

FROM A TO ARBITRATION

EPIISODE 24- JUST CAUSE PRINCIPLE: IS THE RULE A REASONABLE RULE?



THE JUST CAUSE PRINCIPLE

- THE JUST CAUSE PRINCIPLE IS FOUND IN THE JCAM UNDER ARTICLE 16.1
- THERE ARE 6 QUESTIONS TO THE JUST CAUSE PRINCIPLE
- IS THE RULE A REASONABLE RULE IS THE ONE THAT IS USED THE LEAST OF THEM ALL
- THIS IS WHERE ALL STEWARDS START WHEN THEY HAVE A DISCIPLINE CASE
- THIS IS THE FOUNDATION OF YOUR DISCIPLINE ARGUMENT
- WE MUST MAKE MANAGEMENT MEET THE JUST CAUSE PROVISIONS IN EVERY DISCIPLINE CASE, BECAUSE EVERY DISCIPLINE MUST BE FOR JUST CAUSE

JCAM ARTICLE 16.1

- IS THERE A RULE AND IS THE RULE A REASONABLE RULE, IS THE CARRIER AWARE THERE IS A RULE?
- EVERY TIME WE ARGUE A DISCIPLINE CASE WE MUST START WITH THE FIRST QUESTION OF ARTICLE 16.1 AND WE MUST MAKE SURE THAT MANAGEMENT MEETS EVERY SINGLE ONE, EVERY TIME
- WE CAN CATCH MANAGEMENT IN VIOLATION OF AT LEAST ONE OF THESE MOST OF THE TIME
- THIS WILL AT LEAST GIVE US A CHANCE OF WINNING THE GRIEVANCE

HANDBOOK EL-921

- THIS IS THE SUPERVISOR'S GUIDE TO HANDLING GRIEVANCES
- FOR EVERY DISCIPLINE CASE WE HANDLE, THIS HANDBOOK NEEDS TO BE USED IN YOUR TEMPLAT
- LANGUAGE IN THE HANDBOOK UNDER DISCIPLINE- JUST CAUSE PAGE 26 STATES IN PART:
 - THE DEFINITION OF JUST CAUSE VARIES FROM CASE TO CASE, BUT ARBITRATORS FREQUENTLY DIVIDE THE QUESTION OF JUST CAUSE INTO SIX SUB-QUESTIONS AND OFTEN APPLY THE FOLLOWING CRITERIA TO DETERMINE WHETHER THE ACTION WAS FOR JUST CAUSE. THESE CRITERIA ARE THE *BASIC* CONSIDERATIONS THAT THE SUPERVISOR **USES** BEFORE INITIATING DISCIPLINARY ACTION

IN ARTICLE 16 IT STATES THAT THE IMMEDIATE SUPERVISOR MUST USE BEFORE INITIATING DISCIPLINARY ACTION. THAT IS WHAT YOU WILL USE AND HIGHLIGHT IN EVERYONE OF YOUR CONTENTIONS

THE EL-921 CONTINUED

- DISCIPLINE SHOULD NOT BE ISSUED IF “NO” IS THE ANSWER TO ANY OF THE QUESTIONS.
- MANAGEMENT IS TELLING MANAGEMENT/SUPERVISORS THAT THEY BETTER BE ISSUING THIS DISCIPLINE AND HANDLING EVERY ASPECT OF THE DISCIPLINE AND THAT EVEN IF ONE OF THE SUB-QUESTIONS HAS AN ANSWER OF NO, THEN THEY CAN NOT ISSUE THE DISCIPLINE
- MOST OF THE TIME LOCAL MANAGEMENT WILL ISSUE THE DISCIPLINE ANYWAY BECAUSE THEY DON'T CARE, BUT THAT IS WHERE WE ARE GOING TO HOLD THEM ACCOUNTABLE. THAT IS WHAT THE UNION ADVOCATE IS HERE FOR

ELKOURI AND ELKOURI

- STATES IN PART:

- THUS TO INTERPRET THE AGREEMENT IN ACCORD WITH THE CLAIM OF THE COMPANY WOULD REDUCE TO A NULLITY THE FUNDAMENTAL PROVISION OF A LABOR MANAGEMENT AGREEMENT. THE SECURITY OF A WORKER IN HIS JOB

THIS IS SOME OF THE MOST POWERFUL LANGUAGE YOU CAN USE WHEN TALKING ABOUT JUST CAUSE AND IS SET IN PLACE TO SECURE OUR JOBS WHATEVER OUR COLOR, WHATEVER MY RELIGION, WHATEVER MY GENDER. I AM SECURE IN MY JOB BECAUSE OF JUST CAUSE. NO ONE CAN JUST COME UP ON A WHIM AND SAY LOOK HERE, YOU LOOK A CERTAIN WAY AND I'M GETTING RID OF YOU

THE RED HEADED STEP CHILD

- THE UGLY DUCKLING OF JUST CAUSE PROVISIONS, BUT CAN BE A BEAUTIFUL SWAN IF WE USE IT CORRECTLY.
- OPS WILL BE SENDING OUT NEW RULES ALL THE TIME, BUT WE NEED TO USE THIS PROVISION WHEN THE RULE THEY ARE COMING UP WITH IS JUST NOT REASONABLE

JCAM ARTICLE 16.1

- IS THE RULE A REASONABLE RULE?
- ARTICLE 16.1 LANGUAGE STATES IN PART:
 - MANAGEMENT MUST MAKE SURE RULES ARE REASONABLE, BASED ON THE OVERALL OBJECTIVE OF SAFE AND EFFICIENT WORK PERFORMANCE. MANAGEMENT'S RULES SHOULD BE REASONABLY RELATED TO BUSINESS EFFICIENCY, SAFE OPERATION OF OUR BUSINESS, AND THE PERFORMANCE WE MIGHT EXPECT OF THE EMPLOYEE

HERE IS A FOR INSTANCE

- MANAGEMENT MUST MAKE SURE RULES ARE REASONABLE, BASED ON THE OVERALL OBJECTIVE OF SAFE AND EFFICIENT WORK PERFORMANCE.
- IF MANAGEMENT COMES OUT WITH A RULE, SUCH AS, YOU HAVE TO RAISE YOUR HAND IN ORDER TO GO TO THE RESTROOM. NOW IF A CARRIER GOES TO THE RESTROOM AND DOESN'T RAISE THEIR HAND, LOCAL MANAGEMENT WILL TRY TO DISCIPLINE THE CARRIER FOR FAILURE TO FOLLOW INSTRUCTIONS. BUT WHEN THE SHOP STEWARD GETS THIS DISCIPLINE THEY WILL FILE A GRIEVANCE, NOT ON THE FAILURE TO FOLLOW, BUT THE INSTRUCTION UNDER ARTICLE 16.1 BECAUSE THIS IS NOT A REASONABLE RULE.

HOW THE DAY BEGINS

- WHEN MANAGEMENT GIVES AN INSTRUCTION WE HAVE TO ASK OURSELVES IF THIS IS A REASONABLE RULE. WE HAVE TO LOOK AT THE ACTUAL INSTRUCTION
- WHEN YOU HAVE A CARRIER WHO TURNS IN A 3996 THE DAY AFTER THE HOLIDAY, HE HAS 20 FEET OF FLATS, 10 TRAYS OF DPS, 2 HAMPERS FULL OF PARCELS AND REQUESTS THIS MUCH TIME TO TAKE ALL OF THEIR MAIL. AND THE SUPERVISOR SAYS TO THE CARRIER THAT YOU WILL CARRY ALL OF THAT AND BE BACK IN 8 HOURS
- FIRST OFF, THAT IS TWO DIFFERENT INSTRUCTIONS. ONE IS TO TAKE ALL OF THE MAIL AND TWO IS TO HAVE AN 8 HOUR DAY

AND HERE'S THE FIGHT

- IT NEVER NEEDS TO BE A FIGHT, BUT HERE WE GO.
- SUPERVISOR SAYS, I GAVE YOU AN INSTRUCTION, TO TAKE ALL THE MAIL AND BE BACK IN 8 HOURS.
- CARRIER CALLS BACK AROUND 1'O'CLOCK AND SAYS THIS IS WHERE I AM AND I'M NOT GOING TO BE DONE. SUPERVISOR SAYS YOU WERE INSTRUCTED TO CARRY ALL THE MAIL IN 8 HOURS
- SO YOU DELIVER ALL THE MAIL AND GET BACK AROUND 9PM AND THE NEXT MORNING YOU ARE BROUGHT INTO THE OFFICE.
- THEY WILL ASK YOU IF YOU WERE INSTRUCTED TO TAKE ALL THE MAIL AND BE BACK IN 8? YES I WAS. WHY DIDN'T YOU DO THAT? CAUSE I COULDN'T DO IT

PROVING THAT IT IS UNREASONABLE

- MANAGEMENT WILL GIVE YOU A LETTER OF WARNING FOR FAILURE TO FOLLOW INSTRUCTION, BUT THIS IS WHAT THIS PROVISION IS ALL ABOUT.
- SAME THING WHEN A SUPERVISOR TELLS YOU THAT YOU HAVE TO BE REGULAR IN ATTENDANCE. WHEN YOU ASKE THEM WHAT THAT MEANS AND THEY SAY YOU ARE TO BE AT WORK WHENEVER YOU ARE SCHEDULED THAT IS IMPROPER. WE, AS CARRIERS UNDER SECTION 5 OF THE ELM BENEFITS RECEIVE SICK LEAVE AND IF WE ARE SICK, HAVE APPOINTMENTS ETC, THAT REQUIRES US TO NOT BE AT WORK, WE ARE INTITLED THAT TIME.

PROVING THE UNREASONABLE

- WE NEED TO PROVE THAT THE RULE IS UNREASONABLE WITH LOTS OF DOCUMENTS AND POSSIBLY PAST PRACTICE RULES, INTERVIEWS OF CARRIERS AND MAIL VOLUMES
- WHEN YOU ARE TOLD THAT YOU BEGIN TOUR AT 8 AND THE WHOLE OFFICE MUST BE OUT TO THE STREET BY 9, THAT IS UNREASONABLE. EVERY ROUTE GETS AT LEAST 33 MINUTES OF FIXED OFFICE TIME AND UNLESS THE CARRIER HAS NO MAIL THEY WILL NOT BE ABLE TO MAKE ONE HOUR. IF YOU HAVE AN OFFICE BREAK THAT ADDS ANOTHER 10 MINUTES TO YOUR OFFICE TIME. SO IF MANAGEMENT IS GIVING YOU AN HOUR TO BE OUT OF THE OFFICE, THAT LEAVES THE CARRIER 15 MINUTES TO CASE AND PULL DOWN THEIR ROUTES.
- THIS IS NOT ONLY A BLANKET POLICY, IT IS A VIOLATION OF ARTICLE 16.1 BECAUSE IT IS NOT A REASONABLE RULE.