

10567-RR-14
#836234



IN THE MATTER OF AN ARBITRATION

BETWEEN

ORNGE TRANSPORT MEDICINE

(ORNGE)

AND

UNIFOR

LOCAL 2002

MARK HUVER GRIEVANCE

ARBITRATOR:

Tom Hodges

777698

FOR THE EMPLOYER:

Craig Ricks, Counsel

Robert Giguere, Chief Operating Officer

Foster Brown, Director, Human Resources and Labour Relations

Wade Durham, Director, Operations

FOR THE UNION:

Ron Smith, Unifor, National Representative

Chuck Telkey, Bargaining Unit Chairperson

Mark Huver, Gievor

HEARING:

October 21, 2014

AWARD:

December 4, 2014

Rel # 7759

JURISDICTION

I was granted jurisdiction in this matter by the parties as a Mediator and Arbitrator under the Expedited Arbitration pursuant to the Alternate Dispute Resolution (ADR) Process, Letter of Understanding 22 contained in the Collective Agreement.

ISSUE

The Employer issued a written warning to Paramedic Mark Huver on April 11, 2014. The Union grieved the action on Mr. Huver's behalf, alleging that the disciplinary measure was unjust, and requested that it be removed from the Grievor's record.

BACKGROUND TO THE DISPUTE

Mr. Huver is a Paramedic stationed at Thunder Bay, Ontario. On March 6, 2014, he was attending a roundtable staff meeting and engaged in a verbal interaction with a manager which was regarded as inappropriate and disrespectful. A disciplinary interview was convened on April 11, 2014 with Base Manager, Christine Barber. Following the interview the grievor was assessed with a written reprimand.

EMPLOYER POSITION

The Employer maintained that Mr. Huver engaged in an extensive exchange with Chief Pilot Jim Bennett during the round table meeting involving approximately 20 employees and managers. The exchange centred on management requiring pilots to work over 14 hours. The employer argues that the grievor's tone was both aggressive and confrontational. When Mr. Bennett responded to the claims made by the grievor, Mr. Huver responded "Your Lying". A number of participants at the meeting found the grievor's conduct inappropriate and it was suggested later that he apologize.

The employer does not dispute the right of every employee to raise issues of concern. However, the employer contends that the approach taken by the grievor was in direct violation of the harassment provisions of the collective agreement contained in Article 13.01. The employer emphasises that the grievor has had two previous incidents of verbal confrontation with managers which have been brought to his attention and the assessment of a Written Warning is consistent with progressive discipline.

UNION POSITION

Unifor argues that the grievor has learned from the previous incidents and the current written warning. The union also argues that the grievor did not say "You are lying" but rather "You were either lying then or you

are now". Regardless of the version the union recognizes the inappropriate nature of the comment when dealing with serious workplace issues. The union argues that the grievor has learned from this incident and that the written warning is therefore excessive. The union maintains that the discipline should be removed, or in the alternative that the discipline should be removed from the grievor's record after a period of twelve months.

DECISION

The incident is not denied by the grievor, he did not offer a clear and unconditional apology after the incident although he now claims to recognize the inappropriate nature of his actions. Unfortunately, his record prior to the incident points towards a disrespectful pattern of conduct. On the whole, and in particular in light of the grievor's admission of his error and his failure to provide a full and sincere apology, I am satisfied that it is inappropriate to reduce the penalty. More significantly, the repeated degree of disrespect communicated to the grievor's supervisor seriously challenges the viability of any continuing employment relationship if it were to continue.

Not only was the grievor's behaviour wrong in the general sense, but it was also contrary to the parties Respectful Workplace Policy provisions of the collective agreement which defined Personal Harassment as unacceptable. The provisions apply throughout the organization and sets out a uniform standard of behaviour and conduct in order to protect the rights of all employees in that workplace at all times and in all conditions. Acts of insubordination and insolent behaviour towards management in the workplace are typically considered by arbitrators to be serious employment offences. For all of the foregoing reasons the grievance must be dismissed.

I retain jurisdiction on this matter in the event of any further dispute between the parties.

Dated this 4th, day of December, 2014.

A handwritten signature in black ink, appearing to read "Tom Hodges", written in a cursive style.

Tom Hodges
Arbitrator