

STATE OF CONNECTICUT  
DEPARTMENT OF LABOR  
STATE BOARD OF MEDIATION AND ARBITRATION

ARBITRATION AWARD

---

In the Matter Of:	:	Case No. 2023-A-0165
	:	
TOWN OF NORTH HAVEN	:	DATE OF AWARD:
	:	January 12, 2024
And	:	
	:	Hearing Date: October 13, 2023
NORTH HAVEN POLICE UNION	:	
NIPSEU	:	Hearing Location:
	:	38 Wolcott Hill Road
Grievant: Anthony Santagata	:	Wethersfield, CT

---

APPEARANCES: William A. Ryan, Attorney at Law (For the Town)  
Ronald J. Pugliese, Jr, Attorney at Law (For the Union)

**I. ISSUE: (AGREED TO BY THE PARTIES)**

1. Did the Town of North Haven (the “Town”) suspend the grievant without pay on February 28, 2023 for just cause?
2. If not, what shall the remedy be in accordance with the terms of the parties’ Collective Bargaining Agreement?

**II. BACKGROUND:**

The North Haven Police Union (the “Union”) filed a grievance on behalf of its member Anthony Santagata (“Officer Santagata” or the “Grievant”). The Union claimed that the Town suspended Officer Santagata for one day without just cause in violation of the Collective Bargaining Agreement (the “CBA”).

The grievance was not resolved and was appealed to arbitration. On October 13, 2023, an arbitration hearing was held. Both parties were provided an opportunity to offer testimony and cross-examine witnesses. The Town and the Union both filed post hearing Briefs by the due date of November 28, 2023. The parties reserved the right to file Reply Briefs by December 8. On December 1, the parties notified the Panel that they would not be filing Reply Briefs. The Panel held an Executive Session on December 20, 2023.

The parties have complied with the grievance and arbitration provisions of the CBA. This grievance is properly before the Connecticut State Board of Mediation and Arbitration.

### **III. STATEMENT OF FACTS:**

At the time of the incident Officer Santagata had approximately thirteen (13) years of service as a Patrol Officer with the Town. Officer Santagata works first shift (8:00 am to 4:00 pm) on a rotating 5-2, 5-3 schedule.

On January 7, 2023, Officer Santagata worked his normal shift of 8:00 am to 4:00 pm. At approximately 7:30 pm, he and his wife met friends for dinner. They were seated at approximately 7:45 pm and, shortly thereafter, the Grievant had a dirty martini.

Sergeant Michael DiCocco (“Sergeant DiCocco”) texted the Grievant at approximately 9:43 pm ordering him in for overtime beginning at 4:00 am on January 8. After soliciting volunteers and, receiving none, Sergeant DiCocco ordered Officer Santagata in for overtime in order to meet minimum staffing requirements.

The Grievant was scheduled to work on January 8 at 8:00 am. Officer Santagata had ordered another dirty martini and had approximately half of it at the time he saw the text. In response to the order, Officer Santagata indicated that he was “several drinks in”.

After some back and forth, the Grievant stated “I’m telling you I’m not coming in at 4am!!!! Been drinking.” (Jt. Ex. 5) During the hearing, the Grievant stated that he “thought everyone was not intoxicated.” During his interview, the Grievant indicated that “I shouldn’t have spoken to a Sgt. like that.” (Jt. Ex. 5).

**IV. PERTINENT LANGUAGE FROM THE COLLECTIVE BARGAINING AGREEMENT, DEPARTMENT GENERAL ORDERS and CONNECTICUT GENERAL STATUTES**

**COLLECTIVE BARGAINING AGREEMENT (Jt. Ex. 1)**

- 3.2 No employee, other than probationary employees as hereinafter defined, shall be discharged, demoted, suspended or otherwise disciplined, except for good and just cause.
- 3.3 The Chief shall be authorized to award discipline up to a maximum penalty of a ten (10) day suspension without pay. . . .

**ARTICLE 6 – OVERTIME**

- 6.7 Employees ordered to return to duty to perform overtime work, as defined herein, shall receive not less than four (4) hours' pay at the applicable overtime rate. The squad commander shall make a reasonable attempt to secure a replacement of four (4) hours from the current shift and four (4) hours from the oncoming shift. If no one is available the officer may be held over for eight (8) hours. The Chief may, at his sole discretion, fill the overtime assignments that are not voluntarily taken in the following manner: Vacancies which the Chief, or his designee, deems to be filled shall be filled rank for rank. When employees are ordered in, it shall be four (4) hour increments. The vacancy will be filled by holding over an officer from the preceding shift for four (4) hours and then ordering in an officer from the succeeding shift for four (4) hours early.

The Chief, or his designee, shall compile a rotation list of all officers within the department. All ordered assignments shall be rotated and filled by rank.

## **NORTH HAVEN POLICE DEPARTMENT GENERAL ORDER (Jt. Ex. 2)**

### **Section 2.12: Obey Lawful Orders**

#### **2.12.1 PURPOSE**

To set forth the policy requiring employees of the North Haven Police Department to obey any lawful order of a superior including any order relayed from a superior by an employee of the same or lesser rank, and specific procedures to be followed by an employee who receives inconsistent or conflicting orders.

#### **2.12.2 PROCEDURE**

All North Haven Police Department employees are required to obey any lawful order of a superior officer as defined by the chain of command structure including any order relayed from a superior officer by an employee of the same or lower rank.

#### **2.12.3 UNLAWFUL ORDERS**

1. No member of the department is required to obey any order or directive which is contrary to the laws of the United States, State of Connecticut, or Ordinances of the Town of North Haven; however, such refusal is the responsibility of the employee and he/she will be required to justify his/her action.
2. Members of the department who believe they are justified in disobeying an order or directive should immediately state the basis for refusal to comply with the supervisor issuing the order or directive. If the matter cannot be resolved through clarification or review by other supervisors immediately available, the department member should, at the earliest opportunity, reduce his/her position to writing and forward that report through the chain of command to the Chief of Police.

#### **2.12.5 INSUBORDINATION**

Any sworn or non-sworn employee who deliberately refused to obey any lawful order given by a superior officer, or who engages in mutinous conduct (such as showing gross and direct disrespect to a superior officer or civilian supervisor), may be subject to progressive discipline and formal department charges, when applicable.

## **TOWN OF NORTH HAVEN**

### **RULES OF CONDUCT (U. Ex. 1)**

It shall be the duty of all Town employees to maintain high standards of cooperation, efficiency and integrity. Following are rules, which if broken may result in employee discipline consistent with their respective working agreements:

1. Reporting to work under the influence of intoxicants or nonprescription/illegal drugs, or using such substances while on Town property or time.

### **CONNECTICUT GENERAL STATUTES**

Sec. 53-206d. Carrying a firearm or hunting while under the influence of intoxicating liquor or drug prohibited. (a)(1) No person shall carry a pistol, revolver, machine gun, shotgun, rifle or other firearm, which is loaded and from which a shot may be discharged, upon his person (A) while under the influence of intoxicating liquor or any drug, or both, or (B) while the ratio of alcohol in the blood of such person is eight-hundredths of one per cent or more of alcohol, by weight. (2) Any person who violates any provision of this subsection shall be guilty of a class B misdemeanor. (b) (1) No person shall engage in hunting while under the influence of intoxicating liquor or any drug, or both. A person shall be deemed under the influence when at the time of the alleged offense the person (A) is under the influence of intoxicating liquor or any drug, or both, or (B) has an elevated blood alcohol content. For the purposes of this subdivision, "elevated blood alcohol content" means (i) a ratio of alcohol in the blood of such person that is eight-hundredths of one per cent or more of alcohol, by weight, or (ii) if such person is under twenty-one years of age, a ratio of alcohol in the blood of such person that is two-hundredths of one per cent or more of alcohol, by weight. (2) Any person who violates any provision of this subsection shall be guilty of a class A misdemeanor. (3) Enforcement officers of the Department of Energy and Environmental Protection are empowered to arrest for a violation of the provisions of this subsection.

Sec. 14-227a. Operation while under the influence of liquor or drugs or while having an elevated blood alcohol content. (a) Operation while under the influence or while having an elevated blood alcohol content. (a) No person shall operate a motor vehicle while under the influence of intoxicating liquor or any drug or both. A person commits the offense of operating a motor vehicle while under the influence of intoxicating liquor or any drug or both if such person operates a motor vehicle (1) while under the influence of intoxicating liquor or any drug or both, or (2) while such person has an elevated blood alcohol content. For the purposes of this section, "elevated blood alcohol content" means a ratio of alcohol in the blood of such person that is eight-hundredths of one percent or more of alcohol, by weight, except that if such

person is operating a commercial motor vehicle, “elevated blood alcohol content” means a ratio of alcohol in the blood of such person that is four-hundredths of one percent or more of alcohol, by weight, and “motor vehicle” includes a snowmobile and all-terrain vehicle, as those terms are defined in section 14-379... (g) Penalties for operation while under the influence. Any person who violates any provision of subsection (a) of this section shall: (1) For conviction of a first violation, (A) be fined not less than five hundred dollars or more than one thousand dollars, and (B) be (i) imprisoned not more than six months, forty-eight consecutive hours of which may not be suspended or reduced in any manner, or (ii) imprisoned not more than six months, with the execution of such sentence of imprisonment suspended entirely and a period of probation imposed requiring as a condition of such probation that such person perform one hundred hours of community service, as defined in section 14- 227e, and (C) have such person's motor vehicle operator's license or nonresident operating privilege suspended for forty-five days and, as a condition for the restoration of such license, be required to install an ignition interlock device on each motor vehicle owned or operated by such person and, upon such restoration, be prohibited for the one-year period following such restoration from operating a motor vehicle unless such motor vehicle is equipped with a functioning, approved ignition interlock device, as defined in section 14-227j...

## V. DISCUSSION

Not unlike most other collective bargaining agreements, this collective bargaining agreement does not define “just cause”. “Just cause” is typically defined as: ‘A reason that is legally acceptable or sufficient’ and whether the employer was guided by reasonableness and fairness. In its simplest form, there must be satisfactory proof that the employee engaged in the act upon which the discipline is based. “Just cause” is one which is not for any arbitrary, capricious, or illegal reasons and which is one based on facts. For example, if the proof is insufficient that the employee committed a violation, discipline cannot stand. If the evidence is sufficient to demonstrate that the employee is ‘guilty’ of the conduct alleged, then the next question, generally speaking, relates to whether the penalty is for just cause.” The Connecticut Supreme Court held that in order for the just cause standard to have been met, the employer must have a reasonable ground for discipline which is also fair.

Officer Santagata admitted that he that “I shouldn’t have spoken to a Sgt. like that” in his interview. He also admitted during the hearing that he should not have responded in that way. The Union argues that the Grievant was not “intentionally disrespectful to Sergeant DiCocco.” Whether he intended to be disrespectful or not, a majority of the Panel finds that he was disrespectful of Sergeant DiCocco, especially based upon the Grievant’s own acknowledgement. Additionally, the disrespect continued several weeks later when the Grievant confronted Sergeant DiCocco asking him “Why did you give me big balls?” This was in reference to reporting the Grievant for refusing to come in and the claim that Officer Santagata was disrespectful in his text responses.

The Union in its Brief primarily argued that as it would have been illegal, irresponsible and a violation of the Town's Rules of Conduct for the Grievant to report to work while intoxicated. This is certainly true. The Union therefore argues that the Grievant did not disobey a "lawful and reasonable order".

In its Brief the Town argued that, in addition to refusing a lawful order and being disrespectful, the Grievant was untruthful. The Letter of Suspension (Jt. Ex. 3) does not charge the Grievant with being untruthful. As the Grievant was not disciplined for being untruthful, any arguments regarding that allegation were not considered by the Panel.

Section 2.12 of the North Haven Police Department General Orders (Jt. Ex. 2) requires employees to obey lawful orders of a superior officer. In the event an employee refuses what he believes to be an Unlawful Order, it is the employee's responsibility to justify his/her action. (Section 2.12.3 of Jt. Ex. 2)

As the Grievant admitted during the hearing that he did not believe **any** of the individuals who went to dinner on January 8 were intoxicated, it would have included the Grievant. Based upon his own testimony, a majority of the Panel accepts the Grievant's own sworn testimony at the hearing that the order he received to report to work on overtime was a lawful order and his failure to comply violated Section 2.12 of the North Haven Police Department' General Orders.



## **VI. AWARD**

For the reasons set forth herein, a majority of the Panel finds that the Town of North Haven had just cause when it suspended Officer Santagata for one (1) day.

## **VII. DISSENT**

The Arbitration Panel reviewed the above case and I am not in agreement with the majority. I believe that the Grievant did not disobey a lawful order due to his consumption of alcohol when contacted by a superior to come into work earlier than his normal assigned duty time. Once the supervisor was informed by Grievant that he had been drinking and asked to come in at 4:00 AM, the issue should have been resolved. Grievant had between 50 and 60 prior requests to follow an order to come in on off hours. Grievant had no disciplinary issues in his file and has been on the North Haven Police Dept. for 12 years. The Grievant knew the State of Connecticut statutes concerning use of a firearm and driving a vehicle while under the influence and was unsure if he would be ready by 4:00 AM to perform his duties as a police officer.

Therefore, I dissent with the majority of the panel and would have given back the one day suspension with pay.

BY THE ARBITRATION PANEL:

/s/ *Linda J. Yelmini*

Linda J. Yelmini (Public Arbitrator & Chairperson)

/s/ *J. Peter Wilson*

J. Peter Wilson (Labor Arbitrator) - Dissenting

/s/ *Michael C. Culhane, Sr.*

Michael C. Culhane, Sr. (Management Arbitrator)