

ARBITRATION SUMMARY AND AWARD LOG

OCB AWARD NUMBER: 1425 Expedited

OCB GRIEVANCE NUMBER:

- 1) 27-25-19990209-1622-02-03
- 2) 27-25-19990727-1579-01-03
- 3) 27-25-19990817-1588-01-03

GRIEVANT NAME:

- 1) Malone, Michael
- 2) Robert Stephenson
- 3) Thomas, Matthew

UNION: OCSEA

DEPARTMENT: Rehabilitation and Correction

ARBITRATOR: Craig A. Allen

MANAGEMENT ADVOCATE: Lisa Haynes

2ND CHAIR: Jillian Froment

UNION ADVOCATE: Don Sargent

ARBITRATION DATE: February 28, 2000

DECISION DATE: February 28, 2000

DECISION:

- 1) Denied
- 2) Granted
- 3) Modified

CONTRACT SECTIONS: Article 24

1) **HOLDING:** Grievance was **DENIED**. Grievant called off work stating he needed to take his daughter to the doctor. Grievant failed to submit a request for leave form and the absence was not covered under the FMLA. Grievant was fined five-days' pay for the following violations: failure to submit a request for leave form, failure to provide a physician's verification when required, and being absent without proper authorization (AWOL). The Arbitrator denied the grievance. He noted the Grievant's prior disciplinary record which contained two attendance-related violations. Arbitrator Allen found this discipline to be progressive and commensurate with the offense.

2) Grievance was **GRANTED**. Grievant was fined one-days' pay for violation of the following work rules: failure to follow post orders, policies or procedures; failure to carry out a work assignment or poor judgment in carrying out an assignment; and failure to immediately report a violation of any work rule, law or regulation. While working in a segregation unit, the Grievant released one inmate from restraints so that the inmate could return to his cell. Before this inmate reached his cell, another inmate was released and attacked the first inmate. The Grievant used force to separate the inmates. The Grievant did not notify his supervisor of the incident.

The Arbitrator granted the grievance because there was no direct evidence that the Grievant improperly released either inmate. Witnesses testified that other CO's were present, but none testified to support the Employer's contention that the Grievant did not follow post orders. Because the Employer failed to meet its burden of proof, the Arbitrator granted the grievance.

3) While on duty, the Grievant became irate over a problem with a co-worker. Because he felt so stressed, the Grievant went to the Institution's hospital and asked a nurse to check his blood pressure. The Grievant then asked the nurse to leave the room. While alone, the Grievant kicked furniture, punched a metal medicine cabinet and broke a chair. The Grievant was charged with violation of the following work rules: purposeful or careless act(s) which result in damage of property of the State, and unsafe act, and actions that could harm or potentially harm the employee, fellow employee(s) or a member of the general public. The Grievant was fined five-days' pay and paid for the replacement of the broken chair.

The Arbitrator reduced the five-day fine to a three-day fine. The Arbitrator felt that restitution for the broken chair was appropriate, but determined that several of the charges against the Grievant were redundant.

COST: \$

BENCH DECISION AND AWARD

ARBITRATOR: Craig Allen

HEARING DATE: Feb 28, 2000

GRIEVANT: Michael Malone

-01-03
GRIEVANCE #: 27-25-19990902-1622

DEPARTMENT: Corrections

UNION: OCSA

MANAGEMENT
ADVOCATE: Lisa HaynesUNION
ADVOCATE: Don Lacant

Was the five day fine for just cause?

AWARD

denying the grievance. Det has one prior 3F and one prior 3C violation. He also has 3 prior 3H violations. Det should know by now what he needs to do to avoid discipline. Det's testimony and Mrs Johnson's differ as to whether or not he was given three more days to get PUN after returning from military service. However Mrs Johnson says he was given until July 3rd. Det says he picked up pay stub showing

ISSUED AT: SOCF
DATE: Feb 28, 2000ARBITRATOR'S
SIGNATURE: Craig Allen

problem of June 1, 1967. The following
Housing officers report confirms the
Johnson's statement that Sgt. father picked up.
his pay stub and notified Sgt. I find the
discipline progressive and commensurate
with the offense.

BENCH DECISION AND AWARD

ARBITRATOR: Craig A Allen

HEARING DATE: Feb 28, 2000

GRIEVANT: Mathew Thomas

GRIEVANCE #: 27-25-19970917-1588-
01-03

DEPARTMENT: Corrections

UNION: OCSEA

MANAGEMENT
ADVOCATE: Lisa HaynesUNION
ADVOCATE: Wm Sargent

Was the five day fine and restitution for
just cause?

AWARD

I uphold the grievance in part and reduce the
fine to three days pay. I think restitution was
appropriate. The documents show some of the
damage was repaired by institutional mainten-
ance and I see no charge for that. Certainly there
is a Rule 5(B) violation. Rule 5D and
Rule 37 seem similar in this case. For
purposes of this decision I view Rules 5D
and 37 as merged. While this may be the

 ISSUED AT: SOCF
 DATE: Feb 28, 2000

 ARBITRATOR'S
 SIGNATURE: Craig Allen

Gives only active discipline to
problems and expense to management.
I find a three day fine and restitution
commensurate with the offense

BENCH DECISION AND AWARD

ARBITRATOR: Craig A. Allen

HEARING DATE: Feb 28, 2000

GRIEVANT: Robert Stephenson

GRIEVANCE #: 27-25-19920227-1579-
01-03

DEPARTMENT: Corrections

UNION: OCEA

MANAGEMENT
ADVOCATE: Lisa HaynesUNION
ADVOCATE: Wm. S. Sargent

ISSUE

Was the one day fine for just cause?

AWARD

I grant the grievance. The only direct evidence comes from the Det who testified he did not release anybody. Got Mr. Callister testified he wasn't sure who released the inmate.

The testimony is that several other CO's were present but none of them testified. Management has failed to meet its burden of proof.

ISSUED AT: JOCF
DATE: Feb 28, 2000ARBITRATOR'S
SIGNATURE: Craig A. Allen

