BEFORE THE ARBITRATOR

In the Matter of the Arbitration of a Dispute Between

LOCAL 79A, WISCONSIN COUNCIL 40, AFSCME, AFL-CIO

and

THE HUMAN SERVICES CENTER OF FOREST, ONEIDA AND VILAS COUNTIES

Case 18
No. 66823
MA-13647

(Teri Haenel Termination)

Appearances:

Dennis O'Brien, Staff Representative, AFSCME Council 40, 5590 Lassig Road, Rhinelander, Wisconsin 54501, appearing on behalf of the Union.

John Prentice, Attorney at Law, Petrie & Stocking, 111 East Wisconsin Avenue, Milwaukee, Wisconsin 53202, appearing on behalf of the Employer.

EXPEDITED ARBITRATION AWARD

The Human Services Center of Forest, Oneida and Vilas Counties (hereinafter referred to as the HSC or the Employer) and Local 79 A, AFSCME, AFL-CIO, (hereinafter referred to as the Union) requested that the Wisconsin Employment Relations Commission designate Daniel Nielsen as arbitrator of a dispute over the termination of Teri Haenel. The undersigned was so designated. A hearing was held on August 17, 2007, in Rhinelander, Wisconsin, at which time the parties were afforded full opportunity to present such testimony, exhibits, other evidence and arguments as were relevant. No stenographic record was made of the hearing. The parties submitted the matter on oral arguments, and requested the issuance of a short form expedited Award. A draft of this Award was provided on August 27, 2007.

Now, having considered the evidence, the arguments of the parties, the relevant provisions of the contract and the record as a whole, the Arbitrator makes the following Award.

ISSUE

Following discussions with the parties, the arbitrator framed the issues as follows:

1. Did the Human Services Center have just cause for the discipline imposed on the Grievant in 2006? If not,

2. What is the appropriate remedy?

RELEVANT CONTRACT LANGUAGE

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ARTICLE 2 - MANAGEMENT RIGHTS

The Board possesses the sole right to operate the Human Services Organization and all management rights repose in it, subject only to the provisions of this Agreement and applicable law. These rights include, but are not limited to the following:

A. To direct all operations of the Organization.

. . .

C. To establish reasonable work rules.

D. To suspend, demote, discharge, and take other disciplinary action against employees for just cause.

. . .

BACKGROUND

There is no particular dispute about the facts underlying this grievance. The Human Services Center provides a full range of social services to citizens in Forest, Oneida and Vilas Counties in north central Wisconsin. The Union is the exclusive bargaining representative for the Center's employees, including those in the classification of Bookkeeper. The Grievant, Teri Haenel, was employed as a bookkeeper with the Center. At the time of her discharge in late July of 2006, she had worked for the Center for 15 years.

In the Spring of 2006, HSC Executive Director Ann Cleereman advised the Wisconsin Department of Health and Family Services that State grant monies provided to the HSC in 1999, 2000 and 2001 had not been fully spent, as reported to the Department. Instead, personnel from the Center had arranged for a local agency to hold unspent portions of the

monies in its accounts. In return for holding the money, the local agency was apparently allowed to keep the interest, while the HSC was able to spend these sums on projects that otherwise lacked funding. The Department conducted an investigation of Cleereman's revelations, giving her the impression that it would work with her to sort the problem out.

Near the end of the day on Friday, June 9, Cleereman received a telephone call from DHFS Regional Administrator Patrick Cork, who told her that the Department had completed its review, and that its response was stronger than Cleereman had been led to expect. Specifically, Cork warned her that the Department was sending a letter demanding full repayment of all monies, spent and unspent, together with all interest that had been earned on those sums. The Department was also ordering a full audit of the HSC's operations and finances. Cleereman asked him to e-mail her a copy of the letter.

Cleereman did not open the electronic version of the letter that day. Instead she waited for Monday morning, when she could meet with some of her administrators to brief them and plan a response. On Monday morning, she opened the e-mail, and printed the letter to the remote printer in the office.

The pending response of DHFS had been a matter of considerable interest and speculation within the office. Pam Morton, the Assistant Mental Health Services Administrator, was particularly interested in the Department's reaction, as she was the only current employee who had been involved in the original discussions about holding onto the money. Cork had told Morton the week before that the letter would be forthcoming soon, but had not revealed its contents.

Before Cleereman retrieved the letter from the printer, an employee noticed it and realized what it was. She went to the Grievant, who was the Union President, and told her the DHFS letter was in the printer. The Grievant went to the printer, removed the letter, and made a copy. She then returned the letter to the printer. While the Grievant had the letter, Cleereman came to the printer to get her copy. She didn't see it, and asked some employees in the area if they had inadvertently picked it up with some of their printing. Told they had not, she assumed that it had failed to print, and printed a second copy to take to her meeting with the administrators.

On Monday evening, Morton received a telephone message at home saying that the DHFS letter had been received and that the Grievant had a copy of it. Tuesday morning Morton sought out the Grievant and asked to see a copy of the letter, and the Grievant made one for her.

On Wednesday morning, Cleereman received a telephone call from the Vilas News Review, a local paper, asking questions about the DHFS letter. Since the hard copies of the letter had not yet been received, she was surprised that the paper had managed to get a copy, and she tried to put them off. She called Pat Cork to find out whether he knew who had released it, and he said he did not, but would look into it. She also called the Chairs of the

Vilas, Forest and Oneida County Boards, all of whom had been copied on the letter, but all three said they had not provided copies to the media.

Wednesday evening Cleereman received a call at home from Cork, who told her that no one in Madison had released the letter. However, Cork told her, Pam Morton had stopped in his office that day with a copy of the letter, and had told him that she got it from the Grievant. On Thursday morning, June 14, Cleereman asked Morton if she had the letter, and Morton confirmed that she did have a copy. Cleereman then approached the Grievant, who admitted having made a copy of the letter and having provided a copy to Morton. Cleereman instructed the Grievant to secure a Union representative and meet with her. The Grievant, accompanied by Union Vice President Kathleen Baker, met with Cleereman, and again admitted being told of the letter by another employee, removing it from the printer, copying it, and providing a copy to Morton.

Over the following two weeks, the DHFS letter was widely reported in the area media and was the subject of much public and editorial comment. On Monday, June 26th, Cleereman sent the Grievant a memo advising her that she was being placed on paid suspension effective immediately to allow for an internal investigation of her "actions in taking, copying and forwarding a letter addressed to the Executive Director … without prior permission." She was cautioned that, depending upon the results of the investigation, further disciplinary action, including termination, was possible. She was directed not to enter any facility operated by HSC, and not to have any contact via telephone or e-mail with any employee of HSC during the term of her suspension.

Following the Grievant's suspension, each of the 70 employees of the agency was individually interviewed by the managers of their respective department. They were told that they would be subject to discipline if they declined to answer, and that they could not have Union representation during the interviews. Each was asked the same questions from a form provided to the managers, who wrote down the answers on the form and then required the employees to sign the forms:

> An internal investigation is being conducted. Legal Counsel has instructed that management meet with every employee of their department. Every employee will be asked the same questions.
>
> 1. Have you seen this letter?
> If so, where did you see it?
> Did you talk about it to anyone else or hear anyone else talking about it?
>
> 2. Did you receive a copy of this letter or do you have a copy in your possession?
> If so, who gave it to you?
> Did you pass this letter on to anyone else?

3. Do you know of any other employee who has knowledge of this letter or a copy of this letter.

The above are a true representation of the responses I gave to the questions asked.

. . .

In the course of these interviews, one employee identified herself as the person who told the Grievant that the letter was in the printer. Another said she had found a copy of the letter on her chair when she returned from vacation. Morton reiterated that she had asked for and received a copy from the Grievant. No one admitted providing the letter to the media, and the HSC management never did determine who had done so.

On June 29, the HSC's labor counsel was in the office, and Cleeremen sent an e-mail to Kathy Baker, asking her to contact the Grievant so that she could come in to speak with them. Baker was not able to reach the Grievant, but left her a voice mail saying that Cleereman wanted her to come in for a 1:00 p.m. meeting. At around 11:00 a.m., Cleereman told Baker that the meeting was cancelled, and Baker left another message for the Grievant, telling her not to come in. Because Baker told Cleereman the Grievant was not picking up her phone, Cleereman sent an e-mail to the Grievant the next day, telling her that she needed to be available to management while she was on suspension:

. . .

Teri:

John Prentice was at my office on Thursday and I tried to make contact with your through Kathy Baker. It was my understanding from Kathy you are not answering your phone. John Prentice also heard that from Denny O'Brien. Please remember that when you are on paid suspension, you need to make yourself available to management. Management should also be able to make contact with you if we have questions pertaining to work.

At this point we are still continuing our investigation with the results we have from interviewing staff and others. Do you have anything else you would like to state with regards our meeting with you regarding the letter?

I will let you know what our final outcome will be soon, but I do need to be able to make contact with you.

The Grievant did not receive this e-mail until some days later. On July 9th she forwarded it to her Union Staff Representative, Dennis O'Brien, noting that the suspension letter had ordered her not to talk to anyone from the HSC, and wondering how she was

supposed to both follow that order and pick up calls coming from HSC. She sent a letter to Cleereman the following day,

. . .

> Dear Ms. Cleereman:
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> I am in receipt of your e-mail dated on June 30, 2006. Contact was indeed made by Kathy Baker informing me that you initially had requested I come in at noon on Thursday, June 29, 2006; she then informed me later on that day that my presence was not necessary.
>
> Since that date I have received no messages or other correspondence from the management staff at the Human Service Center so I presume that no contact has been attempted.

. . .

On July 19, Cleereman again directed Baker to contact the Grievant to come in for a 1:00 p.m. meeting with her and the Center's labor counsel. Baker left a voice mail to that effect at about 9:00 a.m. At 10:15 a.m., the Grievant sent Cleereman an e-mail, stating that O'Brien was out of town and that he had advised her not to attend any meetings with management unless he could be present.

Nothing else happened until six days later, when Cleereman sent the Grievant a letter, terminating her employment:

> July 25, 2006

. . .

> Dear Ms. Haenel:
>
> Please be advised that your employment with The Human Service Center is terminated, effective immediately. I am discharging you for the following reasons:
>
> - Without privilege or permission you took a sensitive document addressed to me and photocopied it.
> - Without privilege or permission you distributed that document to at least one other employee.
> - You failed to report to work on July 19, 2006, as required.

> I consider your conduct very serious and unacceptable. You have demonstrated that you have no regard for rules of this Agency or accepted standards of professionalism. This behavior will not be tolerated.
>
> I hope you are able to find desirable employment which suites your needs and skills.

. . .

The instant grievance was thereafter filed. It was not resolved in the lower stages of the grievance procedure and was referred to arbitration.[1] At the arbitration hearing, Cleereman acknowledged that the Grievant had been employed for 15 years, with no prior discipline or attendance problems, and was a good, willing, hard worker. However, Cleereman stated that the Grievant breached her trust by copying an important and sensitive document without permission, and without following the Center's policy on requests for disclosure of documents, and then providing the copy to another person. That, and the fact that she refused to come into work when ordered to do so on July 19, led to the discharge. Cleereman rejected the notion that giving the document to Morton was less serious simply because Morton was a management employee. She noted that Morton had been cautioned about her divided loyalties between the Center and the Union, and that Morton was one of the people directly involved in the original fund transfer that led to the controversy. She denied that embarrassment was a factor in terminating the Grievant, but did agree that the premature release of the information had forced her to spent a great deal of time doing damage control among the three County Boards that fund the Center. Cleereman stated that, based upon the investigation, she had no grounds for believing that it was the Grievant who had passed the letter along to the press.

Cleereman agreed that she had never told the Grievant at the time of her suspension to keep herself available for meetings and phone calls, but she observed that the Grievant was in pay status, and that she did subsequently send her an e-mail, which the Grievant eventually received, giving her that directive. Cleereman conceded that she had never spoken with the Grievant directly on either June 29th or July 19th about coming in for a meeting, and had instead just gone through Baker. She agreed that she had never left the Grievant any messages during her suspension, and that the only e-mail she had sent was the one that the Grievant received on a delayed basis.

The Grievant testified that she did not provide copies of the DHFS letter to anyone other than Pam Morton, and gave it to Morton only because she asked for it, and was personally involved in the events leading to the letter. When Ann Cleereman asked her about it, she told her the full truth. The Grievant denied that she had attempted to avoid contact with management while she was on administrative leave, noting that she had responded to

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[1] While the grievance itself was not resolved, the Center did re-employ the Grievant at the beginning of 2007, and per the stipulation of the parties at the arbitration hearing, her seniority and accrued benefits were restored to the level they would have been at but for the discharge.

every contact as soon as she received the message. She also stated that the only direct attempt to contact her by any management representative was Cleereman's e-mail, which she did not receive for ten days after it was sent. All other contacts consisted of three messages from Kathy Baker – one scheduling a June 29th meeting, one canceling that meeting, and one scheduling a July 19th meeting.

The Grievant stated that she believed the July 19th meeting was for the purpose of discharging her, since she was on a lengthy suspension. She tried to reach O'Brien but got his voice mail. She had previously spoken with him, and he had told her not to participate in any meeting with management without Union representation. She interpreted this to mean that he should be present, but agreed that he actually had meant some representative of the Union. The Grievant said that she intended to have the July 19 meeting rescheduled to a time when O'Brien would be available, and did not intend to flatly refuse to meet with management.

Additional facts, as necessary, will be set forth below.

POSITIONS OF THE PARTIES

The Position of the Employer

The Center takes the position that the Grievant engaged in egregious misconduct, and that termination was an appropriate response. The Grievant knew perfectly well that the DHFS letter was very sensitive and very important. She knew that there was a policy governing the release of documents, and she knew that it was not up to her to make that decision. Nonetheless, she decided to take the document, copy it and give at least one copy out to another person. Not only did she give it to another person, she gave it to Pam Morton, who was personally involved in the original decision to illicitly transfer funds and was the one person within the agency who certainly should not have received an advance copy. These were not her decisions to make, and by taking them unto herself, she denied the managers of the Center any chance to lay groundwork with the County Boards that fund the Center.

The Center asserts that it conducted a fair and thorough investigation into this matter before taking any disciplinary action. The Grievant had conceded her partial involvement in the leaking of this report, and so she was placed on paid leave to prevent her from interfering with the investigation. Every employee was interviewed, and all were asked identical questions. The only problem at all with the investigation was the Grievant's continuing refusal to make herself available – when management sought to question her further on June 29th she failed to respond, and on July 19th she simply refused to appear. All of this in spite of the fact that she was in pay status, and required to be available during normal working hours.

The Grievant's misconduct in taking and copying the confidential DHFS letter exposed her to discharge. Her insubordinate refusal to report to work when ordered to do so on July 19th cemented the decision. She cannot rely on the Union's advise that she not appear unless O'Brien was with her, since there were other Union representatives on site. An

employee takes wrong advice at his or her own risk, and by refusing to come in when ordered, the Grievant refused a direct order and abandoned her job. Taking the totality of her conduct, the Center was amply justified in terminating her employment. Accordingly, the arbitrator should sustain the termination.

The Position of the Union

The Union takes the position that the Grievant is the victim of a great injustice, one that must be remedied in full. Even though she was ultimately rehired to her former position, the Grievant spent five and a half months out of work as retaliation for having been the only employee honest enough to admit having had a copy of the DHFS letter. That supposedly "confidential" document was sent to a public printer which well over a dozen employees had regular access to, and it sat in the printer bin for four days. Virtually anyone could have distributed it in the work place and leaked it to the press. The Center admits it has no evidence that it was the Grievant who leaked it. It can prove only that she gave it to a member of the management team, who was in charge of the area – mental health – that was most directly affected by the report. The idea that the Center's document disclosure policy applies to employees providing information to management is absurd. Further, the Union notes that allowing false information to be provided to the public, and failing to disclose public documents, are both violations of the County's work rules. Arguably the Grievant could have been disciplined if she did not disclose this document.

The Center's supposed outrage at the Grievant's reluctance to meet with them must be viewed in the context of events. She honestly answered their questions, including telling them she was not the one who gave the letter to the press. They responded by suspending her as soon as the press attention got too heavy, and telling her she was forbidden from coming to their premises or having any contact with their employees. They made it fairly clear they were going to fire her. The fact that this response could be directed at a long term employee with a perfect work record would have caused anyone to become hyper-cautious about meeting with them. Perhaps the Grievant misunderstood the advice she was given about the conditions under which she should meet with management, but her trepidation was perfectly understandable.

Perhaps the Grievant should not have made a copy of the DHFS letter, and perhaps she should have been clearer that she was not refusing to meet with management but was instead seeking a different time for the meeting. Even granting all of that, the penalty of suspension and discharge for these minor infractions is simply outrageous, particularly in light of the Grievant's work record. Accordingly, the arbitrator should grant the grievance, set aside all discipline, and make the Grievant whole.

DISCUSSION

The dispute in this case is whether the Grievant is guilty of misconduct and, if so, whether that misconduct is grounds for termination.[2] There are two grounds proffered for discipline. First, that the Grievant made copies of the DHFS letter and provided them to others; and second, that the Grievant was insubordinate and abandoned her job when she refused to meet with management on July 19. Each is addressed in turn.

A. Copying and Distributing Confidential Information

The evidence is undisputed that Grievant took the DHFS letter from the printer, made a copy, and then returned the original to the printer bin. The next day, when Pam Morton approached her and asked for a copy, she provided a copy to Morton. While there is an implication in all of this that the Grievant played a part in leaking the letter to the media, Cleereman admitted that there was simply no evidence to support that conclusion.

The issue is whether the Grievant violated a work rule or failed to meet a known expectation or norm of the workplace. Without going on at great length, she clearly did. The existing policy on document production designates the Executive Director and Human Resource, Facilities and Operations Manager as the custodians of public records, and directs that all requests for disclosure, review and/or copying of public documents should be referred to one of those designees. Even putting that policy to one side, it should have been fairly obvious to the Grievant that this letter was of such a sensitive nature that the addressee, Cleereman, would regard it as confidential. Common sense is not a trait that is evenly distributed across the population, but there is no basis for believing that the Grievant should not fairly be held to a reasonable person standard in judging her conduct. A reasonable person in her place would know that Cleereman would want this document to remain confidential, and would also know that she had no claim of personal right to copy or publish the document.[3] I therefore conclude that there was just cause to discipline her for obtaining, copying and disclosing the letter.

B. Insubordination and Job Abandonment

The second allegation against the Grievant is that she was insubordinate, and abandoned her job, when she refused to come to Cleereman's office for a meeting on July 19th. I find the

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[2] While the Grievant was rehired, and her seniority restored, the Center took the position that this was purely for operational reasons, and that it did not thereby concede that it lacked just cause for termination. For analytical purposes, this case remains styled as a termination.

[3] The Union's argument that the Grievant had an affirmative obligation under the work rules to prevent falsification of public information, and to insure that public information was provided upon request, is ingenious, but beside the point. There is no evidence that Cleereman intended to falsify information about the letter, nor that she intended to refuse to release it as public information if a proper request was made under the existing policy.

evidence insufficient to prove either charge. The Grievant testified plausibly that she intended to seek a rescheduling of the meeting, and did not intend to flatly refuse to meet with management. That is an entirely reasonable interpretation of the e-mail, since it cites a specific reason for not meeting, a reason that would obviously be satisfied by rescheduling to a time when O'Brien was available. Notwithstanding that, the e-mail was a refusal to meet as directed, and the Grievant was wrong in believing that she had the right to wait for a specific Union representative before agreeing to meet. In that sense, the e-mail was insubordinate.

In order to support some serious measure of discipline, willful insubordination typically requires (1) that the employee understands that a work related order is being given, (2) by someone having the authority to issue orders, (3) that the employee understands the order, (4) that the employee understands that discipline is the consequence for refusing the order, (5) that the employee is capable of following the order, and (6) that the employee still refuses to follow the order.[4] In this case, management never communicated with the Grievant, leaving it to Kathy Baker to pass word to her through a voice mail that she was wanted in a meeting on July 19th.[5] When she responded almost immediately that O'Brien had advised her not to meet without him, there was no attempt to contact her and tell her that she had no such right, or clarify that this was an order and that failure to report would trigger discipline. Even though there were nearly three hours left between the time of her response and the time of the scheduled meeting, there was no effort by management to seek her compliance, and thus no opportunity for her to recant the nascent insubordination. Given the ambiguity of the situation, this leave in question whether the Grievant fully understood that she was being ordered into the office, that there was no room for rescheduling or negotiating over whether O'Brien could be present, that the lack of response by management to her message indicated disagreement, and that discipline would be the response if she did not appear.

Insubordination cases are fact driven. Under all of the circumstances here, I am not persuaded that the Grievant's failure to appear on July 19th represented a willful disregard for the authority of management, as opposed to a failure to understand that her presence was being demanded rather than requested, and that her failure to appear would be the trigger for serious discipline. Given the Center's silence in the face of her e-mail, despite ample opportunity to clarify the order, her failure to understand these things is not unreasonable. I therefore conclude that the record does not prove insubordination. [6]

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[4] See, for example, § 16.04(1) Bornstein, et al., *Labor and Employment Arbitration*, (2d Edition, Matthew Bender).

[5] It was management's choice to communicate through Baker, and in this connection I must reject the Center's argument that the Grievant somehow made herself unavailable to management. Cleereman claimed to have made several attempts to call her, but acknowledged that she did not leave any messages when the Grievant's voice mail came on the line. Thereafter, Baker was used to pass messages along. Three messages were conveyed, and there is absolutely nothing to show that the Grievant ignored or avoided any of them. The fact that she did not pick up is unremarkable, given the sweeping order that she not have any telephone contact with any Center employee during the period of her suspension.

[6] It follows from the conclusion that the Grievant was not insubordinate that neither is she guilty of abandoning her job.

C. The Penalty of Termination

The issue before the arbitrator is not simply whether there was just cause for discipline, but whether there was just cause for discharge. While the Employer has the right in the first instance to determine the severity of a penalty, it is commonly understood that an arbitrator has the inherent authority to modify the penalty if circumstances warrant and the contract does not forbid such modifications.[7] Such a modification is not an act of leniency, since leniency is within the province of an employer. Instead it turns on mitigating factors and such fundamental notions of fairness as equality of treatment and proportionality.[8]

The collective bargaining agreement includes a just cause standard, and it is almost universally held that the concept of corrective and progressive discipline is a part and parcel of just cause. Corrective discipline holds that the purpose of discipline is to correct employee behavior, rather than simply to punish employee misbehavior. Progressive discipline holds that employee behavior is normally best corrected through the use of increasingly severe penalties, which serve to drive home to recalcitrant employees the seriousness of management's intentions and the need to change behavior before the termination step is reached.

In this case, the Grievant was terminated in the first instance, without any effort at correction or the use of lesser penalties. Even under an express contractual provision specifying progressive and corrective discipline, some conduct may call for immediate discharge. Virtually every industry has identified some offense that it will not tolerate. Some are specific to the industry, others are more generally recognized. In the food retailing industry, consumption of even small amounts of product without paying will lead to termination for a first offense. In most work places, regardless of the specific industry, theft from the employer or engaging in actual workplace violence will lead to discharge with no intervening corrective discipline. The Grievant's conduct cannot be compared to those examples. It does not involve the inherent immorality of theft or violence, nor does it cross a well known line, such as consumption of product in food retailing.

The Grievant used very poor judgment in procuring, copying and distributing a sensitive document, one which she should reasonably have known would be considered confidential. The document, once circulated, would inevitably lead to great embarrassment for the Center, and management had a reasonable and legitimate interest in being able to prepare a response without one of its employees prematurely releasing the document. Mitigating the Grievant's degree of culpability is the fact that she did not release this document to the public. The evidence establishes only that she passed it to a member of management, albeit a member of management who should not have received it at that point. The Grievant's offense is

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[7] CITY OF DETROIT, 76 LA 213 (Roumell, 1981) at page 220; Fairweather, *Practice and Procedure in Arbitration*, 2nd Ed. (BNA 1983), at pages 501-503; Elkouri, at pages 667-688; Hill & Sinicropi, *Remedies in Arbitration*, (BNA 1981), Chapter 4, pages 97-105.

[8] CITY OF DETROIT, 76 LA 213 (Roumell, 1981) at page 220; Elkouri, at pages 669-670.

further mitigated by the fact that she is a long service employee, with a very good work record and no history of disciplinary problems.

Weighing the actual conduct of the Grievant against the implicit commitment to progressive and corrective discipline, and the substantial mitigating factors, I conclude that the penalty of discharge is grossly out of proportion to the seriousness of the offense. Given the sensitivity of the situation it is certainly likely that the Center would not have responded with a simple reprimand, but a termination in these circumstance cannot be reconciled with a just cause standard. The parties have not supplied any information about the disciplinary standards employed in other similar cases at the Center, and I cannot state with certainty what the appropriate penalty short of termination would have been. Without purporting to define any type of standard for future cases, I conclude that an unpaid suspension of ten working days would be at the outside margin of severity allowable under a just cause standard. I have therefore directed that the discharge be removed from the Grievant's record, to be replaced with a ten work day suspension, and that she be made whole for her losses by reason of the discharge.

On the basis of the foregoing, and the record as a whole, I have made the following

EXPEDITED AWARD

1. The Center did not have just cause to discipline the Grievant for insubordination or for abandoning her job on July 19, 2006;

2. The Center had just cause to discipline the Grievant for obtaining, copying and distributing a confidential document in June of 2006.

3. The Center did not have just cause to terminate the Grievant.

4. The Center had just cause to suspend the Grievant for ten working days.

5. The appropriate remedy is to remove all reference to the discharge from the Grievant's personnel file, replace it with a suspension of ten working days, and to make her whole for her losses by reason of the termination.

6. I will retain jurisdiction over this matter for a period of sixty days following the date of the Award, for the sole purpose of resolving disputes over the remedy ordered herein, if requested.

Dated at Racine, Wisconsin, this 27th day of August, 2007.

Daniel J. Nielsen /s/

Daniel J. Nielsen, Arbitrator
DJN/gjc
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