**OCB AWARD NUMBER:**

|  |  |
| --- | --- |
| **SUBJECT:** | **ARB SUMMARY # 2100** |
| **TO:** | **ALL ADVOCATES** |
| **FROM:** | **KRISTEN RANKIN** |
| **OCB GRIEVANCE NUMBER:** | **15-03-20091208-0163-04-01** |
| **DEPARTMENT:** | Ohio State Highway Patrol |
| **UNION:** | Ohio State Troopers Association |
| **ARBITRATOR:** | Meeta Bass Lyons |
| **GRIEVANT NAME:** | Bertha L. Toton |
| **MANAGEMENT ADVOCATE:** | Sgt. Anne R. Ralston |
| **2ND CHAIR:** | Lt. Kevin D. Miller |
| **UNION ADVOCATE:** | Elaine Silveira |
| **ARBITRATION DATE:** | October 18, 2010 |
| **DECISION DATE:** | October 25, 2010 |
| **DECISION:** | DENIED |
| **CONTRACT SECTIONS:** | Article 19.01—Standard; Article 19.05—Progressive Discipline |
| **OCB RESEARCH CODES:** | 2.01—Management Rights;118.301—Progressive Discipline; 118.6516—Neglect of Duty  |
|  |  |

**HOLDING: Grievance DENIED. The Arbitrator found just cause for the discipline and that the Employer did not impose excessive discipline on the Grievant**

On August 6, 2009, the Grievant was dispatched to a reckless operation call. The Grievant observed the suspected driver travel left of center, and initiated a traffic stop. The Grievant drove the suspect to the police station; while in route, the Grievant turned off her audio/video equipment. The Grievant also turned off her on-person belt microphone and her in-car video prior to arriving at the police department contrary to patrol policy. The Grievant acknowledged that she turned off the recording devices. The Grievant was charged with violation of work rule 4501.2-6-02(Y)(2) Compliance to Orders for violation of the policy regarding the use of audio/visual system in the patrol car.

The Employer arguedthat the Grievant violated Highway Patrol Policy regarding Audio/Video Monitoring. The Employer contends that the Grievant has received remedial and individualized training throughout her fiver-year service career. The Employer also contends that the Grievant has an extensive department record. The Grievant has received 2 verbal reprimands, 3 written reprimands, 2-one day and 1-three day suspension. All of these disciplines were current on the Grievant’s department record at the time of the incident. The Employer chose not to progress the discipline, and issued a less severe discipline, a one-day suspension. The Employer requests the Arbitrator to deny the grievance.

The Union arguedthat the Audio/Video Monitoring Policy allows a patrol car with a nonfunctioning audio/video equipment to continue in operation. The Union contends that recordation of every aspect of every stop is not crucial. No crucial evidence or information was missed as a result of the Grievant turning off the equipment five minutes before her arrival at the police station. The Union contends that the Employer failed to provide training on the proper use of audio/video equipment and the audio/video policy to the Grievant. The Union contends that the Grievant’s prior discipline record is not relevant because there was no just cause to discipline her in this instance. The Union requests the Arbitrator to grant the grievance and make the Grievant whole.

The Arbitrator foundjust cause for the discipline and that the Employer did not impose an excessive punishment on Grievant. In order to impose discipline under the just cause standard, the Employer must demonstrate that a work rule has been violated. The reasonableness of a work rule means whether it is reasonably related to a legitimate management objective, and communicated to the employees. The reasonable work rule promotes the business purpose of maintaining orderly, efficient, and safe operations of the employer. The Audio/Video Monitoring Policy aids in the collection of evidence and protects the division and officer from liability and allegation made by suspects and or the public. The Grievant received training on the audio/video monitoring on Nov. 17, 2008 and was quizzed on the subject matter. The work rule was reasonable and there was no evidence of disparate treatment. The grievance is denied.