

FROM A TO ARBITRATION

EPIISODE 21- EXAMPLES OF BEHAVIOR. PUBLIC DEFENDER OR CLARENCE DARROW. WHO ARE YOU?



PREPARING THE GRIEVANCE

- BE THE CLARENCE DARROW OF DEFENSE. BE THE BEST YOU CAN BE.
- OUR BROTHERS AND SISTERS DESERVE TO HAVE THE BEST DEFENSE THAT THEY CAN GET
- SHOP STEWARDS NEED TO REMEMBER THAT WE ARE THE LINE OF DEFENSE BETWEEN OUR BROTHERS AND SISTERS AND MANAGEMENT

ARTICLE 16

- FULL OF INFORMATION THAT WE CAN USE TO HELP OUR BROTHERS AND SISTERS
- DO NOT MAKE THE BARE MINIMUM EFFORT TO HAVE A GREAT CASE. DON'T JUST PUT IN ARTICLE 16 IN A DISCIPLINE CASE AND NOT ACTUALLY ARGUE THE MERITS AND DISPROVE WHAT MANAGEMENT HAS CITED IN THEIR GRIEVANCE
- JUST BECAUSE MANAGEMENT DID NOT MEET THE BURDEN OF PROOF IN THEIR CASE, YOU STILL NEED TO FILE YOUR GRIEVANCES WITH EVERY ARGUMENT YOU CAN MAKE.

EXAMPLES OF BEHAVIOR

- 99% OF THE CASES DO NOT INCLUDE THIS 16.1 IN THEIR FILE
- WE NEED TO START USING THIS LANGUAGE IN EVERY DISCIPLINE CASE THAT MANAGEMENT HAS
- WE NEED TO CONTEND WITH THIS LANGUAGE THAT IS IN ARTICLE 16

ARTICLE 16.1

- EXAMPLES OF BEHAVIOR ON PAGE 16-3 OF THE JCAM

- ARTICLE 16.1 STATES SEVERAL EXAMPLES OF MISCONDUCT WHICH MAY CONSTITUTE JUST CAUSE FOR DISCIPLINE SOME MANAGERS HAVE MISTAKENLY BELIEVED THAT BECAUSE THESE BEHAVIORS ARE SPECIFICALLY LISTED IN THE CONTRACT, ANY DISCIPLINE OF EMPLOYEES FOR SUCH BEHAVIORS IS AUTOMATICALLY FOR JUST CAUSE. THE PARTIES AGREE THESE BEHAVIORS ARE INTENDED AS EXAMPLES ONLY.

16.1 SECTION 1 STATES IN PART THAT NO EMPLOYEE MAY BE DISCIPLINED OR DISCHARGED EXCEPT FOR JUST CAUSE SUCH AS, BUT NOT LIMITED TO INSUBORDINATION, PILFERAGE, INTOXICATION (DRUGS OR ALCOHOL), INCOMPETENCE, FAILURE TO PERFORM WORK AS REQUESTED, VIOLATION OF THE TERMS OF THIS AGREEMENT, OR FAILURE TO OBSERVE SAFETY RULES AND REGULATIONS

EXAMPLES TO THIS

- CCA WHO WAS IN A STATION WENT TO ANOTHER STATION TO WORK FOR SUNDAY AMAZON DELIVERY. SHE WAS IN A HUGE VAN, SHE WAS DRIVING AND WAS GOING TO MAKE A LEFT WHEN THE STEERING WHEEL LOCKED ON HER. SHE PANICKED AND WHEN SHE WENT TO APPLY THE BREAKS INSTEAD SHE PUT HER FOOT ON THE GAS PEDAL. SHE HIT ANOTHER VEHICLE, RAN UP AN EMBANKMENT UP IN TO SOME TREES
- MANAGEMENT FIRED HER FOR THIS ACCIDENT.
- SHE WAS GIVEN AN INVESTIGATIVE INTERVIEW AT ANOTHER STATION. SHE GAVE MANAGEMENT HER TELEPHONE AND THEY PULLED UP HER CALL LOG AND THEY SEE THAT SHE WAS ON THE PHONE AT THE TIME OF THIS ACCIDENT, THERE WERE SOME TEXTS COMING IN

EXAMPLE CONTINUES

- THEY GAVE HER YET ANOTHER INVESTIGATIVE INTERVIEW AT HER HOME STATION. THE DIFFERENT STATION'S SUPERVISOR AGAIN ASKED TO SEE HER PHONE. THE STEWARD SAYS NO. BUT THE CARRIER WAS ALREADY TAKING HER PHONE OUT TO GIVE IT TO THE SUPERVISOR. STEWARD SAYS NO YOU CANT SEE HER PHONE, THE SUPERVISOR SAYS BUT WE HAVE ALREADY SEEN IT.
- STEWARD SAYS THAT IS OKAY, BUT YOU AREN'T GONNA SEE IT AGAIN AND TELLS THE CARRIER TO PUT AWAY THEIR PHONE
- THE MESSAGES THAT THE CARRIER HAD DID NOT HAVE A TIMESTAMP ON THEM SO MANAGEMENT WAS JUST ASSUMING THE TIMES ON THE MESSAGES
- MANAGEMENT PUT THE LOG OF PHONE CALLS/MESSAGES INTO THEIR CASE FILE AND STATED THAT THE CARRIER WAS ON THE PHONE AT THE TIME OF THE ACCIDENT, AND SOME OTHER THINGS

EXAMPLES

- THERE IS NO WAY TO PROVE THAT THE CARRIER WAS OR WAS NOT ON THE PHONE AT ANY TIME BECAUSE THERE WAS A START TIME TO A CALL BUT NO RUNNING CALL TIME.
- JUST BECAUSE THE CARRIER WAS ON THE PHONE AT ONE TIME DOES NOT MEAN, NOR CAN MANAGEMENT STATE, THAT THE CARRIER WAS ACTUALLY ON THE PHONE AT THE TIME OF THE ACCIDENT
- MANAGEMENT WILL TRY TO STATE THIS AND WE HAVE TO PROVE THEM OTHERWISE.
- TAKE WHAT THEY HAVE IN THE FILE AND QUESTION EVERYTHING.
- MANAGEMENT CAN STATE THINGS, BUT IF THEY CAN'T PROVE IT WE NEED TO CONTEND THAT

WHAT THEY CAN PROVE

- JUST BECAUSE MANAGEMENT CONTENDS SOMETHING WE NEED TO REFUTE IT AND USE THIS ARTICLE FOR EXAMPLES OF BEHAVIOR TO PROVE OUR CASE, THIS IS GOLD TO AN ADVOCATE AND THEY CAN BLOW MANAGEMENT OUT OF THE WATER IF THEY CAN NOT PROVE THEIR CASE
- IF THE CARRIER ANSWERS NO TO THE MANAGEMENT QUESTION, DID YOU DO THIS, AND MANAGEMENT STILL TRIES TO FIND THE CARRIER GUILTY WE NEED TO DISPROVE NOT ONLY MANAGERMENTS CLAIM BUT ALSO PROVE THAT THE CARRIER IS TELLING THE TRUTH WITH THE INFORMATION TO BACK IT UP
- ASSUMPTIONS ARE NOT PROOF, WE NEED DOCUMENTED EVIDENCE OF PROOF AND IF MANAGEMENT IS ONLY USING ASSUMPTIONS AND GUESSES WE NEED TO CONTEND THAT

16.1 CONTINUES EXAMPLES OF BEHAVIOR

- MANAGEMENT **MUST** STILL MEET THE REQUISITE BURDEN OF PROOF, E.G. PROVE THAT THE BEHAVIOR TOOK PLACE, THAT IT WAS INTENTIONAL, THAT THE DEGREE OF DISCIPLINE IMPOSED WAS CORRECTIVE RATHER THAN PUNITIVE, AND SO FORTH.
- **THAT WORD MUST MEANS THAT MANAGEMENT HAS TO DO THIS, NO QUESTIONS ASKED**

PROVING INTENT OF BEHAVIOR

- MANAGEMENT MUST PROVE BEYOND A DOUBT THAT THE CARRIER HAD THE INTENTION OF GETTING INTO AN ACCIDENT, OR HAD THE INTENTION OF VIOLATING THE CONTRACT
- CARRIER IS DELIVERING MAIL AND PULLS UP TO THE MAILBOX AND DELIVERS THE MAIL, WHILE SHE PULLS AWAY FROM THE MAILBOX SHE RUNS OVER A STICK. DOESN'T EVEN SEE IT. AS SHE IS RUNNING OVER THIS TWIG, PART OF IT BREAKS OFF AND FLIES UP AND HITS HER IN THE HEAD. IT WAS AS FREAK AN ACCIDENT AS YOU WILL EVER SEE. IT CUTS HER A LITTLE ON HER HEAD. MANAGEMENT ISSUES THE CARRIER A 7 DAY SUSPENSION FOR BEING UNSAFE.
- NOW BY DOING THIS MANAGEMENT IS NOW SAYING THAT THE CARRIER INTENTIONALLY RAN OVER THAT TWIG SO THAT IT WOULD FLY UP AND HIT HER IN THE HEAD. WE HAVE TO PROVE THAT THE CARRIER DID NOT HAVE INTENT TO PROVE MANagements STATEMENT IS FALSE

WRAPPING UP EXAMPLES OF BEHAVIOR

- 16.1 EXAMPLES OF BEHAVIOR ENDS WITH THIS:

- PRINCIPLES OF JUST CAUSE APPLY TO THESE SPECIFIC EXAMPLES OF MISCONDUCT AS WELL AS TO ANY OTHER CONDUCT FOR WHICH MANAGEMENT ISSUES DISCIPLINE.

MANAGEMENT MUST PROVE NOT ONLY INTENT BUT ALSO HAS TO PROVE JUST CAUSE. THEY HOPE THAT IF THEY AIM HIGH AT A 7 OR 14 DAY SUSPENSION THE STEWARD WILL "SETTLE" FOR A LETTER OF WARNING. DON'T DO IT. MAKE THEM PROVE NOT ONLY THAT THE BEHAVIOR TOOK PLACE, THAT IT WAS INTENTIONAL AND THAT THE DEGREE OF THAT DISCIPLINE THEY ARE USING IS ALSO CORRECTIVE RATHER THAN PUNITIVE

IF A CARRIER HAS A MINOR ACCIDENT AND MANAGEMENT ISSUES A 7 DAY SUSPENSION, IF THE CARRIER HAS NO OTHER DISCIPLINE THEN THIS IS NOT CORRECTIVE, IT IS PUNITIVE

BE THE BEST YOU CAN BE

- THE LANGUAGE OF ARTICLE 16 IS VERY CLEAR AND BELIEVE IT OR NOT WE MISS IT, A LOT
- STEWARDS NEED TO BE THE BEST THEY CAN BE IN FIGHTING FOR YOUR BROTHERS AND SISTERS
- WE HAVE TO USE EVERYTHING AT OUR DISPOSAL
- TAKE THIS SERIOUS, PUT MANY ARROWS IN YOUR QUIVER AND SHOW UP READY TO FIGHT
- LETTERS OF WARNINGS ARE THE FIRST STEP TO DISCIPLINE AND THEY NEED TO BE TAKEN SERIOUSLY AND EVERY CHARGE THAT MANAGEMENT MAKES NEEDS TO BE TAKEN APART AND DISMANTLED ONE BY ONE