

ARBITRATION DECISION NO.:

96

UNION:

OCSEA, Local 11, AFSCME, AFL-CIO

EMPLOYER:

Department of Rehabilitation
and Correction, Oakwood
Forensic Center

DATE OF ARBITRATION:

DATE OF DECISION:

GRIEVANT:

William McDonnell

OCB GRIEVANCE NO.:

G-87-1575

ARBITRATOR:

Andrew J. Love

FOR THE UNION:

Bob Rowland

FOR THE EMPLOYER:

Ed Morales

KEY WORDS:

Written Reprimand
AWOL
Evidence - Testimony vs.
Written Statements

ARTICLES:

Article 24 - Discipline
§24.01-Standard

FACTS:

Grievant was a Psychiatric Attendant for three (3) years. He failed to report for work one day and was marked AWOL by the supervisor. He was given a written reprimand for the incident.

MANAGEMENT'S POSITION:

Grievant did not call in to report his absence. The Supervisor checked logs and with all

persons who might have been available to take the call from Grievant or someone calling for the Grievant.

UNION'S POSITION:

Grievant's mother called the center at 11:00 a.m. to report Grievant's absence. Shift start time is 11:00 a.m.

ARBITRATOR'S OPINION:

The letter from Grievant's mother stating that she called at 11:00 a.m. is overcome by the evidence presented by the individuals who testified at the proceeding. The evidence indicates that Grievant or his representative did not call to clear him from work that day.

AWARD:

Grievance denied.

TEXT OF THE OPINION:

ARBITRATION

**RE: William McDonnell
Grievance**

GRIEVANCE NO.:
G87-1575

FOR EMPLOYER:
Ed Morales

FOR GRIEVANT:
Bob Rowland

DECISION AND AWARD

The issues presented in this hearing are whether the written reprimand issued to the Grievant was for "just cause" and if not, what the remedy should be.

A number of exhibits were admitted, which include the following:

Joint Exhibit 1 - Contract between the State of Ohio and OCSEA-AFSCME.

Joint Exhibit 2 - Grievance trail.

Joint Exhibit 3 - Letter of Reprimand dated May 5, 1987 for the Grievant's being absent without leave (AWOL).

Employer Exhibit 1 - Prior disciplinary record of tardiness.

Employer Exhibit 2 - Call in Log and Daily Attendance Record.

Union Exhibit 1 - Statement from Grievant's mother.

The facts are as follows:

On April 25, 1987, Robert Meier, Second Shift Supervisor at the Oakwood Forensic Center, was at work and noticed that the Grievant did not show up for his second shift work duties. Mr. Meier checked the call in sheet and determined that no one called in for the Grievant indicating notification of absence. Therefore, Mr. Meier marked the Grievant AWOL. Mr. Meier checked with other persons who would have taken in any telephone calls on behalf of the Grievant but may have failed to note it on the call in sheet, and he determined from his investigation that no one took a call from anyone representing the Grievant or the Grievant himself indicating absence for April 25, 1987. Mr. Meier then marked the Grievant AWOL for that day.

Mr. Meier testified that two co-employees of the Grievant advised him that the Grievant was at his sister's wedding. Approximately 9:00 P.M. the Grievant called Mr. Meier and stated that his mother called at 11:00 A.M. to the effect that the Grievant would not be coming in to work due to illness. The Grievant was calling from the location of his sister's wedding reception.

The Grievant, a Psychiatric Attendant for three (3) years, testified that his job duties include observing and documenting on patients at the Oakwood Forensic Center.

The Grievant testified that, on April 24, 1987, his relatives came into town for the Grievant's sister's wedding. He stated that he engaged in drinking alcoholic beverages during the course of the evening of April 24. At approximately 11:00 A.M. on April 25, 1987, the Grievant stated that he asked his mother to call him in sick because he was not feeling well after his drinking activity. When the Grievant returned to work, he received a letter of reprimand for being AWOL.

The Grievant testified under cross-examination that the wedding was scheduled for noon on April 25, 1987, and that he in fact attended the wedding. He testified that because of his condition as a result of drinking with relatives that he would do more harm while attempting to go to work; moreover, he could lose his job being in his condition at the time.

This Arbitrator is persuaded by the evidence presented by Mr. Meier that the Grievant was AWOL. The call in sheet indicated that calls were received at 10:57 A.M. and the next one being 11:18 A.M. Those calls were received by staff at the Oakwood Forensic Center. Those two calls represented calls from other employees. The Grievant supplied a letter from his mother (Union Exhibit 1) wherein she states that she called the Oakwood Forensic Center on April 25, 1987 at approximately 11:00 A.M. to report that the Grievant was ill and would not come in to work that day. Taking this letter for what it is worth, this evidence does not overcome the evidence presented by the individuals who testified at this proceeding. According to Mr. Meier, there were at least two people available for most of the morning of April 25, 1987 to take any calls from employees who would not be able to go to work on that day. None of the individuals with whom Mr. Meier spoke took a call from the Grievant's mother.

It is clear that the Grievant intended to attend his sister's wedding and the reception afterward. Of course, nothing is wrong with the intent of the Grievant to do this. Nevertheless, the evidence does not support the position of the Grievant that a call was made to clear him from work on that day.

Accordingly, the Grievance is denied.

ANDREW J. LOVE
Arbitrator