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June 6, 2008

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Spencer N. Thal
IBT Local 117
14675 Interurban Ave. S.
Suite 307
Tukwila, WA 98168

Re: Department of Corrections and
Teamsters Local 117
(FMCS 07-04272-8
Minnabarriet Grievance)

Dear Parties:

Enclosed find my opinion and award together with a bill for my service.

Best regards,


Philip Kienast

PK:smr
Enclosures

IN THE MATTER OF ARBITRATION

STATE OF WASHINGTON,
DEPARTMENT OF CORRECTIONS

-and-

TEAMSTERS, LOCAL 117

OPINION AND AWARD OF
Philip Kienast

June 6, 2008

Re: Minnabarriet Grievance
(FMCS 07-04272)

APPEARANCES

For the Union:

Spencer N. Thal, Attorney-at-Law

For the Employer:

Rachelle L. Wills, Assistant Attorney General

OPINION

This proceeding is in accordance with the parties' Agreement. A hearing in this matter was held in Spokane on February 5, 2008 and the record closed on April 9, 2008. The parties stipulated the issue for decision as:

Did the Department of Corrections have just cause to discipline the grievant?

If not, what is the appropriate remedy?

Applicable Agreement Provisions

Section 8.1 Just Cause

The Employer will not discipline any permanent employee without just cause.

Section 8.2 Forms of Discipline

Discipline includes oral and written reprimands, reductions in pay, suspensions, demotions and discharges.

Background

The grievant, Lori Minnabarriet was employed for five years as an office assistant at the Employer's Airway Heights facility in Spokane, Washington when she was discipline for failure to follow her supervisor's directive on August 2, 2006 to not enter a crafts classroom at the recreation center in the facility. The grievant was suspended for fifteen days following an investigation that found she had entered the crafts class twice to interact with the inmate students during her working hours.

The Employer contends that a reasonable investigation was conducted which established the grievant ignored a clear directive from her supervisor and standing policy for volunteering at the facility. It argues a fifteen day suspension for her misconduct was warranted in light of her five day suspension on May 16, 2006 for failure to secure her keys and she was told that any further misconduct would result in further discipline up to and including discharge.

The Union contends the only way the discipline is just is if the Employer proves the grievant's supervisor gave her a direct order to stay out of the crafts class during working hours. It argues there is insufficient evidence that such an order was, in fact, given.

Analysis and Conclusion

The Employer conducted a thorough investigation of this incident (E7a). It established the grievant did in fact enter the crafts classroom on August 2, 2006 during her working hours. The evening supervisor of the recreation center, Jerry Fleming, told investigators he had seen the grievant in the classroom on August 3 talking to inmates. He

also stated Ms. Minnabarriet related to him, while she was in the hobby shop, that her direct supervisor, Kraig Witt, had told her she could not volunteer during her working hours (E7a, p. 15). The grievant also stated to investigators that she was aware she could not volunteer in the class while on the clock (E7a, p. 26). Her testimony on this point was consistent (Tr 171).

The fact the grievant knew she could not volunteer in the crafts class during her working hours is consistent with the directive given her by Mr. Will. Her denial that she was so directed is not credible. The grievant was not truthful on other matters, such as the time she spent in the class in August.

The instructor testified she was in the room 40 minutes the first time and another 15-20 minutes the second time conversing with the class participants (Tr 17). The grievant recalled only being in the room 5-10 minutes (Tr 170).

In light of the foregoing, the Arbitrator finds Ms. Minnabarriet willfully ignored a direct and reasonable order given by Mr. Witt. Inasmuch as she was given a five day suspension for failure to follow written operating procedures, the Arbitrator finds a fifteen day suspension is well within the discretion accorded the Employer under the Agreement in disciplinary matters.

Grievance denied.

AWARD

1. The Department of Corrections had just cause to discipline the grievant.

Philip Kienast

SMR

Philip Kienast
June 6, 2008
Bothell, Washington