

Instead of asking questions in an investigative interview, management makes a statement as if they were true; then follows the statement with a question. The employee is only allowed to respond to the last question. Management later claims that in the investigative interview, the employee did not deny the claim stated in the first statement.

As a Union Advocate, it is your right and obligation to advise management that they need to ask questions and allow the employee to respond to only questions, not from the position or angle from which management perceived the event. Also, advise the grievant not respond to compound sentences that are really statements rather than questions. As the steward, your role is clarification.

GRIEVANT'S/UNION'S POINT OF VIEW

On January 3, 2003 the employee called in and was asked the nature of his illness. He stated that he was sick. The A/C supervisor stated, "I really need more than that". The employee repeated, "I'm sick". The call ended. The employee was never advised that he may be charged AWOL for failing to give the nature of his illness.

Upon his return to duty the employee was presented with an incomplete 3971 by a 204-B. He advised the 204-B that he would not fill out a blank 3971. The 204-B exclaimed, "Are you failing to follow instructions? You may as well tell me to go pound salt." His immediate supervisor overheard part of the conversation and concluded that the employee told the 204-B to "go pound salt". The 204-B asked if he minded waiting to go on break until such time as there was a relief. The employee stated that he really preferred to go now, since he was still not feeling up to par. The 204-B never responded or instructed him to wait for a relief.

THE INTERVIEW

with an aspect from which the grievant is judged by management

1) On January 3, 2003, you called into attendance control and stated that you would not give the nature of your illness when requested. You were instructed that if you failed to give the nature of your illness you could be charged AWOL. Why did you fail to follow instructions?

Response: "*Because my medical condition is personal.*"

2) When reporting back for duty, you advised Acting Supervisor Jones that you were not going to sign your 3971. You further stated that she "should go pound salt". You then announced that you were going on a break, despite the fact that it was only ten minutes past the time of your begin tour. Acting Supervisor Jones advised you could not go on break. Why did you take an unauthorized break?

Response: "*My break was not unauthorized*"

3) The office rules state that you may take a break only after approximately two hours of work. Why did you fail to abide by the office rules?

Response: "*I didn't violate the office rules*"

THE SUBSEQUENT DISCIPLINE

A Letter of Warning for Improper Conduct- AWOL is issued stating:

“In an investigative interview you agreed that you had been forewarned that failure to state the nature of your illness would result in a possible charge of AWOL. You also did not dispute the fact that you spoke to Acting Supervisor Jones in an unprofessional manner. Investigation does show that on the day you returned you had worked two hours begin tour overtime. Under normal circumstances you would have been entitled to a ten-minute break. However, the facts reveal that you were clearly advised that you could not be released for your break until such time there was a relief for your machine. I find your actions to be unprofessional and inappropriate. As a long term postal employee you are well aware that your are to obey your supervisor’s instructions. Further your are being charged AWOL in accordance with section 513.332 of the ELM for your failure to state the nature of your illness as requested.

THE INTERVIEW WITH THE STEWARD SHAPING THE APPROACH

The employee and the Union steward should have insisted that each statement be reworded, renumbered, and posed as a question. The employee should have been allowed to answer each separate allegation. The steward has the authority to advised management that the “questions” are really statements and therefore there is a need for clarification. The steward then would have the right to request that each question be reworded as follows:

Q #1-A “When you called into attendance control on January 3, 2003, where you asked to state the nature of your illness, and if so, what was your response?”

Response: *“I was asked what was wrong with me and I told her I was sick. She told me that she needed more than that and I repeated that I was sick. I thought medical information was confidential. No one told me she had a right to ask me that”*

Q#1-B “Isn’t it true that you were advised that you could be charged AWOL for failure to state the nature of your illness?”

Response: *“No that’s not true at all. When I repeated I was sick that was the end of the conversation. I heard her say something like, ‘OK’. I asked her if she needed anything else and she said something like , ‘Not if you’re not going to tell me what’s wrong with you I don’t’. After that the call ended. When I returned to work the only thing on the 3971 was AWOL, pending documentation. There was no signature by the receiving or the authorizing supervisor, just stuff typed out in the remarks column that I was AWOL. “*

As you can see in the above example, when the Union takes control of the interview, discipline MAY be avoided. Employees should be counseled that they need to invoke their rights by not only asking for a steward, but participating in their defense. History shows us, that it is much easier to prevent discipline than to get it overturned once it has been issued.