

ARBITRATION AWARD

#1486

**OHIO DEPARTMENT OF PUBLIC SAFETY,
DIVISION OF THE STATE HIGHWAY PATROL**

and

**OHIO STATE TROOPERS ASSOCIATION
GRIEVANT: RICHARD L. LUCAS**

CASE NUMBER: 15-00-000726-0105-07-15

APPEARANCES: For the Highway Patrol--Lt. Culburn C. Robinson, Neni M. Valentine, Staff Labor Relations Specialist, and Staff Lt. Kevin Teaford, OSHP HRM Advocate.

For the union--Sgt. Richard L. Lucas, Grievant, Bob Stitt, President, OSTA, and Elaine Silveira, OSTA Advocate.

ISSUE: Was the grievant issued a one-day suspension for just cause? If not, what shall the remedy be?

FACTS: Grievant, Richard L. Lucas, was employed as a sergeant assigned to the Medina Post, when he was investigated as a result of his failure to appeal at a training in Columbus during his off duty time to prepare for a federally funded safety belt survey which was a voluntary overtime opportunity, and which would have led to additional overtime for Sgt. Lucas. Post Commander Lt. Culburn C. Robinson initiated an investigation when he learned from his supervisor that Sgt. Lucas had failed to appear.

Sgt. Lucas was the only employee of the Medina Post who signed up for the overtime, which was posted. The day before the training, grievant determined that he had a family conflict with the training and he contacted the post commander and a district staff lieutenant to see if there would be make-up training. He and the post commander discussed the situations at least twice, and Lt. Robinson told him there would be no make-up and that the issue was not negotiable. The

lieutenant felt that once grievant signed up for the training he was obligated to go because of the way it had been presented and advertised. Grievant believed he could decide not to take the voluntary overtime opportunity and that he would be subject to the patrol procedure which deals with extra-duty patrol services, so that he would lose position on the overtime opportunity list. However, he told Lt. Robinson that "if he had to go, he had to go" and left him with the impression that grievant would attend the training. After he worked his shift grievant decided not to go to the training and attended his daughter's softball tournament instead. He did not notify his post commander of his change of plans.

Grievant received a one-day suspension. He has received a verbal and a written reprimand as other discipline of record in his 22 years service. There are no procedural issues, and the parties agree this dispute is arbitrable. The suspension was grieved, to no avail, and the matter was presented to me at a hearing in Columbus, Ohio on May 17, 2001, and now comes before me as arbitrator for final resolution.

CONTRACT PROVISIONS: 19.05 Progressive Discipline

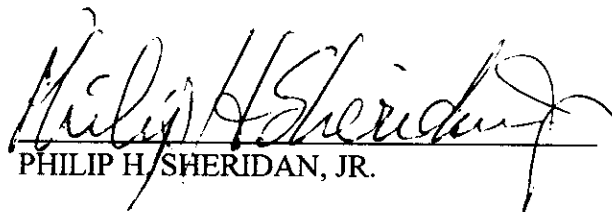
AWARD

Grievant is charged with a violation of Department of Public Safety Rule 4501:2-6-02 (Y)(1), Compliance to Orders.

I find no issue of disparate treatment has been demonstrated. The incident raised is not similar to these circumstances as the other issue did not involve specific conversations with the direct supervisor. I find a one day suspension is appropriate discipline for a first time failure to follow this order. Grievant put his post commander in the position of being unable to answer to his supervisor as to why grievant had not attended the training. If grievant had communicated his change of mind to Lt. Robinson before he failed to attend the training I believe grievant would have a good

argument to support his position that the only penalty he should have suffered was the ordinary penalty for failure to attend agreed upon extra-duty. I find just cause for the discipline and deny the grievance in its entirety because I find that grievant either intentionally misled his supervisor or failed to notify his supervisor when he had an obligation to do so.

Respectfully submitted,


PHILIP H. SHERIDAN, JR.

DATE: May 22, 2001