

BEFORE THE ARBITRATOR

In the Matter of the Arbitration of a Dispute Between
RACINE COUNTY DEPUTY SHERIFFS' ASSOCIATION

and

RACINE COUNTY

Case ID: 426.0004

Case Type: MA

AWARD NO. 7993

Appearances:

Attorney Kevin Todt, for the Association.

Attorney John Serketich, for the County.

ARBITRATION AWARD

Pursuant to a 2021-2024 collective bargaining agreement between the Racine County Deputy Sheriffs' Association and Racine County, I was assigned by the Wisconsin Employment Relations Commission to serve as the arbitrator regarding a discharge grievance. A hearing was held in Racine, Wisconsin on September 13, 2023. The proceedings were not recorded or transcribed. The parties made oral argument at the conclusion of the hearing.

ISSUE

The parties agreed that the following issue is before me:

Was the grievant discharged for cause and, if not, what remedy is appropriate?

DISCUSSION

For several years prior to his discharge, the grievant was employed as a Deputy by the Racine County Sheriff's Department.

On December 16, 2022, the grievant reported that he was responding to a call for service from his standard assigned service sector. In fact, the grievant was actually responding from an

area outside his service sector. When questioned by supervision, the grievant indicated that his inaccurate response was made out of habit based on his standard service area, and that he was out of his standard sector seeking dinner at the time of the call for service. Further investigation revealed that the grievant had previously been stationary out of his assigned area for over two hours and that, contrary to the grievant's contention, he had been doing no law enforcement activity during that time.

The County discharged the grievant for being out of his service area without permission, failing to perform law enforcement activity for at least two hours and for being untruthful in response to questions from supervision.

The Union contends the grievant was not intentionally inaccurate when responding to the call for service and to subsequent supervisory inquiries. The Union asserts the grievant honestly believed that on the date in question he was working on a report when stationary for two hours and notes that had the grievant intended to hide, he could have (but did not) disable the GPS system in his squad.

It is apparent that the grievant engaged in misconduct by being out of his service area without permission for a substantial period of time. I am further persuaded that the grievant was not performing any law enforcement work while out of his service area. Had this been the extent of his misconduct, the Sheriff's testimony indicates a lesser level of discipline would likely have been imposed. Thus, the question of cause for discharge turns on whether the grievant was knowingly inaccurate when responding to supervisory questions about the day in question. Clearly, it is an essential part of a law enforcement employee's job to be truthful and accurate as to his work activities and thereby retain the confidence of his supervisors and prosecutors.

It is certainly conceivable that the grievant did not intend to be inaccurate when reporting his response location, the circumstances surrounding his presence out of sector when the call for service came in, and that he was working on a report when stationary for two hours out of sector. However, a preponderance of the evidence persuades me otherwise. Had the grievant immediately come clean as to all circumstances, there likely would not be cause for discharge. But he did not.

Given the foregoing, it is my Award that there was cause for the grievant's discharge.

Issued at Madison, Wisconsin, this 7th day of December 2023.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

Peter G. Davis, Arbitrator