**OCB AWARD NUMBER: 2093**

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| **SUBJECT:** | **ARB SUMMARY # 2093** |
| **TO:** | **ALL ADVOCATES** |
| **FROM:** | **KRISTEN RANKIN** |
| **OCB GRIEVANCE NUMBER:** | **15-03-20091013-0137-04-01** |
| **DEPARTMENT:** | Ohio Department of Public Safety |
| **UNION:** | OSTA |
| **ARBITRATOR:** | Sandra Mendel Furman |
| **GRIEVANT NAME:** | Kyla Walker |
| **MANAGEMENT ADVOCATE:** | Lt. Kevin D. Miller |
| **2ND CHAIR:** | Marissa Hartley |
| **UNION ADVOCATE:** | Elaine Silveira |
| **ARBITRATION DATE:** | August 26, 2010 |
| **DECISION DATE:** | September 7, 2010 |
| **DECISION:** | DENIED |
| **CONTRACT SECTIONS:** | Article 19, and Article 20 |
| **OCB RESEARCH CODES:** | 118.301—Progressive Discipline; 118.01—Discipline-In  General; 118.67—Disparate Treatment; 118.6516—Neglect  of Duty |
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**HOLDING: Grievance DENIED. The Arbitrator concluded that the Employer appropriately issued a ten (10) day suspension to the Grievant.**

The Grievant is a Dispatcher at the Bucyrus Dispatch Center. On May 21, 2009, the Grievant answered a call from the Marion County Sheriff Department reporting an auto-accident. The Grievant dispatched a trooper to respond to the accident site. Once on-site, the Trooper radioed the Grievant to request a AAA truck. The Grievant did not enter the AAA request into the CAD. Additionally, the Grievant entered the wrong county when documenting the accident location. Subsequently, tow-trucks from two companies arrived at the accident site: (1) a AAA affiliated truck; and (2) a non-AAA affiliated truck. Both tow-truck drivers claimed a right to tow the disabled car. Eventually, the non-AAA affiliated truck towed the disabled car. Consequently, the disabled car’s driver had to pay substantially more money for the tow. The Employer investigated the incident and issued the Grievant a ten (10) day suspension. The Grievant received an unsatisfactory rating on her 2008 evaluation. Additionally, the Grievant had the following entries on her active disciplinary record: (1) a written reprimand; (2) one-day suspension; (3) three-day suspension; and (4) five-day suspension.

The Employer argued that the Arbitrator should deny the grievance because the grievant failed to send a AAA truck as requested, and entered the wrong county into the CAD. The Grievant’s error cost a citizen unnecessary expense. Further, the Employer counseled and disciplined the Grievant in the past for poor job performance. Also, the Employer explained that the Grievant is a relatively short-term employee with a poor deportment record. As such, the Employer urged the Arbitrator to deny the grievance because the discipline was corrective, not punitive.

The Union argued that the Arbitrator should grant the grievance because the Grievant’s ten-day suspension was too harsh and disparate. The Union argued that the Grievant’s mistake was relatively minor and common among dispatchers. The Union explained that the dispatch center is chaotic causing dispatchers to not hear some radio transmissions. Further, the Union argued that the Grievant should not be punished due to over-charging by the tow-truck driver.

The Arbitrator denied the grievance. The Arbitrator determined that the Grievant’s discipline was progressive and not disparate. The Union did not provide proof to establish that any other employee received a lesser suspension under similar circumstances. Further, the Arbitrator reasoned that the Employer coached and disciplined the Grievant several times in the past. As such, the Grievant had ample notice to make necessary adjustments to address her performance problems. Accordingly, the Arbitrator denied the grievance.