

ARBITRATION DECISION NO.:

97

UNION:

OCSEA, Local 11, AFSCME, AFL-CIO

EMPLOYER:

Department of Rehabilitation
and Correction, Oakwood
Forensic Center

DATE OF ARBITRATION:

DATE OF DECISION:

GRIEVANT:

David Rodney

OCB GRIEVANCE NO.:

G-86-0507

ARBITRATOR:

Andrew J. Love

FOR THE UNION:

Bob Rowland

FOR THE EMPLOYER:

Ed Morales

KEY WORDS:

Just Cause
Suspension
Tardiness
Commensurate With
Offense

ARTICLES:

Article 24 - Discipline
§24.01-Standard

FACTS:

Grievant was a Psychiatric Attendant at a Forensic facility with ten (10) years service. Grievant reported for work at 3:01 p.m. but signed the sign-in sheet for 3:00 p.m. Grievant was suspended for two days.

MANAGEMENT'S POSITION:

Grievant has a history of tardiness. Grievant signed in late and there was just cause for the suspension. Off-going shift employees could not leave until relieved by oncoming employees.

UNION'S POSITION:

Grievant's prior incidents of tardiness occurred when employees had to go through the galley port and were often detained. The sign-in location had been changed and there had been no problems of tardiness since that change.

ARBITRATOR'S OPINION:

Grievant lives but a short distance from the facility. He had ample opportunity to correct his behavior after verbal reprimands. He could have left earlier to account for any potential delays. Patients must be monitored at all times and tardiness of an oncoming employee forces an off-going employee to remain on duty until properly relieved. The Employer had just cause to suspend, but because he was only one minute late, two days is not commensurate with the offense.

AWARD:

Grievance is modified to one (1) day suspension.

TEXT OF THE OPINION:**ARBITRATION**

**RE: David Rodney
Grievance**

GRIEVANCE NO.:
G86-0507

FOR EMPLOYER:
Ed Morales

FOR GRIEVANT:
Bob Rowland

DECISION AND AWARD

The issues presented in this hearing are whether the Grievant was suspended for just cause, and, if not, what the remedy should be. The joint exhibits included the contract between the State of Ohio and OSCEA-AFSCME, the Grievance trail, the disciplinary trail; and employer's exhibits, which include the sign in and sign out and call in procedure containing the Grievant's signature, the policy on corrective action (Oakwood Forensic Center), Grievant's sign off on the policy on corrective action, Grievant's past discipline, and Grievant's attendance records and call in log.

On June 19, 1986, the Grievant, a Criminal Psychiatric Attendant at the Oakwood Forensic Center, clocked in one minute after the beginning after his second shift, which began at 3:00 P.M. This was observed by his supervisor, Robert F. Meier. Although the Grievant signed the sign in sheet the time of 3:00 P.M., Mr. Meier noted that it was 3:01 P.M. when the Grievant arrived on the

second floor of the assigned building to sign in. It should be noted that the Grievant has been disciplined in the past for tardiness. As a result of the allegation of tardiness on June 19, 1986, the Grievant received a two (2) day suspension.

The Grievant has been employed as a Criminal Psychiatric Attendant for a period of ten (10) years. He handles dangerous patients from criminal institutions. Such handling requires specialized training.

The Grievant testified that, prior to the changing of the location of the sign in responsibilities, delays at the galley port were caused by security checks. This problem, the Grievant stated, was aggravated by persons visiting the patients, who would also have to be checked for security purposes. Sometimes employees were detained when a sergeant would not open the gate at the galley port for security reasons. However, since there is a new location to sign in (at the point of entrance into the facility) the Grievant has not experienced problems with tardiness.

James Gladden, Jr., a Psychiatric Attendant Coordinator and President of the Union Chapter, testified that employees used to have to enter the galley port, which was controlled by Correction Officers with the Department of Rehabilitation and Correction. Another 100 yards separated the galley port from the main building where an officer unlocked the door. Employees would have to go to the second floor of the main building, get keys to enter their assigned work place, and then sign in. Now, Mr. Gladden testified, sign in is much easier in that this is done before the security check and other requirements, such as obtaining keys, occurs.

This Arbitrator is not persuaded by the testimony of the Grievant as to why he was tardy. As the Grievant stated during the course of the hearing he lives a short distance away from the facility. He had had many opportunities through verbal reprimands to correct the problem of tardiness. This Arbitrator is satisfied that the evidence shows that it is necessary for employees to be on time for work if for no other reason to enable previous shift employees to leave. At all times the patients in the various sections of the facility must be supervised and handled. This cannot be done when employees are late. In addition, it requires other employees to remain after their shift until the next shift employees arrive. The appropriate action Grievant should have taken was to leave earlier to factor in the delays of which he spoke.

This Arbitrator does feel, however, that the appropriate remedy should be one day's suspension rather than two days' suspension. The Grievant was late only one minute. It is this Arbitrator's view that a one day suspension is commensurate with the offense.

ACCORDINGLY, the Grievance is denied, with back pay of one (1) day to be awarded to the Grievant.

ANDREW J. LOVE
Arbitrator