

BENCH DECISION AND AWARD

- NTA

ARBITRATOR: Thomas Nowell

HEARING DATE: May 18, 2018

GRIEVANT: Karen Linson

GRIEVANCE #: DRC-2017-03134-11

DEPARTMENT: DRC

UNION: SEIU 1199

MANAGEMENT
ADVOCATE: Victor DandridgeUNION
ADVOCATE: Amanda Schutte

ISSUE

Is Grievance DRC-2017-03134-11 arbitrable?

AWARD

Paragraph 4, Section 15.01 of the CBA states the following.

"Disability separations shall be made pursuant to OAC 123-1-30.

The Employer's decision to disability separate or to deny reinstatement from an involuntary disability separation shall not be grievable but shall be exclusively subject to appeal through the State Personnel Board of Review." The Grievant

ISSUED AT:
DATE: SEIU 1199, 5-18-18ARBITRATOR'S
SIGNATURE: Thomas Nowell

FOR DENIED WORKING SUSPENSIONS - Grievant's
Choice: Fine _____ OR Leave Reduction (pick one)
Vacation _____ Personal _____ Comp Time _____

Grievant's
Signature: _____

on July 10, 2017
appealed the Employer's failure to immediately reinstate to the
SPBR. This was the appropriate method of appeal
Pursuant to Article 15.01 (D).

The Agreement is silent regarding rights associated with
reinstatement. Therefore DRC Policy 36-LEV-06 controls.
Paragraph E (4) allows the Employer 60 days to notify
the employee regarding reinstatement. Although the
Grievant did not attend the hearing at SPBR
in response to her appeal, the Board of Review
confirmed this application of the DAC 123:1-30-04
and DRC policy. "... Appellee appears to have
complied not only with the statutory timeline for
notification of Appellant, but also to have ~~made~~ made
an actual reinstatement of Appellant within that same
60-day period."

The parties have agreed that such matters concerning
disability separations are not grievable but are subject
to appeal through SPBR. Such appeal was processed and denied
by the SPBR.

The grievance is not arbitrable.