

ARBITRATION DECISION NO.:

34

UNION:

OCSEA, Local 11, AFSCME, AFL-CIO

EMPLOYER:

Department of Rehabilitation
and Corrections
Lebanon

DATE OF DECISION:

July 24, 1987

GRIEVANT:

Richard Gaffney

OCB GRIEVANCE NO.:

G-86-0030

ARBITRATOR:

Jonas B. Katz

FOR THE UNION:

FOR THE EMPLOYER:

KEY WORDS:

Progressive Discipline
Sufficient Notice

ARTICLES:

Article 24 - Discipline
§ 24.02 - Progressive Discipline

CASE SYNOPSIS:

Grievant was employed as a Corrections Officer at the Lebanon Correctional Institute. This grievance is a consolidation of two separately grieved incidents. The Grievant disagreed with several of management's policies and in voicing opinions on the policies, Grievant used profane and coercive language. Grievant received a two (2) day suspension, and a five (5) day suspension, within a one (1) month time period.

The Arbitrator found that the penalties were justified. In view of the fact that the penalties were imposed so closely together and the Grievant may not have been aware of the full impact of the-conduct, for progressive discipline purposes, the Arbitrator combined the two suspension periods into one five (5) day suspension period. The Grievant was therefore entitled to two (2) days pay for the suspensions already served. The Arbitrator stated that this decision in no way serves as a mitigation of the penalties.

TEXT OF THE OPINION:

BEFORE THE ARBITRATOR

In the Matter of:

STATE OF OHIO, DEPARTMENT OF

**REHABILITATION AND
CORRECTION**

and

**OHIO CIVIL SERVICE EMPLOYEES
ASSOCIATION, LOCAL 11, AFSCME**

AWARD

Grievance 86-30
(Combined)

The Arbitrator finds that the conduct of Officer Richard Gaffney on both November 11, 1986, which is the subject of a two (2) day suspension, and December 3 and 5, 1986, which is the subject of a five (5) day suspension, was substantially as set forth in the Incident Reports of those days; and that, therefore, the penalties are justified.

However, in view of the fact that the penalties were imposed so closely together, it is possible that the grievant was not aware of the full impact of his earlier conduct (for progressive discipline purposes) when he committed the second offense. I will combine the two (2) day suspension and five (5) day suspension into one five (5) day suspension for the purposes of the employee's record. Therefore, the employee is entitled to two (2) days' pay if the suspensions have been served. This reduction of the penalties is not intended in any way to mitigate the seriousness of the grievant's conduct, which this Arbitrator finds to be totally unacceptable.

Jonas B. Katz, Arbitrator

Issued at Cincinnati, Hamilton County,
Ohio, this 24th day of July, 1987.