craig Allen*HEARING DATE: *November 18, 1999*GRIEVANT: *Byron Hull*GRIEVANCE #: *24-01-980403-0223-01-14*DEPARTMENT: *MEDN*UNION: *DCSEA*MANAGEMENT
ADVOCATE: *Ruth A. Rehak*UNION
ADVOCATE: *JAMES MELLE***ISSUE***Was the two day suspension for just cause?***AWARD**

I uphold the grievance. The only date referred to in the Order of Suspension is January 13, 1998. Despite the time on the Bob Evans receipt Barb Trepanier said but arrived before her on that date and she always arrived at 8:15 AM. The evidence concerning the work times listed on the travel and expense reports is not convincing. There is no dispute that Bob was paid according to his time card which is the best evidence of hours worked. I am sympathetic to

ISSUED AT: *Shakon, Ohio*
DATE: *November 19, 1999*ARBITRATOR'S
SIGNATURE: *Craig Allen*

monogamous argument - was supervisors wrong.
 have some leeway in using flex time, but the
 Joyce Toms memo is the rule and but is entitled
 to rely upon it. In addition, the evidence is that
 the auditors did have flex time which was changed
 to set hours of work.
 as to working through his breaks, I read the
 Toms memo to mean that a break period
 should not be moved around without a Supervisor
 consent. It also says the needs of the work
 load may cause a break not to be taken. But
 said work spaced was crowded and he needed
 to get finished