

ARBITRATION DECISION NO.:

049

UNION:

OCSEA, Local 11, AFSCME, AFL-CIO

EMPLOYER:

Ohio Department of Transportation

DATE OF DECISION:

GRIEVANT:

OCB GRIEVANCE NO

G 87-0383

ARBITRATOR:

Nicholas Duda Jr.

FOR THE UNION:

John Porter

FOR THE EMPLOYER:

Mary Abel

KEY WORDS:

Just Cause

ARTICLES:

Article 24 – Discipline
§24.01 – Standard

FACTS:

No OCSEA summary available. Text is the settlement.

TEXT OF THE OPINION:

* * *

Nicholas Duda Jr.
1634 Bowers Road. R.D. 6
Mansfield, Ohio 44903

IN THE MATTER OF ARBITRATION
UNDER THE 1986-1989 CONTRACT

Attorney and Arbitrator)
)
Between:)

The State of Ohio) OCB Grievance No. G 87-0383
)
) ND 530
-and-)
) G87-0046
Ohio Civil Service Employees)
Association, Local 11,) Grievant: Kenneth Vogelgesang
AFSCME, AFL-CIO)

AWARD

Whereas during the arbitration hearing for this case, the Parties moved to settle on an adequate and reasonable basis satisfactory to the Grievant, and approved by the Arbitrator, their Settlement Agreement (copy attached) is entered as, the final and binding arbitration award for this case.

Nicholas Duda, Jr., Arbitrator

* * *

This agreement made September 11, 1987, by and between The Ohio Department of Transportation District 8 ("ODOT"), Ohio Civil Service Employees Association/Local No. 11, AFSCME, AFL-CIO ("OCSEA/AFSCME") and Kenneth Vogelgesang ("Employee"), parties hereto.

WHEREAS, Employee and OCSEA/AFSCME assert a claim or claims against ODOT, based on the following allegations:

The Employee was improperly removed from employment

WHEREAS, there is now pending, based on said claim, a grievance filed by the above named employee (s) and OCSEA/AFSCME against ODOT pursuant to the Collective Bargaining Agreement, identified as Grievance No. 99-86-08-ODOT.

WHEREAS, ODOT denies any liability in connection with the alleged claim;

WHEREAS, all parties hereto wish to reach a full and final settlement of all matters and causes of action arising out of the claim hereinafter set forth;

Now therefore, all parties hereto, in consideration of the mutual covenants and agreements to be performed, as hereinafter set forth, agree as follows:

1. ODOT agrees to the following:

The grievant's (Kenneth Vogelgesang) removal order shall be modified and he shall be permitted to resign effective October 24, 1986. The employer further agrees to expunge all materials relevant to his removal from the personnel record. The employer will issue a neutral response to any employment inquiries.

2. Employee and OCSEA/AFSCME agree to withdraw the aforementioned grievance and waive any and all rights they may currently or subsequently possess to receive any reparation, restitution or redress for the events which formed the basis of the aforementioned grievance or claim, including the right to have the grievance resolved through arbitration, or through resort to administrative appeal or through the institution of legal action.

* * *

3. OCSEA/AFSCME agree to waive any and all rights it may currently or subsequently possess to obtain any reparation, restitution or redress for its' members as a result of the events which formed the basis of the aforementioned grievance or claim, including the right to have the grievance resolved through arbitration, or through resort to administrative appeal or through the institution of legal action.

The Union also agrees that no back pay will be issued in this case.

All parties to this Agreement hereby acknowledge and agree that this Agreement is in no way precedent setting. This Agreement shall not be introduced, referred to or in any way utilized in any subsequent arbitration, litigation or administrative hearing.

Signed at Columbus, Ohio on September 11, 1987.

OHIO DEPARTMENT OF TRANSPORTATION

Rachel L. Livengood/s/
Witness

Mary A. Abel/s/
Deputy Director for Labor Relations
Ohio Department of Transportation

Kathy Holden/s/
Witness

Kenneth Vogelgesang/s/
Employee

CIO

OHIO CIVIL SERVICE EMPLOYEES
ASSOCIATION/AFSCME, LOCAL 11, AFL-

Kathy Holden/s/
Witness

By: John T. Porter/s/

APPROVED:

Nicholas Duda, Jr. /s/
Nicholas Duda, Jr., Arbitrator

* * *

I hereby resign from my position as an employee of the Ohio

Department of Transportation effective October 24, 1986.

9/11/87

Date

KennethVogelgesang/s/

Kenneth Vogelgesang

WITNESSED BY: John T. Porter/s/
John T. Porter