

Episode 6: Article 16.2 Discussion and Using it to Our Benefit

Hey! Welcome back to From A to Arbitration!

Today's going to be a very short episode. We're going to talk about the official discussion. Several different things about the official discussion, things that we need to be holding management accountable for, and things that we can use the official discussion against management.

I'm going to read, Section 2. Discussion, out of Article 16, it's on page 16-4. This is what it states:

For minor offenses by an employee, management has a responsibility to discuss such matters with the employee. Discussions of this type shall be held in private between the employee and the supervisor. Such discussions are not considered discipline and are not grievable. Following such discussions, there is no prohibition against the supervisor and/or the employee making a personal notation of the date and subject matter for their own personal record(s). However, no notation or other information pertaining to such discussion shall be included in the employee's personnel folder. While such discussions may not be cited as an element of prior adverse record in any subsequent disciplinary action against an employee, they may be, where relevant and timely, relied upon to establish that employees have been made aware of their obligations and responsibilities.

So, what does that tell us? That tells us that when management issues discipline and they try to state that a carrier has been given a discussion through a stand-up talk, that's not an official discussion in accordance with Article 16.2. When they try to tell us in discipline that a carrier has been given a discussion on a return-to-work letter, or when they come back off of sick leave and they sign for some form showing sick leave policies as they say, that's not a discussion in accordance with Article 16.2.

When you get discipline or when you get information from management concerning discipline, a lot of times that's what they'll say, that this carrier

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has been put notice. When we talk about is there a rule? Was the employee aware of the rule? Did they know the consequences for not obeying the rule? They'll say yeah, they were made aware of the rule through a stand-up talk. They were made aware of the rule through this letter we gave them when they returned to work off being sick. Well, that's not a 16.2 discussion so, we need to contend those things.

Also, when you get a request for action and it says discussions on there and there's a date, do not take that for granted. Challenge that! Challenge every single thing that management does. Challenge any dates, challenge it. So, when you get a request for action, request for disciplinary action, whatever y'all call them and it says discussion date such and such, ask for the clock ring for that date. See if the carrier was even at work on that date.

The 3972, see if the carrier was even at work on that day. A lot of time what you'll see is, that for attendance problems they'll say, this carrier was given an official discussion on June 1st. Since that discussion he's had 10 occurrences. Well, get that 3972 and see how many occurrences he's had before that official discussion. OK? I guarantee you, probably not any. So why was he given an official discussion when he's had no dates that he's missed? Did y'all get that?

If management says, June 1st we gave Corey Walton an official discussion, and he's had ten occurrences since then. Get the 3972 and look before June 1st. How many dates was Corey Walton absent? Probably not any. They just threw that date in there so that they could say that they put me on notice. Well, why did you put me on notice? I was at work; I hadn't missed any. We catch that a lot, so challenge that date.

Ask the carrier, do you remember getting a discussion on June 1st? More than likely, he's going to say, I've never been given a discussion. So, management didn't talk to you on June 1st? No, nobody said anything to me on June 1st. Nobody's ever said anything to me.

Challenge those dates! Do not take those dates for granted. Also, in disciplinary notices if you see, we catch this a lot on letter of warnings.

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When they're writing up their charge, they'll say we gave you a discussion about this on this day. Well now your letter of warning or disciplinary notice is now procedurally defective, because according to Article 16.2, you cannot cite an official discussion in my discipline. So, if you get a letter warning and you're reading that thing and it says, you were given an official discussion or given a discussion on such and such date, contend that. Challenge that and state, management has included in the disciplinary action an official discussion. So, now their letter of warning or their charge is procedurally defective. Make that contention. OK?

So, 16.2 is very basic but there're a lot of things that we can get out of that. Especially when we challenge that date because I guarantee you, they've not given an official discussion and there was no reason to give an official discussion. They will always just put a date on that request for action. There will always be some date, just random. So, get ahold of that date, look up that date, research that date, and let's disprove that so that we can help our brothers and sisters on that.

It's very small, you know, it's a very small argument but it's a great argument for us. A very good argument because my Formal A here, he always challenges management's contention that, hey a letter warning is the first step to discipline or the first step of discipline. That's not true. A discussion is your first step, you need to put me on notice that I'm doing something wrong. That's the first step. The first step would be a discussion. The next step would be a letter of warning.

So, if management states in their contentions this is the first step, the union is saying this is not progressive, this is not corrective, a letter of warning is the first step of progression. Not really. I'm going to say that 16.2 discussion is the first step of the disciplinary process. Because that's the step where you put me on notice that I'm doing something wrong, and I need to correct my behavior.

So, just a few things on that. Like I said this is just a short little episode, but the official discussion can be very beneficial to us if we're paying

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attention to those things. Again, challenge that request for action when they have a date on there. Challenge that discussion date. Let's not be lazy and just get that request for action and send it on up. Look at that thing, research it, scour that thing. A lot of arguments can be made off of that request for action, but that discussion date is one that we miss a lot so let's not do that. Let's challenge that date.

Again, look at that disciplinary notice, that request for action, and the letter of charges and see if they've messed up and included a 16.2 discussion in there. Contend that, that thing is now procedurally defective. It's a great argument for us. Also, if management wants to say, we've given them a discussion. Like I stated earlier, we've given them a discussion, they've had a stand up on this. Well, that's not in accordance 16.2. That should have been held in private with me. On the workroom floor is not a discussion. Handing me a piece of paper is not a discussion.

Alright, so, very brief today, but the 16.2 can be very beneficial to us if we use it to right way. Management will always screw that up and we need to catch them at it. We need to pay attention to those things. So, Article 16.2, very brief but very powerful.

Hope this has helped y'all. We'll see you again on the other side!

Take care.

FROM A
TO ARBITRATION

Corey Walton