

WHAT OUR RECENT
ARBITRATION DECISIONS
TELL US

2017 Bargaining is Coming.....

An important component of ERDs preparation for negotiations is analyzing arbitration awards during the contract period.

By taking a look at the recent outcomes from both expedited and full arbitrations, we can begin to formulate proposals for change and improvements in contract language heading into bargaining.

Numbers Don't Lie

A review of our database shows a total of 53 arbitration awards since January, 2014.

- Of this, 31 cases (58.5%) were 'expedited arbitrations' – meaning special hearings without attorneys for suspensions of 15 days or fewer, and other issues agreed to by both parties.
- and, 22 cases (41.5%) went to full arbitration.

Question: How do you think we did?

Full Arbitrations

The results are in of the 22 full arbitration awards:

- 9 - Split decisions
- 7 - Union wins
- 6 - City wins

Expedited arbitrations

- Arbitrators sided with the City and the Union 10 times each and issued 11 split decisions.

Answer: The City is winning $1/3$ of the cases going to arbitration

A closer look at disciplinary cases

For cases involving suspensions and terminations, the City's winning percentage remains 33%.

- Of the 53 cases we looked at, 29 were disciplinary.
- Of the disciplinary cases, the City was upheld 9 times.
- 17 cases resulted in a split decision by the arbitrator.
- The union won 3 times.

Now, we can't control what arbitrators will decide
but, what can we do to increase our winning percentage?

Let's look at a recent case with a split decision

SEIU 1021 and CCSF

Grievant was suspended for 30 days

Charged with 3 violations of the Departmental Policy Manual:

1. Failure to Secure a Building
2. Being Disrespectful to a Park Patron
3. Misrepresentation of Work Locations

Grievant had a prior history of discipline including a 15-day suspension and a Written Reprimand for similar charges.

Union argument

Union argued that the City engaged in **disparate treatment** because the department pulled the GPS record for the grievant's vehicle and it had not done the same when the Union alleged other employees were misrepresenting their locations while at work in City vehicles.

The Union claimed representatives had reported this to Park management previously but the City had taken no action.

The Union argued that the City condoned misreporting of time and that the grievant had been singled out for discipline while others had been allowed to go undisciplined. They produced evidence in their briefs to support this claim.

Arbitrator's award

The arbitrator found the City was selectively enforcing its rules. The Department had not taken action when alerted that this activity was happening.

“If the City is going to suspend one officer for violating a rule but ignore other reported violations, it is engaging in disparate disciplinary action.”

As a result, the Arbitrator ruled that the City had “just cause” for suspending the grievant for disrespectful treatment of the park patron and for failure to secure the park building but, did not have “just cause” to suspend for misreporting of time.

Result: the disciplinary suspension was reduced from 30 days to 20 days, WW for misreporting time.

Lessons?

What can we learn from this decision that will help uphold our actions in the future?

- 1) Management has the responsibility to enforce the rules equitably and fairly across the board.
- 2) When we receive reports of misconduct we have an obligation to follow up.
- 3) Needs to have appropriate policies and procedures in place, in this case, management had no process in place to check compliance with or enforce the requirement to accurately report time.

Questions?
