

APR 09 2010UG

**OPINION AND AWARD
IN THE MATTER OF ARBITRATION BETWEEN**

COUNTY OF [REDACTED]

A22376-[REDACTED]-10

- and -

[REDACTED], Grievant

**AFSCME COUNCIL 25
LOCAL [REDACTED]**

Hearing: April 7, 2010

Appearances: For the Employer - Ms. [REDACTED]
For the Union - Mr. [REDACTED]

Briefs: The parties did not file post-hearing briefs.

BACKGROUND

The Grievant, [REDACTED], was employed by [REDACTED] County as an Engineer 1 in the Engineering Division. His hire date was June 9, 2008. He has no prior discipline.

According to the Step 4 Answer prepared by the Labor Relations Division:

On Friday, September 18, 2009 the Grievant was seen in an [REDACTED] County van at approximately 11:30 a.m. arriving behind a bowling alley called [REDACTED] Lanes on [REDACTED] Road north of [REDACTED] Rd. in [REDACTED]. He bowled with other DPS employees. Just after 1 p.m. they finished bowling, returned the rented bowling shoes, and exited the building. Therefore the Grievant extended his lunch by 30 minutes, but did not reflect this on his timesheet. (Joint Exhibit 2).

The Grievant was charged under the [REDACTED] County Department of Public Services Personnel Manual with Conflict of Interest (Section 4.01), Neglect of Duty (Section 4.05), Theft (Section 4.06), Work Performance (Section 1.14), Equipment Use (Section 1.15), and Falsifying Records (Section 3.14) and his employment was terminated.

The Union filed a grievance on the grounds that the termination was not for just cause, and the present arbitration resulted.

DISCUSSION

The facts in this case are not in dispute. The Grievant improperly extended his lunch period by 30 minutes. Discipline is appropriate. The question before me is what the proper level of discipline is for this kind of misconduct.

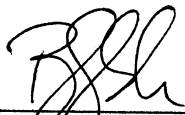
Union Exhibit 9 supplies the answer. Union Exhibit 9 is the discipline packet in a case involving [REDACTED], a [REDACTED] County Engineer 2 in the Engineering Division. In October of 2009 Mr. [REDACTED] improperly took credit for an hour of overtime he had not worked. [REDACTED] was charged with violation of Section 3.14, Falsifying Records, and issued a five day suspension.

There is nothing in this record to suggest that the Grievant's offense differed from [REDACTED]s in any meaningful way. On the principle that similar cases ought to be treated similarly, the Grievant should have been charged with a violation of Section 3.14 and issued a five day suspension.

AWARD

The grievance is sustained. The Grievant's termination shall be reduced to a five day suspension, and the Grievant shall be made whole for all losses.

I will retain jurisdiction in the event any questions arise with regard to the implementation of this award.



Barry Goldman
April 7, 2010