

BEFORE THE ARBITRATOR

In the Matter of the Arbitration  
of a Dispute Between

OSHKOSH PROFESSIONAL POLICE  
ASSOCIATION

and

CITY OF OSHKOSH (POLICE DEPT.)

Case 209  
No. 49540  
MA-7980

Appearances:

Law Offices of Frederick J. Mohr, Post Office Box 1015, Green Bay, WI 54305 by Mr. Frederick J. Mohr, Attorney at Law, appearing on behalf of the Association.

Mr. Warren Craft, City Attorney, City of Oshkosh, Post Office Box 1130, Oshkosh, WI 54903 by Ms. Lynn Lorenson, Assistant City Attorney, appearing on behalf of the City.

EXPEDITED AWARD

The Oshkosh Professional Police Association (hereinafter referred to as the Association) and the City of Oshkosh (hereinafter referred to as the City) requested that the Wisconsin Employment Relations Commission designate a member of its staff to serve as arbitrator of a dispute concerning a log entry regarding Officer Pat Foust, which the Association regarded as an act of discipline. The undersigned was so designated. A hearing was held on November 17, 1993 at the City Hall in Oshkosh, Wisconsin. In discussions prior to the commencement of the hearing, the parties were able to reach a stipulation regarding the underlying facts and the effect of a log entry. The parties requested that the arbitrator issue a decision regarding the arbitrability of the dispute and the effect of a denial or withdrawal of the grievance on any related claims by Officer Foust. Having considered the facts and the principles applicable to this specific fact situation, the undersigned issued a bench decision, dismissing and denying the grievance and clarifying the effect of such dismissal, and advised the parties that the Award would be issued in written form on an expedited basis.

Now, having considered the record as a whole, the undersigned issues the following

AWARD

1. The log entry made by Sergeant Burton regarding Officer Foust on May 28, 1993 does not constitute an act of discipline within the meaning of the collective bargaining agreement;
2. Inasmuch as the grievance presented by Officer Foust and the Association contests the log entry as an act of discipline, the grievance is denied and dismissed.
3. The dismissal of this grievance is not premised upon any conclusions with respect to the underlying facts, other than the ultimate conclusion that Officer Foust and the Association do not have the right to contest the log entry as an act of discipline under the grievance procedure, and this Award is made without prejudice to the positions of the parties in any related litigation.

Signed this 18th day of November, 1993 at Racine, Wisconsin:

By  Daniel Nielsen /s/  
Daniel Nielsen, Arbitrator