



On September 27, 1989, at about 9:28 a.m., the grievant stopped his supervisor in the plant just before break time and stated, "Get these guy off my back or I am going home." 8/ The supervisor asked who he was talking about and the grievant told him the names of two employes who are co-workers. The supervisor met one of these employes and asked him what was going on. 9/ The employe said it had nothing to do with work and the supervisor indicated that it did if it affected production. 10/ The supervisor then got the Union steward, the two employes and their supervisor together to meet with the grievant. On approaching the grievant, the grievant told the supervisor to get them away from him as he could not take this. 11/ This group moved away and discussed what was going on and one employe said that after work the previous day the grievant was driving his car and attempted to pass the employe's car who wouldn't let him by. While this discussion was going on, the grievant picked up his coat and lunch bucket and punched out. 12/ The grievant left without getting permission from anyone and without filling out an absence request form. Thereafter, the grievant was suspended for three days for leaving work without authorization to do so. The grievant then sought medical assistance for a nervous condition and was placed on medication. 13/ The grievant filed a grievance protesting his suspension which is the subject of this arbitration.

#### ISSUE

Did the Employer have just and proper cause to suspend the grievant for three days?

If not, what is the appropriate remedy?

#### PERTINENT CONTRACTUAL PROVISIONS

##### ARTICLE 16 Discipline and Discharge

Section 1. No employee shall be disciplined or discharged except for just and proper cause. The Company shall notify a member of the Bargaining Committee of the Union in advance, if possible, of the discipline or discharge of an employee.

When the company decides to discipline or discharge, it shall give the reasons in writing, within twenty-four (24) hours to the Chairman of the Union's Bargaining Committee, or in his absence to another member of the Bargaining Committee.

#### UNION'S POSITION

The Union contends that the grievant thought that he had permission to go home because of his nervous condition. It submits that when the grievant is under stress, he can't communicate. It points out that he has a nervous condition, is under a doctor's care and is taking medication for it. It argues that the March, 1989 statement to the grievant by Ben Roble that if he was to upset to work he could go home was understood by the grievant that he had permission to leave whenever he was too nervous to work. It notes that the grievant's supervisor knew the grievant was shook up on September 27, 1989, and also knew the grievant had a nervous condition which caused him difficulty in communicating. It points out that the supervisor testified that he would have let the grievant leave had he asked him to go. The Union claims that the Employer should have used better judgment and taken into account the grievant's medical condition before imposing the three day suspension. It asked that the grievance be sustained.

#### EMPLOYER'S POSITION

The Employer contends that it had just and proper cause to suspend the grievant. It submits that the grievant was fully aware that he had to complete an authorized absence form to leave work early as he had previously done in June, 1989. It insists that the grievant did not complete this form on September 27, 1989 or otherwise obtain permission to leave work, thus the

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8/ TR - 10, Emp. Ex - 1.

9/ TR - 11.

10/ Id.

11/ Id.

12/ TR - 12.

13/ Union Exs - 1 and 3.

Employer was justified in imposing the three day disciplinary suspension. It claims that the grievant's assertion that he had blanket permission to leave work based on Ben Roble's statement in March of 1989 is not supported by the evidence. It relies on the Union's Local President, who attended the March, 1989 meeting, who testified that permission to leave was given if the grievant was too upset after the discussion with Mr. Roble that day and Roble confirmed that the permission to leave was only for that day. The Employer maintains that the grievant's leaving on September 27, 1989 was not the result of a nervous medical condition. It points out that the grievant asked the supervisor to get the guys off his back and could have easily sought permission to go home due to his medical condition, a procedure a 36 year employe would know. The Employer argues that the medical condition was an afterthought in that it had not been given any information about the grievant's medical condition since 1985 and the grievant apparently sought medical treatment only after the September 27, 1989 incident. The Employer concludes that the three day suspension was justified and the grievance should be dismissed in its entirety.

#### DISCUSSION

It is axiomatic that employes can't just leave work anytime they want without first getting permission to do so. The evidence in this case established that employes are required to obtain permission from their supervisor before they leave during their shift. 14/ On September 27, 1989, the grievant stopped his supervisor and told him to get the employes off his back or he was going home. 15/ It is clear from this statement that the grievant was not asking permission to leave but threatening to leave if the supervisor didn't act. Even though the supervisor took action to resolve the problem, the grievant left his shift and admitted that he didn't have permission from his supervisor to leave on September 27, 1989. 16/ The grievant claimed he had blanket permission from Ben Roble to leave work whenever he got too nervous to perform his duties. 17/ The evidence does not support this contention. The statement relied on by the grievant related to a meeting in March, 1989 when the grievant got into an altercation with another employe and in a meeting with Mr. Roble, the grievant was told that if he was too worked up to finish that day, that he had permission to leave. 18/ The Union steward in attendance at their meeting confirmed that the grievant was told that if was upset he should go home at the end of their discussion. 19/ This evidence establishes that the grievant's permission to leave related solely to the single day in March 1989 and he was not justified in believing he had a blanket permission to leave. Thus, the grievant's argument that he had blanket permission to leave based on Mr. Roble's conversation in March, 1989 is simply not persuasive. The grievant's belief is not supported by the evidence nor is it reasonable. Therefore, it is concluded that the grievant left work without permission on September 27, 1989.

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14/ TR - 9, 46.

15/ Tr - 10.

16/ TR - 46.

17/ TR - 45.

18/ TR - 55.

19/ TR - 53.

The Union contends that the grievant has a medical condition that the Employer should have taken into account when it meted out the discipline in this case. While the evidence indicates that the grievant was upset and suffering emotional distress 20/ on September 27, 1989, this does not excuse his leaving work without permission. Even though the grievant may suffer from emotional distress, he is an employe working full-time and as such, the Employer has the right to expect that he will deal reasonably with the normal stresses that arise in an industrial setting. 21/ The grievant is a 36 year employe with the Employer and it would have been easy and simple to ask his supervisor for permission to leave due to his emotional state. The evidence failed to establish that his emotional state somehow prevented him from simply seeking permission to leave. His supervisor indicated that had he asked to leave, he would have let him go. 22/ Given that it was easy to request leave and, noting that the grievant initiated contact with the supervisor on September 27, 1989, the assertion that his medical condition caused him to leave is not persuasive. It is concluded that the grievant's leaving work without permission is not excused by his emotional state on September 27, 1989 given how easily he could have sought permission to leave. The contention of emotional distress is therefore not found to excuse his conduct.

Turning to the penalty for walking off the job, the undersigned finds that the three day suspension was not excessive or unreasonable for this offense. The penalty of three days for leaving work without permission is consistent with discipline meted out in the past by the Employer for the offense. 23/ The penalty does not appear excessive and under the circumstances the undersigned has no basis for finding that the Employer abused its discretion in determining the penalty in this case.

Based on the above and foregoing the record as a whole and the arguments of the parties, the undersigned issues the following

AWARD

The Employer had just and proper cause to suspend the grievant for three days for his conduct on September 27, 1989, and therefore, the grievance is denied.

Dated at Madison, Wisconsin this 28th day of August, 1990.

By \_\_\_\_\_  
Lionel L. Crowley, Arbitrator

20/ TR - 14, Union Ex - 1.

21/ Clevepak Corp., 73 LA 61 (Archer, 1979).

22/ TR - 24.

23/ Emp. Exs 2, 3 and 4.