

**ARBITRATION DECISION NO.:**

444a

**UNION:**

OCSEA, Local 11, AFSCME, AFL-CIO

**EMPLOYER:**

Department of Rehabilitation and  
Correction, Madison Correctional

**DATE OF ARBITRATION:**

December 16, 1992

**DATE OF DECISION:**

December 16, 1992

**GRIEVANT:**

Anna Bisbee

**OCB GRIEVANCE NO.:**

27-15-(91-08-05)-0172-01-03

**ARBITRATOR:**

David M. Pincus

**FOR THE UNION:**

John Porter

**FOR THE EMPLOYER:**

Tim Wagner

**KEY WORDS:**

Removal  
Remedy  
Clarification

**ARTICLES:**

Article 24 - Discipline  
    §24.01-Standard  
Article 29 - Sick Leave  
    §29.03-Notification

**FACTS:**

The grievant was a corrections officer at Madison Correctional Institution at the time of her removal. The grievant made two personal calls while on duty in the control center in violation of institutional policy. On March 5, 1991, the grievant was ordered to report to the Captain's office but instead punched out and left the facility. The grievant was scheduled to work overtime on March 6, 1991, but failed to show. The Employer designated her absent without leave.

On several dates thereafter, the grievant called in properly to say that she was under a doctor's care and would be unavailable until a certain date. On March 26, however, the grievant called in but did not give a

probable return date. She then called on May 31 and said she would return June 3, which she did. She submitted a request for leave form covering May 10-June 2 and attached a physician's statement dated May 31 which noted that the grievant was under his care and could return to work without limitations on June 3rd. She also submitted a letter from a clinical psychologist from whom she sought treatment.

The arbitrator ordered that the removal be reduced to a 60 day suspension. He further ordered that the grievant be made whole for the losses she suffered as a result of her being removed rather than suspended. The parties jointly asked the arbitrator to clarify certain disputes concerning what the appropriate remedy should have been.

#### **ARBITRATOR'S OPINION:**

In the initial arbitration decision, the grievance was sustained in part and denied in part. The removal was modified to a 60-day suspension. The Employer was directed to compensate the grievant at straight-time rates for all the days she would have been scheduled to work if a 60-day suspension had been imposed rather than a removal. The Employer was also directed to restore the grievant's full, unbroken seniority and to compensate her for all actual losses stemming from the removal.

#### **AWARD:**

On December 16, 1992 the parties met to clarify specific points of the earlier Arbitration award. The Arbitrator directed the Employer to: 1) compensate the grievant for Martin Luther King Day, Presidents Day and Memorial Day of 1992; 2) canvas first shift and follow the pick-a-post procedure. The grievant would be permitted to bid on any position within her classification and to receive the position based upon her seniority; and 3) compensate the grievant in the amount of \$38.00 for hemming and sewing patches on her uniform.

The Arbitrator directed the Grievant to present to the Union and the Employer all relevant medical bills and receipts for expenses incurred during the period between her removal and reinstatement dates. Likewise, the Employer was instructed to make every effort to have the matter resolved in accordance with the benefit language in effect at the time of the removal. In the event the parties were unable to reach an agreement, the Employer was directed to compensate the grievant for all legitimate benefits and related expenses after factoring out the co-payment portion of the grievant's chosen health care plan.

#### **TEXT OF THE OPINION:**

**THE STATE OF OHIO  
AND  
OHIO CIVIL SERVICE EMPLOYEES ASSOCIATION  
VOLUNTARY LABOR ARBITRATION PROCEEDING**

In the matter of the  
arbitration between

**The State of Ohio,  
Department of Rehabilitation  
and Correction,  
Madison Correctional**

-and-

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

**Grievant:**

Anna Bisbee

**OCB Case No.:**  
27-15-(8-5-91)-172-01-03

**ARBITRATOR'S REMEDY CLARIFICATION**

**ARBITRATOR:**  
DAVID M. PINCUS

**DATE:**  
DECEMBER 16, 1992

**Appearances**

**For the Employer**  
Tim Wagner,  
Chief, Arbitration Services

**For the Union**  
Anna Bisbee, Grievant  
John Porter,  
Assistant Director of Arbitration

**INTRODUCTION**

On December 16, 1992, individuals representing the Parties' interest met with the Arbitrator in an attempt to clarify the remedy portion of the Award dealing with the above captioned matter. After hearing arguments proposed by the Union dealing with several items of clarification, the Employer's arguments in response and the Grievant's input regarding the particulars in dispute, this Arbitrator now renders a clarification memorandum which will be implemented and complied with by the Parties and their respective agents.

1. The Employer will compensate the Grievant for Martin Luther King Day, Presidents Day and Memorial Day. These holidays should have been compensated during 1992.
2. The Employer will canvas first shift and follow the pick-a-post procedure. The Grievant will be allowed to bid on any position within her job classification, and will realize the position based upon her seniority.
3. The Grievant will present to the Parties all relevant medical bills and receipts realized by the Grievant for the period between her removal date and reinstatement date. The Employer will make every effort to have these matters resolved in accordance with the benefit language and selected provisions in effect at the time of the removal. In the event the matters in dispute cannot be reconstructed as a consequence of the new Agreement, the Employer will compensate the Grievant for all legitimate benefits and related expenses after factoring-out the co-payment portion.
4. The Employer will compensate the Grievant \$38.00 for uniform hemming and the sewing of patches on to uniform.

The Arbitrator will retain jurisdiction for sixty (60) days from the date of this memorandum for the purpose of ensuring the proper and prompt implementation of the above-mentioned clarification particulars.

Dr. David M. Pincus  
Arbitrator

December 16, 1992