

ARBITRATION DECISION NO.:

285

UNION:

OCSEA, Local 11, AFSCME, AFL-CIO

EMPLOYER:

Department of Rehabilitation
and Correction, Ohio Reformatory
For Women

DATE OF ARBITRATION:

July 13, 1990

DATE OF DECISION:

August 10, 1990

GRIEVANT:

Victoria Greene

OCB GRIEVANCE NO.:

27-19-(89-06-13)-0048-01-03

ARBITRATOR:

Linda DiLeone Klein

FOR THE UNION:

Patrick Mayer

FOR THE EMPLOYER:

Thomas E. Durkee

KEY WORDS:

Ten Day Suspension
Excessive Absenteeism
Pattern Abuse
Failure To Fill Out Request
For Leave Form

ARTICLES:

Article 24 - Discipline
 §24.01-Standard
 §24.02-Progressive
Discipline

FACTS:

The grievant had been a Corrections Officer 2. She received a ten day suspension for unauthorized absence, pattern sick leave abuse, and excessive absenteeism.

EMPLOYER'S POSITION:

There was just cause for the discipline imposed. The grievant was absent on the following days: March 1-4, 15, 18, 22-25, April 1, and 6-8, 1989. She failed to submit the proper Request For Leave forms for the days missed. Additionally, most of the dates missed were in conjunction with regular days off. The grievant was charged with unauthorized absence, habitual absence, pattern abuse and excessive absenteeism. The grievant has received prior discipline for absenteeism. She received a ten day suspension for these incidents.

UNION'S POSITION:

There was no just cause for the discipline imposed. A ten day suspension following a two day suspension is punitive and not in accordance with progressive discipline. The grievant's absences were caused by personal problems which she is trying to resolve. The grievant did not fill out Request For Leave forms because she had no leave balance remaining.

ARBITRATOR'S OPINION:

There was just cause for imposing a ten day suspension. The grievant's absences were excessive since she missed 13 days in 6 weeks, usually in conjunction with regular days off. She was still obligated to fill out Request For Leave form in spite of her nonexistent leave balance. A ten day suspension is commensurate with the offense.

AWARD:

The grievance was denied.

TEXT OF THE OPINION:

**Arbitration Proceedings
Before
Linda DiLeone Klein**

In The Matter of Arbitration

between

**State of Ohio
Department of Rehabilitation
and Correction**

and

**Ohio Civil Service Employees
Association, Local 11
AFSCME, AFL-CIO**

Grievance No.:

27-19-89-06-13-0048-01-03

Grievance of:

Victoria Greene

Heard:

July 13, 1990

APPEARANCES

For the Employer:

Thomas E. Durkee

For the Union:

Patrick Mayer

ISSUE

“Was the grievant suspended for just cause? If not, what shall the remedy be?”

OPINION

In a Notice of Suspension dated May 16, 1989, the grievant was advised that she was being suspended for ten days for violating the Standards of Employee Conduct; she was charged with "unauthorized absence including habitual absenteeism, pattern abuse, tardiness and early departure" and "excessive absenteeism". She was told that the suspension would begin effective June 3, 1989.

The facts of this matter are not in dispute. Pursuant to established policy, "Request for Leave" forms are to be submitted by employees within 24 hours of their return to work. The grievant was absent on numerous occasions between March 1, and April 8, 1989, and she failed to submit the required forms. The following dates and hours of absence are involved in this matter:

- 1) March 1 through March 4 - 32 hours
- 2) March 15 - 8 hours
- 3) March 18 - 8 hours
- 4) March 22 through March 25 - 32 hours
- 5) April 1 - 1 hour
- 6) April 6 through April 8 - 24 hours

The majority of the above-noted absences were taken in conjunction with her non-scheduled days.

The grievant had knowledge of the requirement to submit leave forms, and she had complied with the practice in the past.

She had also been disciplined in the past for unauthorized and excessive absence; she had received two verbal reprimands and a 2 day suspension.

Shortly after receiving the notice of suspension, the instant grievance was initiated; the grievant claimed that the discipline was excessive in view of the fact that the prior suspension had been for only 2 days. The grievant requested that the 10 day suspension be reduced to 5 days.

At the hearing, the Union argued that a 10 day suspension was punitive and violative of the principle of progressive discipline. The Union maintained that the grievant's absences were related to personal problems, and the Union stated that the grievant was attempting to resolve those problems in order to be able to report to work as scheduled in the future.

After reviewing the record in this case, the Arbitrator finds that she cannot grant the grievance. The absences at issue are excessive in number; the grievant missed 13 days in 6 weeks. In addition, most of the absences occurred in conjunction with a non-scheduled day. The grievant has clearly established an abusive habit of extending her weekends. She compounded her offense by failing to submit the appropriate leave forms upon her return. The grievant apparently failed to fill out the forms because she knew that she had no sick leave, however, a low or non-existent sick leave balance does not relieve her of the obligation to follow procedures.

A ten day suspension is commensurate with the seriousness of her offense, and the Arbitrator finds no basis for reducing the discipline. The grievant clearly violated procedure by her failure to report with

reasonable regularity and her failure to submit the appropriate leave form.

A W A R D

The grievance is denied.

LINDA DILEONE KLEIN

Dated this 10th day of August 1990
Cleveland, Ohio