

UNION ARGUMENTS ON DISCUSSIONS FOR ATTENDANCE

Management attempts to play a word game with the discussion language of Article 16 and Part 511.42 of the Employee and Labor Relations Manual. They sometimes admit that they did not hold any discussion but they maintain they talked to the employee. Talks or fireside chats do not meet management's obligation to discuss items in Article 16 or the ELM.

Management will also argue on occasion that discussions after the first discipline for attendance, aren't necessary. The Union maintains the direct opposite!

To begin with we're dealing with attendance issues. Attendance requirements are not specifically defined. Based on that, the elements of each record are different and there is nothing that defines an attendance trigger. The only way an employee knows when their record at any given time, may trigger discipline is if they are told. That has to come prior to the discipline, and it has to meet the requirements of Article 16 and Postal regulations.

Discussions are formal meetings with an employee. They are designed and defined to warn an employee of minor infractions. An employee's attendance record must be considered minor sometime prior to justifying discipline. Each specific record must be dealt with for that purpose. The fact a previous record caused discipline doesn't define the trigger for this record.

A past record does not relieve management's obligation to counsel and discuss this one. The contract requires these discussions.

If management's theory is, "once an employee receives discipline management no longer must give discussions," that can't include attendance discipline. We must maintain that management must alert the employee of where the trigger is for each record. In attendance cases, the regulations designed for that purpose clearly require discussions. Those regulations are found in Chapter 5 of the Employee and Labor Relations Manual, Part 511.42 deals specifically with management's responsibility in dealing with unscheduled absences, and states:

511.42 Management Responsibilities.

To control unscheduled absences, postal officials:

- b. Discuss attendance records with Individual employees when warranted.

Management's theory on how discipline can omit discussions cannot be considered when their own attendance regulations require it. The regulations don't say talk to the employee, it says discuss. The word discuss obviously is lifted from Article 16 and therefore must meet the requirements of discussions defined in Article 16. They must also be given for attendance issues when warranted, and because each attendance record is different, that must be prior to discipline.

Management cannot hold that talks meet attendance rules as required in both the National Agreement and in part 511.42b. The grievant has the right to know exactly where management felt the record justified discipline before it got there. The regulations clearly require it, and it's our job to argue in the grievance procedure when management doesn't comply.

We should always request the dates of any discussions in writing and try to establish our record if it can be used to support the grievant. We obviously don't want to establish any discussion record that will hurt the grievant. The things we want to establish are,

- (1) No discussion.
- (2) No discussion in the time frame.
- (3) Alleged discussions on bad dates.
(Employee was off) (discussion wasn't warranted) (etc...)
- (4) Talks or chats. not discussions.
- (5) Management claims a discussion wasn't needed due
to prior discipline.

While we may ask for discussion dates in writing after the discipline is issued, management has no right to refer to them in the discipline, on a 3972, or any other formal way. Those areas violate Article 16 language. They may respond in writing to our request, but they have no other right to refer to a discussion record in writing. The same applies to past discipline that has been altered or expunged, as defined in step 4 agreements. All discussion and procedural challenges must be made a matter of record in the grievance procedure, or management may rescind and reissue claiming it was prior to a grievance being filed.



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