

ARBITRATION DECISION NO.:

61

UNION:

OCSEA, Local 11, AFSCME, AFL-CIO

EMPLOYER:

Department of Rehabilitation
and Correction, Southern
Ohio Correctional Facility

DATE OF ARBITRATION:

April 20, 1987

DATE OF DECISION:

April 20, 1987

GRIEVANT:

Phillip Dameron

OCB GRIEVANCE NO.:

G-86-0950

ARBITRATOR:

FOR THE UNION:

John Porter

FOR THE EMPLOYER:

Nicholas G. Menedis

KEY WORDS:

Removal
EAP
Absenteeism
Substance Abuse

ARTICLES:

FACTS:

The Grievant was a Corrections Officer who on November 12, 1986, was removed from employment at the Southern Ohio Correctional Facility. The Grievant Dameron was charged with a violation of 1 (C) of the Ohio Department of Rehabilitation and Corrections Standards of Employee Conduct for being absent for a period of twenty (20) consecutive working days without notification.

The Grievant had been injured at work and in addition, had marital and substance abuse problems. The Grievant had been an employee of SOCF from January, 1986 until his removal in

November, 1986. The Grievant had prior discipline for absenteeism and tardiness.

After negotiations between the Union and the Department of Rehabilitation and Corrections, the Grievant was returned to work with no backpay.

Comments:

There were two prime factors in the Department of Rehabilitation and Corrections' decision to return the Grievant to work. First, the Grievant had a good work record except for his absences. Secondly, he had sought assistance from the Employee Assistance Program (EAP) for his personal problems, and continued in the program even after his termination. As part of the Settlement Agreement, Grievant must continue in the Employee Assistance Program (EAP).

TEXT OF THE AGREEMENT:

SETTLEMENT AGREEMENT

The parties below have signed this settlement agreement thereby resolving grievance SOCF-86-47 involving Correction Officer 2 Phillip Dameron's removal. The employer hereby recognizes mitigating circumstances concerning Mr. Dameron's abandonment of his position, and the union hereby recognizes the seriousness of Mr. Dameron's action; therefore, in the spirit of good faith, the matter will be considered settled on the following conditions:

1. Mr. Dameron will return to work on what would have been his first regularly scheduled work day in the work week beginning April 26, 1987 (Sunday at 12:01 a.m.).
2. Mr. Dameron will be afforded the same "good days off" that he had prior to his removal.
3. Mr. Dameron's disciplinary action will be offered to reflect a suspension for the number of work days missed since November 12, 1986, up to and including April 25, 1987 (117 days).
4. Mr. Dameron will not receive any back pay of any kind for the period of time established in 3. above.
5. Mr. Dameron will show evidence of his enrollment and his continued participation in the Employee Assistance Program (EAP), and Mr. Dameron will remain in the EAP program until all parties to this agreement mutually agree otherwise.

The signatures below reflect the acceptance of the conditions stated above as a settlement of grievance SOCF 86-47 without prejudice or precedence.

For the Department of Rehabilitation and Correction:

Nicholas G. Menedis
Chief of Labor Relations
Date: April 20, 1987

For OCSEA/AFSCME Local 11:

John Porter, Legal Counsel
Date: April 20, 1987

Phillip Dameron, Aggrieved
Date: April 20, 1987