

**CRAIG A. ALLEN
ATTORNEY AT LAW
P.O. Box 1
311 SOUTH THIRD STREET
IRONTON, OH 45638**

Telephone: (740) 533-1700

Facsimile: (740) 533-3229

E-MAIL TRANSMITTAL

TO: OCSEA

DATE: 03/22³/2021

Attn.: Jessica Chester

**PAGES: 22
(Including cover)**

E-Mail jchester@ocsea.org

RE: February 10, 2021 Arbitration

MESSAGE:

Dear Jessica:

Please find attached the Bill for the February 10, 2021 Arbitration and the Opinion & Award.

Thank you for your consideration.

Very truly yours
Craig A. Allen
Mediator/Arbitrator

HARD COPY: WILL FOLLOW OR X WILL NOT FOLLOW
BY: MAIL OVERNIGHT OTHER

* IF YOU HAVE ANY PROBLEMS WITH THE RECEPTION OF THE FOLLOWING
PAGES. PLEASE CALL THE ABOVE NUMBER.

* This communication may contain information that is strictly confidential, privileged
and exempt from disclosure under applicable law. It is intended for the sole use of the individual
or entity named above. Any use, duplication or publication of this communication is strictly
prohibited. If you receive this communication by mistake, please notify the sender immediately
by telephone and return by mail to the above address.

INVOICE

NAME: Craig A. Allen
ADDRESS: 311 S. 3rd St., POB 1, Ironton, OH 45638
Fed. ID No.

Submitted to:

OCSEA

Attn: Jessica Chester
390 Worthington Rd. #A
Westerville, OH 43082-8331

Office of Collective Bargaining

Attn: Kate Nicholson
Department of Administrative Services
100 E. Broad St., 14th FL
Columbus, OH 43215-3607

Invoice No. 021021 -2
Date of Invoice: 03-22-21
Date of Service: 02-10-21

Supplier # 0000047063
Purchase Order: 0000030180

Date briefs due 03-10-21

Date briefs received 03-10-21

Description of Service: NTA/MED/Exp. ARBITRATION

Location: Zoom Arbitration

Date: 02-10-21

Grievant Name: **Pardeep Dhamija**

PROFESSIONAL SERVICE:

<u>1</u> day (s) of hearings	@ \$1,000.00 per day	\$1,000.00
<u> </u> day(s) of travel	@ \$1,000.00 per day	\$
<u>2</u> day(s) of study & writing	@ \$1,000.00 per day	\$2,000.00

Total Professional Services \$3,000.00

AFSCME/OCSEA \$1,500.00

OFFICE OF COLLECTIVE BARGAINING \$1,500.00

IN THE MATTER OF ARBITRATION
BETWEEN
STATE OF OHIO - OHIO DEPARTMENT OF
MENTALHEALTH & ADDICTION SERVICES
AND
OHIO CIVIL SERVICE EMPLOYEES ASSOCIATION
LOCAL 11
AFSCME. AFL-CIO

Arbitration Date: February 10, 2021

Grievant Pradeep Dhamija DMH2019-02903-14

BEFORE: Arbitrator Craig A. Allen

Advocate for the Employer:

Todd Viars
Labor Relations Officer
Ohio Department of Mental Health
and Addiction Services
30 East Broad Street, 11th Floor
Columbus, Ohio 43215-3430
(937) 661-4118
Todd.Viars@mha.ohio.gov

Advocate for the Union:

Mal Corey
Staff Representative
OCSEA, AFSCME Local 11
390 Worthington Rd., Suite A
Westerville, OH 43082
(614) 865-4777
mcorey@ocsea.org

I. HEARING

The hearing was held via Zoom on February 10, 2021.. The hearing commenced at 9:02 A.M. The joint issue before the arbitrator is “Was the Grievant, Pradeep Dhamija, removed for just cause? If not, what shall the remedy be?”

Testifying for the Employer were Dr. Richard Sexton, Eric Bradley, and Melissa Brock.

Testifying for the Ohio Civil Service Employees Association, Local 11 AFSCME (the Union) were Adam Lawson, Robert Dumford, Richard Eichhorn, and the Grievant, Pradeep Dhamija.

II. STATEMENT OF THE CASE

The Grievant was removed from his position as Information Technologist 3 on August 5, 2019 for a violation of Ohio MHAS Policy HR22 Code of Conduct and General Work Rules, specifically: Rule 2.6 Failure to perform work assignment/duties.

The Grievant’s prior discipline is a 1-day suspension December 18, 2017; a 3-day suspension on August 18, 2018; and a 5-day suspension on May 11, 2019.

The Union timely filed a Grievance requesting that the Grievant be put back in his current position and be made whole. The case is properly before the Arbitrator.

III. THE EMPLOYER’S CASE

The Employer’s first witness was Dr. Richard Sexton, the Clinical Director.

Dr. Sexton testified that there were six (6) meetings leading up to the Recovery Fair. Dr. Sexton said the initial meetings were to review the results of Previous Fairs. The later meetings were to focus on specifics such as reports on the program to be held. The last two (2) meetings

covered all the details of the Fair and work assignments.

Dr. Sexton then testified that the Fair structure was the same as previous years and the Grievant never questioned his responsibilities for the day.

Dr. Sexton then said that the day of the Recovery Fair he introduced the first speaker. The Fair is broadcast State wide. Dr. Sexton said there were problems with the microphone and he called the Grievant to fix it. He also said the second Speaker's presentation was not loaded on the system. The Grievant fixed it after lunch.

Dr. Sexton then testified that the equipment for the afternoon presentation had to be moved to another room and set up in the Lewis Auditorium.

Dr. Sexton then testified he came in the room at 3 P.M. to introduce the Speaker. Ten minutes into the presentation Toledo called and said its screen was blank. He said the camera was disassembled and not broadcasting. Dr. Sexton called the Grievant who fixed it and then informed Dr. Sexton he was leaving at 3:45.

The Grievant told Dr. Sexton that his supervisor would not approve over time. Dr. Sexton told Grievant he needed him to stay but Grievant left.

Dr. Sexton then testified that the Recovery Program is a premier program. The State expects it and the hospital is proud of it and has a big investment in it. Dr. Sexton said when the equipment is not working it disrupts the quality of the program.

Dr. Sexton testified that he was taken aback by the Grievant leaving. It was very important to have IT there. He said he had made a great effort to be prepared.

Dr. Sexton testified that his role was to direct committee efforts and to monitor the progress of preparation. He reviewed JE - h, i & g and testified there were no changes in the agenda after May 14. Dr. Sexton said may move program to another room and he would make it crystal clear about the location. The Grievant never requested a change of agenda.

The Fair was May 17 and there was a meeting after the Fair to review. Dr. Sexton testified the attendees complained about IT problems. He said he tried to contact Eric Bradley and then went to Jeff Amos, Supervisor of IT.

Dr. Sexton testified that he was disappointed because Program Compromised. How could Grievant leave when the Program was over at 4:15?

On Cross-Examination Dr. Sexton testified the Fair was a big event. He said the structure was the same but the topics on the agenda changed.

Dr. Sexton said the Grievant responded quickly to problems but the microphones continued to go on and off. He said typically there were no problems. Dr. Sexton said there were one (1) or two (2) reps from IT at the meeting.

Dr. Sexton said he was not aware of Grievant's work schedule and cannot approve over time for the Grievant.

Dr. Sexton testified that Dr. Esnail's presentation was loaded on the CIS system prior to the Program, but could not be pulled up. The Program was delayed ten (10) minutes.

On Re-Direct Examination Dr. Sexton said there was no reason for the camera to be broken down.

Dr. Sexton said in follow up meetings participants complained about mikes and disruption of continuity. The Grievant should have known of the 3 o'clock program. He said the agenda showed the Program begins at 8:30 and the last program ends at 4:15 .

The Employer's next witness was Eric Bradley. Mr. Bradley has eighteen (18) years on the job as Computer Services Manager. Mr. Bradley said someone from the Department is at the Fair and Eric Johanson did it before. The Grievant was the technician assigned.

Mr. Bradley then read JE 5 L which is an E-Mail from him to Police Officer, Jason Smith. Officer Smith was investigating the Fair. He was investigating the Audio Visual equipment failure during Dr. Esmail's presentation.

Mr. Bradley testified that Grievant was assigned to committee meetings and never asked for assistance. He said there is one (1) person in charge at the Fair and Grievant could have asked for help. Mr. Bradley said he set up equipment on the lower level. Mr. Bradley saw Grievant around 10:30 and things were going well. The Grievant never asked for overtime.

Mr. Bradley reviewed JE 5N and said the Grievant was sent the Fair Schedule. The Schedule showed the Fair ending at 4:15.

Mr. Bradley testified that the Grievant knew the schedule in advance and always worked overtime.

Mr. Bradley testified he was shocked and disappointed that the Grievant left early. He learned the next day. Mr. Bradley said the Grievant never told him he was leaving early and he had no permission to leave early.

Mr. Bradley said relations with the Grievant had improved over time.

Mr. Bradley read JE 5N and said it was Grievant's Fair schedule. If the Grievant needed help he was to contact him.

Mr. Bradley then testified he had checked with Grievant twice on the morning of the Fair and then again in the afternoon. He left early due to a family emergency and Adam Lawson was then in charge.

On Cross-Examination Mr. Bradley testified that he had been CIS Director for eighteen (18) years. Eric Johanson had had the job prior to him. Mr. Bradley testified the Program started in 2007, it at first took the entire staff. This changed over time as CIS needs minimized. He said that he and Adam Lawson set up the cafeteria for the Fair. He read JE 5N and said the Grievant's schedule was signed by him. The schedule was 7:40 A.M. to 4:15 - 4:30 P.M.

Mr. Bradley testified that there was no request for overtime. He was asked if the schedule shows overtime and he said "Yes". He said the overtime request is after the Fair. Mr. Bradley then said in his Department overtime was rarely approved in advance.

Mr. Bradley read JE page 39 and said it was an E-Mail sent by him that overtime must be approved in advance. He said he was aware of Grievant's schedule and had signed it. The Grievant never asked for overtime.

He was asked "If no less than three (3) staff were assigned to the Fair". He replied: "I do not recall more than one (1). He said it takes more people to set up and tear down. Mr. Bradley said he left at 2 P.M. due to a family emergency. He said Adam Lawson was present on early shift and left before 4 P.M.

Mr. Bradley said on May 17 after 2 P.M. only the Grievant was left from the Department. He said the Program was not a success because Dr. Ismail's presentation failed.

Mr. Bradley said he made eye contact with the Grievant in the A.M. and everything was ok.

On Re-Direct Examination Mr. Bradley said preparation could have fixed the problem. He said overtime for the Fair was approved after the Fair. The Fair was the rare exception.

Mr. Bradley testified that due to Covid and budget, overtime was held down. Johanson got paid overtime. Mr. Bradley testified that if Grievant had stayed on the job he would have been paid. He said the Assistant CEO was in charge when he was gone. He said Johanson did not get overtime approved in advance. Everyone who worked the Fair got paid.

Mr. Bradley read JE 5N which is a schedule that is clear the Grievant was covering the entire day.

The Employer's next witness was Melissa Brock. Ms. Brock has been HR Director since October 1, 2019. Prior to that she was the Labor Relations Officer. She is the liaison for Rule violations.

Ms. Brock read JE 5S which is the discipline overview. There is progressive discipline and employees are aware of this. There is an annual review. She then read JE 5s which is Grievant's Training Schedule.

Ms. Brock then read JE 5B, the Investigation of the Grievant. Prior to there is an incident report which goes to the Campus Police. Ms. Brock reviews the police report and may gather additional information.

Ms. Brock did gather additional information in this case and JE 5a is her report. She also read JE 5p which is a request for information from Dr. Ishmail concerning equipment not hooked up. She then read JE 5f which is an E-Mail request for information about Committee meetings.

Ms. Brock testified there was Just Cause for discipline which includes the Pre-D hearing.

Ms. Brock testified that JE 4a is Notice of the Pre-D hearing and JE 4c is the Pre-D report. The Grievant argued for himself. JE 4a is Grievant's statement about the agenda.

Ms. Brock identified JE 4c is the Hearing Officer's report Finding of Fact and Just Cause. JE 5u is the Grievant's Record of Discipline which is a 3 day suspension and a 5 day suspension. Both are active for this and goes to Progressive Discipline. She said JE 5g is the Discipline Grid showing Removal as the next step.

Ms. Brock makes a recommendation to the CEO and then Director of Mental Health and Removal was warranted and JE3 is the Notice of Removal.

On Cross-Examination Ms. Brock said JE 4 page 12 is the Pre-D Conference. There is no evidence of dishonesty on the Removal letter.

Ms. Brock testified that the Grievant's schedule was given to Eric Bradley and overtime is approved by Supervision. She said overtime may be requested as needed after the event.

Ms. Brock said the Program had major draw backs and Grievant was Primary on the job. There were other staff available.

There was no Re-Direct Examination.

IV. UNION'S CASE

The Union's first Witness was Adam Lawson. Mr. Lawson is a former employee who left September 22, 2019. Mr. Lawson knows the Wellness Fair. On May 17, 2019 Mr. Lawson was on the job from 5:30 A.M. to 2 P.M. The Fair is an annual event but 2018 was cancelled.

Mr. Lawson said Eric Bradley told him to cover hospital but he was held to do general set up. Other IT staff were off. He said Eric called him in the A.M. and told him not to help with the Fair. Eric was leaving early. Mr. Lawson said the Fair was a big event and all were supposed to be there for the Fair.

Mr. Lawson said the Fair was a NO Leave Day. There should have been 3 guys there for the Fair. Mr. Lawson testified the Fair is not a job for one person.

Mr. Lawson said the Fair is processed in different rooms and equipment has to be moved. Mr. Lawson testified the Fair is not a job for one person. It is too much for two (2) people.

Mr. Lawson testified that the Grievant asked him to help him. The Grievant had to move equipment and had to use CIS Staff for help. Mr. Lawson said the equipment was old and there were very limited ways to make it work. He said there was no wi-fi and it had to be wired in. Mr. Lawson testified the Grievant could not have done it by himself.

On Cross-Examination Mr. Lawson testified it was all hands on deck for the Fair. He said "How is it that everyone in the Department was on leave except himself and the Grievant?" He said the equipment was in poor shape and it was gross mismanagement. Mr. Lawson said no one should have been on leave.

Mr. Lawson read JE 4c and said it was an E-Mail from him to the Grievant. He said he went against what Eric told him and tried to help Grievant. The Grievant had to set up three (3) different rooms. Mr. Lawson went against management orders to help Grievant. There was no wi-fi so the computer had to be wired.

On Re-Direct Mr. Lawson testified you cannot approve your own Overtime. It had to have prior approval. He said the 2019 Fair was not successful. There was no proper equipment or enough personnel.

The next Union Witness was Robert Dumford. Mr. Dumford is an IT2 with seventeen (17) years and three (3) months on the job. On May 17 Mr. Dumford was off on a Personal Day.

Mr. Dumford testified that at past events there were three (3) ITs including supervision. The cafeteria has Wi-Fi and wireless but the wireless was not hooked up.

Mr. Dumford testified that only the Grievant was assigned to the Fair. The Fair is a major event held almost every year. The Grievant was in weekly meetings and was told no overtime without prior approval. Grievant was told by supervision no overtime. Grievant had no help at the Fair.

There was no Cross-Examination.

The Union's last witness was the Grievant. The Grievant is an Info Tech 2 and has been there thirteen (13) years. He said the Recovery Fair May 17, 2019 was a Major Event. He also said he had worked all past events.

The Grievant testified he was assigned duties by E-Mail. Others set up the equipment. He was assigned alone at the Event.

The Grievant testified he asked Eric Bradley for help many times. He said Eric Bradley told him to go and leave the equipment on. He said he installed files in every computer. The Grievant said it was obvious he would be alone.

The Grievant testified that Eric Bradley did not tell him he was leaving. He said he asked for overtime and it was denied.

The Grievant testified that he had no negative evaluations and met all expectations.

On May 17 the Grievant had a conversation with Dr. Sexton about microphones. He testified Dr. Sexton took microphones to participants. The batteries needed changed.

The Grievant testified he left at 4 P.M. his scheduled time. He said supervision never talked to him about the schedule. He said he asked for overtime once.

The Grievant testified he told Dr. Sexton he was leaving and could not work Overtime. He asked Dr. Sexton to approve overtime but Sr. Sexton could not do it.

On Cross-Examination the Grievant testified he has been involved with the Fair since 2007. He was assigned May 17, 2019 to work the Fair. His hours at the Fair were 7:30 to 4. The Grievant testified he gave Dr. Sexton a microphone and it worked until Dr. Sexton went out in the room. The Grievant put new batteries in.

The Grievant was asked: "Why didn't you test equipment before the event?" He answered "I did test it the day before". All he could do was put batteries in the microphone. The Grievant said the microphones worked properly the day of the event.

The Grievant said when Toledo called about service he fixed it in two minutes. He said he needed more people.

The Grievant testified he told supervision and Dr. Sexton he was leaving at 4. He said the schedule is work needs to be done by others. He read JE 4c which is Grievant's E-Mail to Eric Bradley.

The Grievant has a one (1) day, three (3) day and a five (5) day suspensions on record.

On Re-Direct the Grievant testified he changed batteries every couple of hours which is normal. He expected supervision to assign some duties to others.

The Parties agreed to file written Closing Arguments on March 10, 2021 and to serve each other.

V. OPINION AND AWARD

The Employer says the Grievant was terminated August 5, 2019 after violating HR-22, Code of Conduct and General Work Rules, Rule 2.6_Failure to Perform a Work Assignment/Duties (JEST). The Grievant had a pre-disciplinary meeting on June 18, 2019 (JE 4C) and it was determined by the Hearing Officer there was Just Cause for disciplinary action.

The Employer argues the Grievant having an active 1-day suspension; and active 3-day suspension; and an active 5-day suspension, had progressed through the disciplinary grid outlined in HR-22 Code of Conduct (JE 5T Pg. 63). Termination was the final step after this progressive discipline.

The Employer says the Grievant's schedule was Monday through Friday, 7:30 A.M. to 4:00 P.M. Eric Bradley, the Grievant's supervisor, assigned him as the CIS member to provide the IT support for the 2019 Recovery and Wellness Fair. The Grievant's assigned duties were to

ensure that all IT needs were addressed for both presentations and to make sure the required programs were working prior to the event. The Recovery and Wellness Fair was scheduled on May 17, 2019 and the agenda (JE 5D) included sessions that were to be live broadcasted to other MHAS Regional Psychiatric Hospitals (RPH) for training and continuing education opportunities.

The Employer argues that the Grievant oversaw all audio/video, internet and Wi-Fi needs for the Recovery and Wellness Fair. Part of this assignment was to attend committee meetings leading up to the 2019 event.

The Employer contends that the evidence from Dr. Richard Sexton, the Clinical Director SBH, established the Grievant had, in fact, attended some of these meetings. The Grievant did attend the final committee meeting on May 14, 2019. There, every detail was discussed to ensure that everyone assigned to the Recovery and Wellness Fair knew exactly what their job duties were and what was expected.

The Employer argues that during the meeting the Grievant never raised any concerns about his job assignment; he never expressed any confusion about the agenda he was given; nor did he notify Dr. Sexton or anyone else he would be leaving prior to the event being completed.

The Employer says that on the morning of May 17, 2019, the CEO of SBH, Liz Banks, opened the Recovery and Wellness Fair in the hospital cafeteria. The presentation was broadcast live to other RPHs throughout the State of Ohio.

The Employer argues that Dr. Sexton introduced the first speaker and immediately following the first presentation it became evident the Grievant had failed to properly execute his

assigned duties. The Employer says the evidence is that during the question and answer part of the program, the microphones failed to work properly. Dr. Sexton testified that he called the Grievant to fix the microphones.

The Employer says the evidence is the Grievant initially told Dr. Sexton the batteries were bad and needed to be changed. When that failed to fix the issue the Grievant told Dr. Sexton to hold the microphone closer to his mouth. The Grievant finally concluded the microphones were too far from the base to work properly.

Dr. Richard Sexton was the Clinical Director at SBH and has overseen all twelve (12) Recovery and Wellness Fairs held at SBH. He also chaired all the Committee meetings, puts together the agendas, selects the speakers, and what topics would be presented.

The Employer says the evidence is Dr. Sexton testified that there was another issue that occurred during the second presentation that morning. Dr. Esmail's presentation had no internet connection, even though it was requested prior to the event. Being able to show You Tube videos was vital to Dr. Esmail's presentation. The Grievant stated that there was no internet in the Cafeteria.

The Employer argues that an E-Mail conversation between Union witness, Robert Dumford, and the Grievant on June 12, 2019 clarified where the network connection is in the Cafeteria, Management witness, Eric Bradley, testified that internet connection was possible in the Cafeteria, but it would need to be configured. The Grievant failed to request this.

The afternoon program was to be held in the Lewis Auditorium. The equipment had to be moved from the cafeteria. Adam Lawson and supervisor, Eric Bradley, helped the Grievant

move and set up the equipment.

The Employer argues that during the second presentation Dr. Sexton was called by another RPH who asked if the presentation were to be broadcast live. They were looking at a blank screen. Dr. Sexton noticed the video camera had been shut off and was leaning in the corner of the room. The program was delayed until the Grievant set up the camera.

The Employer says the evidence is the Grievant told Dr. Sexton he was leaving for the day. He told the Grievant he could not facilitate the program and run audio/video equipment. The Grievant told Dr. Sexton that his supervisor would not approve overtime. Dr. Sexton could not approve Grievant's overtime. The Grievant showed Dr. Sexton how to turn off the camera and left.

The Employer points to the testimony where Dr. Sexton testified the Recovery and Wellness Fair had been held for at least twelve (12) years. It is the pinnacle mental health event for SBH. It is the one time a year the facility can showcase itself.

The Employer argues that Dr. Sexton testified the programs change but the same rooms and times are used. Dr. Sexton testified that the Grievant had assisted with the event years prior and should have known what to do.

Dr. Sexton said the Grievant attended the last committee meeting and never questioned the agenda nor any issues with completing his assignments.

The Employer says Eric Bradley, CIS manager for SBH and Grievant's immediate supervisor testified he has always had one of his employees in charge of the audio/video needs for the Fair. Mr. Bradley said that prior to the Grievant, Eric Johansen was the IT person in

charge of the event until he resigned from SBH in 2017. He then gave the assignment to the Grievant because he had assisted Mr. Johansen during the Fair and he had the most audio/video experience in the department. He also assigned the Grievant to attend committee meetings leading up to the Fair.

Supervisor Bradley testified that the morning of the Fair he and Adam Lawson began to set everything up and at 7:45 A.M. the Grievant arrived to help.

Mr. Bradley and Mr. Lawson then left. Grievant was to provide CIS services.

Mr. Bradley returned to the area around 10:30 A.M. and checked with the Grievant to ensure everything was going well. He made eye contact with the Grievant and the Grievant indicated things were going well. Mr. Bradley testified that both he and Adam Lawson returned after lunch to help the Grievant tear down, move and set-up equipment in the Lewis Auditorium. Mr. Bradley said one (1) of his staff was assigned to the Fair. If they needed assistance, they would call him and he would send help.

The Employer argues that Mr. Bradley had to leave around 2 P.M. due to a family emergency. He told Adam Lawson that if anyone needed help or overtime to contact Jeff Amend (Assistant Chief Executive Officer).

The Employer also argues that Mr. Bradley testified the Grievant never asked for overtime. He said the Grievant gave him a schedule on May 16, 2019 showing the Grievant's hours for the day of the Fair. Mr. Bradley signed and dated the schedule acknowledging it was Grievant's schedule.

Mr. Bradley testified that other CIS members who were in charge of the Fair received

overtime. He said the Grievant would have received overtime had he worked past 4:00 P.M. The Grievant never told him he would leave prior to the Fair being completed. Mr. Bradley said the Grievant did not have permission to leave early.

Supervisor Bradley also testified the Grievant never asked him for help getting internet in the cafeteria. He said the Grievant failed in his preparation for the Fair and should have done better.

The Employer says Melissa Brock, Human Resources Director at SBH testified that the Grievant completed his annual training on HR-22: Code of Conduct and General Work Rules on February 26, 2019.

Ms. Brock testified the Grievant had three active disciplines: a one-day suspension, a three-day working suspension, and a five-day working suspension. She said the grid in HR-22 shows the next step was removal.

The Employer says the Union argues there was no Just Cause for removal claiming the Grievant did not have proper assistance the day of the Fair.

The Employer argues nothing could be further from the truth. Both the Union witness, Adam Lawson, and the Grievant testified they assisted a couple of times that day.

The Union also argues that during previous Fairs multiple CIS employees assisted throughout the day. The Employer argues the testimony of Eric Bradley refutes this. He has been supervisor over the department for nineteen (19) years and testified one CIS employee was in charge of all audio-visual needs and if they needed assistance they were to call him for help.

The Union contends that when the microphones did not work during the question and

answer session, the Grievant was not at fault. The Union also claims that when Dr. Esmail's presentation failed to work due to no internet connection the Grievant was not at fault. When the program was not broadcast live it was not the Grievant's fault.

The Employer argues all these failings fell squarely within the Grievant's preview as the primary CIS staff assigned to the Fair.

The Union also argued that the Grievant had to leave his job due to not being able to work overtime. The Employer argues that the testimony of Mr. Bradley refutes this. He stated that whatever CIS member in charge of the Fair always received overtime. Mr. Bradley received the Grievant's schedule for May 15th through May 17th which indicated overtime. The Employer points out that Mr. Bradley testified that if the Grievant had stayed to complete his job he would have been paid overtime.

The Employer says there was Just Cause for removal of the Grievant.

The Union argues that there was no Just Cause for removal. The Union says the Employer failed to provide substantial proof the Grievant violated the rule.

The Union argues that it is clear the Grievant was left alone to work the Fair despite the fact that this same event in past years was staffed with no less than three (3) other Information Technologists (IT) from the Computer Information Services (CIS) Department. During the two investigations conducted, the Employer concluded the Grievant failed three times:

- 1) He didn't ensure an internet connection for Dr. Esmail's presentation in the Cafeteria.
- 2) He didn't set the equipment up to accommodate a live broadcast from Lewis Auditorium to remote hospital sites; and

3) He left his job assignment without appropriate notification.

The Union argues that it has presented by testimony and documentary evidence that:

1) There was no internet connection available in the cafeteria to accommodate the video links in Dr. Esmail's presentation.

2) According to Dr. Sexton's E-Mail the issue was brought to the Grievant's attention and he responded immediately. Dr. Sexton also testified that the Grievant responded promptly and resolved the issue quickly. He also testified that but for having to store equipment in his office at its conclusion, the event was completed successfully.

3) The Grievant didn't just leave his job assignment. He was only scheduled to work until 4 P.M. with no authorization to spend any more time on the clock. The Grievant notified his supervisor of the time line for the day in question which indicated hours beyond his regular work hours for the day. The time line was presented to the supervisor in advance of the date of the event. This was not only ignored by the supervisor, but when the Grievant requested overtime hours to stay until the event was complete, the requested time was denied. Additionally there was no indication that the supervisor instructed the Grievant to adjust his schedule (start time). The Grievant could not adjust his schedule on his own.

The Union argues that the Employer failed to establish Just Cause for discipline. The Union asks the Grievant be reinstated and made whole.

The Advocates have done a fine job presenting their Client's positions.

The Arbitrator has reviewed the testimony and the Joint Exhibits and the parties Exhibits.

This case has considerable conflicting evidence.

The testimony of Mr. Bradley is he set up the equipment on the lower level for the Fair.

Mr. Lawson testified that Mr. Bradley called him and told him not to help Grievant with the Fair. He said he went against orders to help the Grievant.

Mr. Bradley said only one IT person was assigned to the Fair. Mr. Lawson, a long term employee testified that previous Fairs had three (3) ITs assigned. He also said there was no Wi-Fi. It had to be wired in and the Grievant could not do it by himself.

The Grievant testified he had tested the equipment the day before. He also said he fixed all problems promptly and Dr. Sexton confirms this.

Mr. Bradley says the Grievant never asked for overtime. The Grievant said he did.

Robert Dumford, a long term employee testified at past events there were three (3) ITs assigned to the Fair.

Robert Dumford also testified the Grievant was in weekly meetings and was told no overtime without prior approval. The Grievant was told no overtime by supervisor.

The Employer argues that Mr. Bradley's signing of Grievant's Fair schedule was an approval of overtime. The Arbitrator does not find this persuasive.


The Arbitrator finds that the Employer has not proved its case.

The Grievant shall be reinstated with full back pay to include holiday premium pay. The Grievant shall be restored all leave balances including those accrued to date. If applicable the Grievant shall not suffer any loss as a result of lapsed medical coverage. The Employer shall reimburse the Union for dues owed for the time the Grievant was removed.

The Arbitrator shall retain jurisdiction for sixty (60) days.

So Ordered.

Issued at Ironton, Ohio this 22nd day of March, 2021.



Craig A. Allen
Arbitrator