



GRIEVANCE COMMITTEE REPORT

APRIL 2008

REPORT for CAS April 10, 2008

From: Dean Chandler, Burlingame

➤ ARBITRATION RULING

CAS received the decision on the arbitration filed with regard to grievance #06-06-03, and I would like to share some information with regard to the decision.

○ THE ISSUE:

Did the Employer violate the contract when it terminated the grievant? If so, what is the remedy?

CTA made five (5) arguments to demonstrate it had just cause to terminate Grievant and the Union made three (3) arguments to support its position (that CTA did not have just cause to terminate the Grievant).

Note: Pay special attention to theft of time decision below since I have heard from others who believe that theft of time is grounds for termination.

The arbitrator ruled:

1. If the grievant failed to perform adequately in the area of attendance reporting, as alleged in the termination letter, grievant should have been placed on a 45-day correction period, not terminated.
2. If theft of time were the sole reason for the termination, it could not be upheld.
3. The arbitrator stated that CTA failed to prove it had just cause to terminate Grievant for "theft of time."
4. CTA did not prove that the Grievant engaged in a fraudulent attempt to have CTA pay overtime to which the grievant was not entitled.
5. CTA had just cause to terminate Grievant based on an egregious act (dishonesty).

Although the decision in its entirety does not constitute a win for CAS the interpretation on theft of time as stated by the Arbitrator is very valuable!

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➤ LEVEL III – BINDING ARBITRATION

CAS has two arbitrations that are awaiting decisions:

1. Subcontracting; and,
2. Hostile work environment

In addition, CAS has two arbitrations that are in the beginning states of pre-arbitration:

3. Forced Retirement; and ,
4. Layoff procedure

1. 05-05-01 – Subcontracting 2. 05-09-09 – Hostile work environment

Unfortunately, the arbitrator, Tom Roberts, who heard the subcontracting grievance passed away prior to making a ruling. CAS feels that based on the previous testimony, we have a very strong case and did not want to go through another arbitration and risk losing this previous testimony.

Therefore, CAS decided, along with NSO's support, to allow the arbitrator on the hostile work environment arbitration to rule, based on transcripts of the previous testimony, and the briefs that were provided to Mr. Roberts, on both arbitrations.

CAS believes that because the arbitrator is familiar with the case, as both grievances involve the same grievant, this decision is in the best interest for the member and CAS as a whole. Therefore, CAS will soon get two separate rulings, from the same arbitrator, for the hostile work environment and the subcontracting grievances.

3. 07-04-10 – Forced Retirement

Grievance number 07-04-10 is in the process of scheduling the pre-arbitration meeting. This grievance occurred when management met with a CAS Member and stated that CTA was terminating the employment of the CAS member effective immediately. Management then stated the CAS member could tender her retirement, rather than termination. The member retired, under duress, fearful that the termination would mean losing medical benefits. The member was never told any different by DHRM, nor was the grievant given the time, nor opportunity to check what options were available. The actions taken by management with regard to said CAS member are in direct violation of the CTA/CAS Agreement. In addition to the many other violations, Management failed to follow the proper steps of progressive discipline, just cause, and forced a CAS Member into submitting for retirement prematurely with out being afforded any due process rights.

4. 07-04-11– Layoff Procedure

Grievance number 07-04-11 held a pre-arbitration meeting in February 2008. This grievance occurred when management denied the rights afforded to a CAS member with regard to Article 13 - Staffing Changes. Management initiated the layoff procedure and subsequent bumping rights, and then denied bumping following the implementation of layoff procedures.

These actions did not follow the contractually provided procedure or the past precedent

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established in previous similar situations with regard to the intent of the bumping procedure. As such, CTA management treated the CAS member in a manner that was inequitable in the application of this process.

The forced placement by Management constitutes an involuntary transfer, by means of denying bumping rights, and moving the CAS member from one assignment to another, in location and in position and is in direct violation of the transfer article.

➤ **LEVEL II - NEW GRIEVANCES**

CAS has filed two (2) grievances since the beginning of 2008:

1. **08-02-01 – Multiday denials**

Recently, CTA denied two different CAS member's request to attend NODD Multi-Day Staff Trainings and based the decision on criteria guidelines distributed at a management meeting in the fall of 2007. However, in previous years both members were approved to attend similar trainings without the criteria guidelines being applied.

After conducting research, it was discovered that CAS members (statewide) have been approved to attend NODD Multi-Day Trainings for several years, with few exceptions, without applying said criteria. Even after the criteria guidelines were distributed at the management meeting aforementioned above, the denials are being applied inconsistently and are arbitrary and sporadic, which is thereby causing an atmosphere of disparate treatment. CAS filed grievance 08-02-01, which the CAS Executive Board just voted to proceed to binding arbitration.

2. **08-04-02 – Materials In Personnel File**

Management met with a CAS member and followed up with a written summary of the meeting. The summary was dated beyond the contractually obligated 30-day timeline of items that are allowed to be placed in the personnel file. However, management entered the item into the members personnel file along with a copy of meeting notes that had occurred several months previous. Both of these documents are in violation of the timeline requirement specified in the collective bargaining agreement. Level II for this meeting will be taking place in May 2008.

CAS Grievances

Grieve. No.	Report	Rep	Rep	Date of Notification	Status	Category	Notes
05-05-01	Subcontracting	Dean Chandler	Kathy Hill	Sept. 2005	Active	Level 3 - Arbitration	Continuing Arbitration 7/30/2007
06-04-01	Letter of Reprimand for Inapp use CTA Email; Sexual Harassment; Opened sealed file	Maureen Keating	Vicki Kramer	Mar. 2006	Withdrawn	Level 3 - Arbitration	
06-06-03	Employment Termination;	Dean Chandler	Laura Eastridge	Jun. 2006	Closed	Level 3 - Arbitration	Arbitrator ruled in CTA's favor
05-02-04	10 day suspension for accusations based on hearsay.	Dean Chandler	Virden / Kramer	Feb. 2005	Settled	Level 3 - Arbitration	
06-08-04	Employment Termination; no progressive discipline;	Roger Urroz	Maureen Keating	Aug. 2006	Settled	Level 2	
06-09-05	Employment Termination; no progressive discipline;	Gina Domenici	Shelly Bomberry	Aug. 2006	Settled	Level 3 - Arbitration	
06-09-06	Employment Termination; no progressive discipline;	Maureen Keating	Rosemarie Mangino	Aug. 2006	Settled	Level 3 - Arbitration	
06-08-07	Grievance for denial of Reclass based on discrimination	Roger Urroz	Yolanda Mogannam	Aug. 2006	Settled	Level 3 - Arbitration	
06-12-08	Confidential doing BU work	Maureen Keating	Yolanda Mogannam	Dec. 2006	Withdrawn	Level 3 - Arbitration	
05-09-09	Hostile Work Environment	Dean Chandler	Kathy Hill	Jul. 2005	Active	Level 3 - Arbitration	Continuing Arbitration August. 8-9 2007
07-04-09	Review of Personnel File Denied by Management	Roseanne Becher		April-07	Settled	Level 2	
07-04-10	Retirement Under Duress	Vicki Kramer	Linda Virden	Mar. 2007	Active	Level 3 - Arbitration	Level 3 Arbitration approved 7/2/2007
07-05-11	Layoff Procedure	Maureen Keating	Domenici/ Mogannam	Feb. 2007	Active	Level 2	Denied at Level 2- 07-03-2007
N/A	Layoff	Vicki Kramer	Linda Virden	Feb. 2007	Non-issue		Non-issue due to grievance 07-05-10
08-02-01	MULTIDAY TRAINING DENIALS	VICKI KRAMER		February-08	ACTIVE	LEVEL 2	
08-04-02	MEMO DATED PAST 30 DAY PUT IN PERSONNEL FILE	VICKI KRAMER		April-08	ACTIVE	LEVEL 2	