**OCB AWARD NUMBER: 2234**

|  |  |
| --- | --- |
| **SUBJECT:** | **ARB SUMMARY # 2234** |
| **TO:** | **ALL ADVOCATES** |
| **FROM:** | **DAVID LONG** |
| **OCB GRIEVANCE NUMBER:** | **31-09-20130212-0001-01-07** |
| **DEPARTMENT:** | **Department of Transportation** |
| **UNION:** | **OCSEA** |
| **ARBITRATOR:** | **Susan Grody Ruben** |
| **GRIEVANT NAME:** | **Cheri L. Davis** |
| **MANAGEMENT ADVOCATE:** | **Edward A. Flynn** |
| **UNION ADVOCATE:** | **Jeff Freeman** |
| **ARBITRATION DATE:** | **11-18-2013** |
| **DECISION DATE:** | **1-8-2014** |
| **DECISION:** | **DENIED** |
| **CONTRACT SECTIONS:** | **Article 24—Discipline** |
| **OCB RESEARCH CODES:** | **118.01 Discipline-In General** |

**HOLDING: Grievance DENIED. Despite the Grievant’s legitimate workplace complaints, her defamatory statements instigated multiple investigations. These investigations wasted State resources. Further, her supervisors and coworkers will not trust her again. The Employer had just cause for her removal.**

The Grievant was a Highway Technician 2. Before her removal, Grievant called ODOT’s Human Resource Department. In this call, Grievant claimed that she was treated unfairly while other employees were misbehaving at work. This complaint sparked an Administrative Investigation. At a later date, the Grievant admitted to lying during her original complaint. Because of these false statements, the Grievant was dismissed.

The Employer contended that the Grievant’s conduct was unacceptable. Her false statements could have affected her coworkers’ marriages. And as a result, she has lost their trust. Although the Grievant is a 16 year employee, her coworkers find her difficult. Promulgating lies, coupled with other “drama,” convinced several of her coworkers to simply avoid her. Further, the Grievant sought counseling. But it appears disingenuous, since she sought it a month before the arbitration and five months after her removal.

The Union argued that the voicemail was sparked by frustration. It was not a cold calculated maneuver. Further, rumors and gossip make up most of the State’s case. Not one witness observed the Grievant starting the “extra-marital affair” rumor. Also, the Grievant never admitted to lying. Instead, the Grievant realized maybe she did not see what she thought she saw. Additionally, the Grievant has never had problems conducting her work. And the Grievant is remorseful for any “drama” she may or may not have caused.

The Arbitrator found that Grievant’s lies could have had severe consequences. Her defamatory statements instigated a State and EEO investigation, wasting State resources. Further, her supervisors and coworkers will not trust her again. Despite the Grievant’s legitimate workplace complaints, her conduct was unacceptable. Thus, the Employer had just cause for her removal.