

ARBITRATION DECISION NO.:

102

UNION:

OCSEA, Local 11, AFSCME, AFL-CIO

EMPLOYER:

Department of Mental Retardation
and Developmental Disabilities,
Columbus Developmental Center

DATE OF ARBITRATION:

January 27, 1988

DATE OF DECISION:

January 28, 1988

GRIEVANT:

Susan Laywell

OCB GRIEVANCE NO.:

G-87-0928

ARBITRATOR:

Henry E. Helling, III

FOR THE UNION:

FOR THE EMPLOYER:

KEY WORDS:

Suspension
Neglect of Duty (Client Care)
Just Cause
Disparate Treatment
No Notice

ARTICLES:

Article 24 - Discipline
§24.01-Standard

FACTS:

Grievant, a Hospital Aide at the Columbus Developmental Center, was suspended for one (1) day when she was observed sitting with three (3) co-workers at a table in the Center rather than interacting with clients.

EMPLOYER'S POSITION:

Grievant was suspended for just cause. She was neglecting her job duties when she was observed socializing with co-workers.

UNION'S POSITION:

Grievant was not disciplined for just cause. She was seated at the table to ask a co-worker how long two (2) clients Grievant was in charge of needed, when toileting.

ARBITRATOR'S OPINION:

Testimony and evidence showed that it was not unusual for staff to be seated at this table and nobody had been disciplined for doing so in the past. Also, the Employer presented no evidence that the Grievant was not tending to the duties of her clients.

AWARD:

The suspension of Grievant should be rescinded, the Grievant paid for the day she was unable to work, and that this incident be expunged from her record.

TEXT OF THE OPINION:

BEFORE THE ARBITRATOR

In the Matter of:

**STATE OF OHIO, DEPARTMENT
OF MENTAL RETARDATION AND
DEVELOPMENTAL DISABILITIES
THE EMPLOYER**

and

**OHIO CIVIL SERVICE
EMPLOYEES ASSOCIATION
LOCAL 11, AFSCME, AFL-CIO
THE UNION**

January 27, 1988

**Grievance:
G87-0928**

**Grievant:
Susan Laywell**

**Arbitrator:
Henry E. Helling, III**

AWARD

Grievant Susan Laywell, a Hospital Aide at the Columbus Developmental Center was suspended for one day for being observed on November 21, 1987, sitting with three co-workers at a table in the Living Area of Doren Hall and not interacting with clients. Testimony and evidence presented showed that it was not unusual for staff to be seated at this table and nobody had been disciplined for doing so prior to this incident. Grievant testified further that she was seated at the table to ask a co-worker how long two clients that she was in charge of were required to be in the restroom for toileting. There was no evidence presented that she was not tending to the hand-washing or toileting duties of her clients as required at that time by the master schedule.

Based on the evidence presented, the arbitrator finds that the employer did not establish just cause for the disciplinary action in this matter.

The suspension of Grievant should be rescinded, the Grievant paid for the day that she was unable to work, and that this incident be expunged from her record.

Henry E. Helling, III
Arbitrator

Issued January 28, 1988