

STATE OF CONNECTICUT

DEPARTMENT OF LABOR

STATE BOARD OF MEDIATION AND ARBITRATION

In the Matter of Arbitration
between

Case No. 2022-A-0257
Hearing Date: Sept.14, 2022 &
Oct.19, 2022

City of Middletown

Location of Hearing:

January 24, 2023

and

Department of Labor

Local 466, Council 4,

Wethersfield, Connecticut

AFSCME, AFL-CIO

Panel: Nestor L. Diaz, Chair and Alternate Public Member

Michael C. Culhane, Management Member

Peter Carozza, Alternate Labor Member

Appearances:

For the City/Town:

Kori Termine Wisneski, Esq., Deputy General Counsel

For the Union:

Robert Montuori, Staff Representative

ISSUE

(1) Did the City have just cause to terminate Pedro Melendez?

(2) If not, what shall the remedy be?

STATEMENT OF THE CASE

The grievance was filed for arbitration on or about June 30, 2022, by Local 466, Council 4, AFSCME, AFL-CIO, herein the Union, and alleged that the City of Middletown, herein the

City or Employer, violated the collective bargaining agreement (CBA) between the Parties when it terminated the employment of Pedro Melendez, herein the Grievant or Melendez, without having just cause.

Relevant Contractual Provisions (partial only)

Article 3 Management Rights

Section 1. It is the right of the City, acting through its departments and agencies, except as otherwise abridged or modified by any provision of this Agreementto take disciplinary action; relieve its employees from duty because of lack of work or for other legitimate reasons

Article 8 Disciplinary Procedure

Section 1. Disciplinary action includes, but is not limited to, oral reprimand, written reprimand, suspension and discharge. No employee shall be disciplined except for just cause.....

Section 2. In the event a serious matter involving an allegation of misconduct occurs with an employee and there is potential that an employee must be put out on paid or unpaid Administrative Leave, the relevant Department Headwill bring such issue forward to the Director of Human Resources as soon as reasonably practical. The Director of Human Resources shall review the matter and consult with the Mayor upon receiving such notification of the issue. Only the Mayor may authorize paid or unpaid Administrative Leave.

Section 3. The following constitutes the City's disciplinary procedure:

Initial Need for Consultation

If an employee is not meeting standards of behavior set forth by the City, or if the employee has not performed his/her duties incumbent upon his/her pursuant to the relevant job description, requests or orders from superiors, or other mandated duties, employee will be subject to the following:

- a. The supervisor will meet with the employee to discuss the matter;
- b. The supervisor will inform the employee of the nature of the problem...
- c. The supervisor will prepare a memorandum for his/her own records...

.....

Section 4. The progressive disciplinary procedures described in Section 3 herein may be applied to an employee who is experiencing a series of unrelated problems involving job performance and/or behavior. There need not be a repetition of previous violations for an employee to be disciplined progressively. In situations where serious misconduct has occurred or, in the alternative, serious neglect of duty, the progressive disciplinary procedures set forth above may be waived and more severe disciplinary actions, as described in Section 3 above, may be imposed immediately.

Article 16 Grievance Procedure

Section 1. The purpose of the grievance procedure shall be to settle employee grievances on as low an administrative level as possible in order to expedite the settlement of grievances and to insure efficiency and employee morale.

Section 2. A grievance for purposes of this procedure shall be considered to be an employee or Union complaint concerned with:

- (A) discharge, suspension or other disciplinary action; and
- (B) matters relating to the interpretation and application of the articles and sections of this agreement.

Zero Tolerance Policy

The City of Middletown is committed to providing a safe work environment where all people are treated with respect, professionalism, and dignity.....

The Facts

The Grievant was hired on January 27, 2014 by the City to work as a Utility Worker II in the Water and Sewer department. At the time of his discharge on April 22, 2022, the Grievant was classified as a Utility Worker III and his immediate supervisor was Richard Miano, Asst. Field Maint. Manager. Devin Darley is the Manager of Water and Sewer department to whom Miano and Melendez both report.

On the morning of December 8, 2021, at about 7:15 a.m. a call came into department that there was a sewer backup on the corner of Main Street and Rapallo Avenue, near a bakery named Nora Cup Cake. Darley ordered the jet truck crew to proceed to the site to address the blockage. The two employees operating the jet truck were John Sloan and the Grievant, both classified as Utility Worker III. Darley went ahead in a pickup truck to the site and told the two employees that he would meet them there.

Darley arrived at the job site several minutes before the jet truck and inspected the manholes to see where the backup was located. Once the jet truck arrived at the scene, Darley directed Sloan, who was driving the truck, to the manhole where the blockage was located. (It was about 7:34 a.m.) Darley noticed that when the Grievant approached him near the front of the truck, the Grievant was not wearing steel toe shoes as required for the job but instead had on a pair of sneakers with bright neon yellow laces. According to Darley, he asked the Grievant where his work boots were and immediately the Grievant reacted and pulled Darley by his jacket collar towards Rappallo Avenue and pushed Darley against the front side of the truck. The Grievant then said to Darley, "Fuck You", "I'm going to kill you" and "You suck dick". Darley who was pinned against the truck by the Grievant's forearm, pushed the Grievant away. Darley then proceeded north up on Main street towards O'Rourke's Dinner, away from the Grievant and the truck, to begin working on the clog.

Darley stayed on the job site until the jet truck started the process to unclog the blockage. Once this was underway, he went directly to the Human Resources department to file a complaint against the Grievant with Justin Richardson, Director of Human Resources. As a result of Darley's complaint, the City placed the Grievant on paid Administrative Leave and conducted an in depth investigation of the incident.

The City performed an investigation which included interviewing all the witnesses at the scene and reviewing the video tape of the incident which was recorded on street cameras located at that intersection. The City also held a Loudermill hearing where the Grievant testified and was represented by the Union. Based upon the recorded testimony at the Loudermill hearing and the evidence collected during the investigation, the City decided to terminate the Grievant's employment as of April 22, 2022, because of his threats and assault on his supervisor, Darley.

The City's Position

The City's position is that it was well within its rights to terminate the Grievant's employment because the City can't tolerate an employee to threaten, intimidate and assault another employee, especially his supervisor. The City asserts that it conducted a fair and impartial investigation of the incident and of the Grievant's recent intimidating tactics and it stands by its decision that termination was the only appropriate solution in this matter. The City has a progressive disciplinary procedure but decided that the Grievant's actions were so egregious that the only appropriate action was to terminate his employment.

Justin Richardson, the City's Human Resources Director, (who conducted the investigation) testified that on the morning of December 8, 2021, at about 8:30 a.m., Darley met him in the parking lot outside City Hall and informed him of the altercation caused by the Grievant at a job site. Richardson testified that Darley looked very nervous and upset. Richardson told him that he had a right to file a police complaint against the Grievant because he had just been assaulted by him. Richardson also said that he would pull and review the video tape of the street cameras at that intersection. The video tape showed that some sort of altercation took place at that site and Richardson then reported this to the Mayor (Benjamin Florsheim). The Mayor decided to place the Grievant on paid Administrative Leave effective that day. The Grievant was informed in writing that he was not to have any contact with any employee of the department nor to show up at any job site during the time that he was out on Administrative Leave.

The City's investigation revealed that early on December 8, 2021, the Grievant left the job site, (without supervisory permission), and proceeded to come to the Water and Sewer department's headquarters to speak to his immediate supervisor, Richard (Ricky) Miano. (This was between 8:30 and 9:00 a.m.) Miano was asked by the Grievant to come out to the garage doorway. Miano, who had been meeting with some contractors, came forward and met with the Grievant. The Grievant looked "pissed off" and said that he was going home for the day. Miano said Ok. The Grievant had arrived in a truck accompanied by a fellow named Sal Mazzotta (who is alleged to have connections to organized crime). The Grievant asked Miano to call Darley on the cell phone and to ask where he was located at that moment. Miano called Darley and told

him that the Grievant was looking for him and wanted to talk to him and wanted to know his whereabouts. Darley said that he was at a meeting and declined to say where. Miano conveyed this information to the Grievant. The Grievant then told Miano that Darley was a "piece of shit" and that "he was an asshole" and that "he (Darley) was going down and that you (Ricky) are going down too". Miano then left the garage with the contractors but when he returned 15-20 minutes later, he could see that the Grievant was in the in the truck with Mr. Mazzotta waiting in the front parking lot of the Water and Sewer building.

That same morning at about 9:15 a.m., the Grievant along with Mr. Mazzotta, stopped Joseph Fazzino, Director of the Water and Sewer Department, as he was entering the Water and Sewer building. (Fazzino had not yet been informed of the altercation between the Grievant and Darley). The Grievant said that they wanted to speak to Fazzino concerning how Darley speaks to the workers. (Fazzino thought that he was referring to shop talk in the garage). The Grievant said that Darley disrespected him and talked down to him and that he should fire Darley. Not aware of the underlying incident, Fazzino replied that you just can't fire someone just because and that if the Grievant was not happy in the department he could just request a transfer to another department per the CBA. He then entered the building.

During the investigation, Justin Richardson interviewed the two other witnesses at the job site at the time of the incident. These individuals were John Sloan, the operator of the jet truck and school crossing guard, Catherine Russo. Sloan reported that he did not hear or see anything *concerning the incident because he was busy aligning the truck to the manhole, while watching for traffic and looking through the truck's camera which is used to center the hose over the manhole.* Similarly, Russo did not recall any altercation between the workers at that site.

About December 17, 2021, the Grievant and Mr. Mazzota, showed up at Mayor Florsheim's office, unannounced, and asked to meet with the Mayor. There was no one from the Union there. The Mayor agreed to meet them because he has an open door policy and it's not unusual for residents to show up at his office without appointments. If he has the time he will agree to these impromptu meetings. The Mayor told them that there was little he could say about the Grievant's matter which was currently under investigation but agreed to meet with them. The door was left open and there was staff in the outside lobby. At this meeting, the Grievant asserted that Darley provoked the altercation by referring an ethnic slur to the Grievant. The Grievant claimed that he was the victim and that he just reacted to the slur from Darley. There was no discussion about whether the Grievant put his hands on Darley or if he had worn sneakers to the job site.

The Mayor recalled that at the beginning of the December 17th meeting, he was introduced to Mr. Mazzota by the Grievant. Mr. Mazzota stated that people say things about him such as "mafia, mafia, mafia" but that he and the Grievant had been friends for a long time and the Grievant sometimes drove him around. (This statement made the Mayor feel uncomfortable.) The result of the meeting was that the Mayor informed them that the investigation had to be completed and that a hearing would be held in the future and that he believed that due process was important in all employee personnel matters.

Richardson met with the Grievant on January 19, 2022 to get his version of the December 8, 2021 incident on Main Street and Rappallo Avenue. The Grievant was represented by Kelly Robinson, a Union staff representative. Also present was Don Fisco, Deputy Director, Water and Sewer Department. The Grievant recalled Darley approached him in an aggressive manner and that Darley was upset because the truck was misaligned and yelled at him for not wearing steel toe shoes but sneakers and that at that point Darley called the Grievant a "spic". The Grievant admitted grabbing Darley by the jacket collar and stating "don't call me a spic again or we are going to have a problem".

During the time that the Grievant was out on paid Administrative Leave he showed up at job sites where the Sewer and Water employees were working. These sightings were in violation of the December 8, 2021 notice where the Grievant was informed not to show up at job sites nor communicate with employees. The City sent the Grievant another letter dated March 10, 2022 informing him of these restrictions, however, about a week later he was seen near another job site where his co-workers were working.

On April 5, 2022, the City held a Loudermill hearing to hear the testimony and evidence on the Grievant's discharge. The hearing was conducted by Mayor Florsheim. Present also for the City was Justin Richardson and the Mayor's chief of staff, Bobbye Knoll Peterson. The Grievant was present and represented by three union representatives: Joseph Barone, Robert Montuori and Jennifer Hobart. At this meeting the Grievant was asked to present his version of *the incident and any evidence he would wish to add for the Mayor to reach his decision*. The Grievant went on to allege that there has been a pattern of racial and ethnic slurs being thrown about the department which had gotten out of hand and that there were issues of workers being called "mother fucker, nigger, spic" and that this disrespect needed to stop. The Mayor told the Grievant that these issues were being investigated and were not relevant to this particular case. The Mayor asked the Grievant whether or not he had placed his hands on Darley and he denied any physical encounter.

Subsequent to the Loudermill hearing the Mayor considered the results of the investigation, the video from the street cameras as well as the testimony provided at the hearing and decided to terminate the Grievant's employment effective April 22, 2022. The City asserts that the Grievant violated several employment rules promulgated by the Employer for the proper conduct of its employees. Amongst these are its Personnel rules and its zero tolerance policy. The City adheres to a progressive disciplinary procedure but notes that in certain cases, as the present one, the employee's conduct is so egregious that progressive discipline would not solve the problem and the only correct solution is to terminate that employee. Therefore, it is the position of the Employer that the grievance should be denied because the Grievant's conduct warrants his dismissal.

The Union's Position

The Union's position is that the City violated the CBA when it discharged the Grievant without having just cause as outlined in the Enterprise Wire, 46 LA 359 (1996) case. The Union maintains that the City's whole case is contingent on the video of the incident recorded by the

street cameras on the morning of December 8, 2021 in view of the fact that the two apparent witnesses on site did not see the altercation between the Grievant and Darley. The video recording is not proof positive of Darley's version of the incident because it's not clear who is pushing whom since a tree branch is blocking the camera and is difficult to see exactly what happened. The Union argues that normal procedure in cases when two employees are involved in an alleged physical altercation is to place both individuals out on administrative leave and conduct an investigation to ascertain what occurred. In this case, the City disregarded the Grievant's attempt at providing his side of the story and immediately moved to place the Grievant out on paid administrative leave. The City could have at least met with the Grievant on December 8th to get his version of the story before placing him out on paid administrative leave and then could have proceeded to conduct a more detailed investigation of the matter. The City just accepted Darley's version of the story.

The Union noted that the Grievant made an attempt to speak to Director Fazzino that morning, about 9:15 a.m., about the manner in which Darley speaks to his workers and that he spoke down to the Grievant and disrespected him. Fazzino disregarded the Grievant's attempt at speaking to him about Darley and brushed it off as shop talk and told him to put in for a transfer to another department if he did not like working in that department and walked into the building.

The Union alleges that the City has not enforced its personnel rules concerning the manner in which supervisors speak to its workers and the type of language that seems to be allowed that is more than just "shop" talk. The use of racial and ethnic slurs appears to be allowed and engaged in by supervisors as well as the workers. When the City permits this type of offensive behavior by supervisors and department heads it creates an environment where these policies no longer exist.

The investigation report conducted by Justin Richardson, Human Resources Director, also disregards the Grievant's claim that Darley called him an ethnic slur (spic) at the time of the incident. *It states that the statement could not be corroborated and that the first time that the Grievant brought that allegation up was on January 19, 2022. Actually, the first time that the Grievant informed the City about being called an ethnic slur was when the Grievant informed the Mayor of this allegation when they met on December 17, 2022 at the Mayor's office.*

The Union stresses that the issue that Darley may have called the Grievant a "spic" and provoked the altercation as well as the City's lack of enforcement of its policies concerning the use of racial and ethnic slurs should be considered by this arbitration panel since termination is disproportionate to the alleged behavior. *The City did not have just cause to terminate the Grievant's employment and he should be reinstated to his job and made whole.*

Analysis and Conclusions

The Panel has considered all the testimony and evidence presented at the hearing and has unanimously concluded that the City had just cause to terminate the Grievant's employment for the reasons discussed herein. The Union maintains that the City's case is mainly predicated on *the video recordings of the street cameras at the intersection of Main Street and Rapallo Avenue.* We agree with the Union's argument because the video shows the two individuals moving about

but it is very difficult to show who started the shoving because tree branches block a clear view of the incident. Some sort of altercation did occur but it's difficult to ascertain how it started. Therefore, we will rely on the evidence presented as to what happened after the incident and the testimony of witnesses concerning statements made by everyone involved before and after the incident on the morning of December 8, 2021.

In this regard, we note that Darley left the job site after making sure that the jet truck was properly connected and operating and went directly to report the incident to Justin Richardson, Human Resources Director. Richardson reported that Darley said that the Grievant pushed him and threatened to kill him after Darley inquired why he was not wearing his safety shoes. According to Richardson, Darley looked very nervous and upset.

The Panel recalled the testimony that Darley gave at the arbitration hearing concerning his past interactions with the Grievant. Darley reported that besides the December 8th incident, *the Grievant had threatened him on another occasion. The Grievant came to his office on November 12, 2021, and threatened him.* Darley recalled that the day before there had been a sewer collapse on Batt Street and just about the whole staff was there except the Grievant and Sloan. Someone asked Darley if the Grievant and Sloan should be called down to the job site. Darley said that he replied that he did not want "those clowns" down there. (He claimed it was no big thing, a joke). Apparently the word got back to the Grievant and the next morning he came to see Darley at his office and was not happy of the gossip he heard from his co-workers. *The Grievant told Darley "my friend is going to visit you and we are going to get you, we are going to kill you and bury you and don't bother going downtown because I got Fazzino and Justin Richardson in my back pocket".* Darley testified that he did not report this to anyone because it gets you riled up but that he did not wish to stir the pot and thought that the Grievant would just chill out. Darley also testified that he never called the Grievant a "spic".

Richard Miano, testified that on the morning of December 8th, about 8:30 to 9:00 a.m, the Grievant showed up to the garage along with a Mr. Mazzotta (who stayed in his truck). The Grievant looked "pissed off" and said that he wanted to go home and Miano said OK. The Grievant asked Miano to call Darley because he wanted to speak to him. Miano called Darley and told him the Grievant and another individual wanted to speak to him and wanted to know his whereabouts. Darley said that he was in a meeting and did not want to speak to the Grievant. Once Miano related this information to the Grievant, the Grievant said that Darley was a "piece of shit" and an "asshole" and that "he (Darley) was going down and that he (Miano) was also going down". After the Grievant departed, Miano left the building with some contractors and when he returned 15-20 minutes later, the Grievant and Mazzota were sitting a truck in the parking lot in front of the Sewer and Water building.

Miano testified at the hearing that the Grievant had also threatened him in July 2021. He said that he did not know what brought this on but the Grievant said to him "keep running your mouth and you are going to find yourself in that dumpster". The Grievant then said "if you have a gun, sleep with it under your pillow, because I'll come in your house and fucking kill you". Miano did not report this to Human Resources but said that he made a complaint to the Police

and was told to stay away from each other. Miano did finally report this to Human Resources after the December 8th occasion when the Grievant threatened him again at the garage.

Miano also testified at the hearing that many of the workers that report to him had seen the Grievant on job sites after he was placed on Administrative Leave but he would not reveal their names because they are afraid of having issues with the Grievant. Miano, who is a very large man, much larger than the Grievant, testified that he was scared and afraid of testifying *because of the threats made to him by the Grievant. He also testified that after the Grievant was placed out on Administrative Leave on several occasions he had seen the Grievant near job sites at which Miano was present. Miano also said that on a few other occasions, when he was buying his lunch, he had observed the Grievant and Mazzota nearby which he found to be a form of intimidation for him. This wasn't just a casual run-in but that he felt he was being watched.*

The Grievant's testimony and evidence changed from one occasion to the next. He claimed that Darley called him a "spic" and that he reacted and grabbed him by the collar and said that if Darley called him a "spic" again that they would have problem. On another occasion he said that he did not physically assault Darley. At another interview he said that nothing happened between him and Darley. When he met with the Mayor, he claimed that he was the victim because Darley called him a slur and that he reacted but said that there was no physical contact.

With respect to sightings at job sites and his presence at lunch and coffee establishments during lunch time, the Grievant said that Middletown is a small city and that he frequents many of these locations. During the arbitration hearing, the Grievant said that there was no altercation and that he never touched or shoved Darley. He went off in a tangent raising issues about how the City allowed its supervisors to insult and verbally abuse its workers by referring to them as "spic", "nigger" and "faggots". The Panel noted that at no time during the investigation nor at the Loudermill hearing nor at the arbitration hearing did the Grievant ever accept any of responsibility for the altercation nor did he ever apologize for the threats to kill Miano or Darley.

We have concluded that the City has met its burden for just cause as outlined in Enterprise Wire. That case sets forth seven (7) principles that an employer must follow to show that it had just cause to terminate an employee. In this regard, we note the following:

1. The employee was forewarned of the consequences of his actions.

The Grievant received the CBA, the relevant personnel rules as well as a copy of the Zero Tolerance Policy when he was hired. He also signed off on a new employee checklist when he was hired containing all the rules and regulations of his employment. A very significant event that shows that he was aware of the consequences of his actions is the verbal reprimand that he received in 2017. The Grievant was involved in a heated debate with a co-worker in which the investigator described that the Grievant's behavior was "egregious and disruptive to the work environment that day". The verbal reprimand warns the Grievant that if he failed to correct his behavior he would be subject to further discipline including termination. Clearly, the Grievant had been forewarned that the consequences of his actions could result in termination.

2. The City's rules are reasonably related to business efficiency and performance that an employer might expect from an employee.

The City has a Zero Tolerance Policy which encourages all employees to treat each other with respect so that the work environment is free of abusive, threatening, intimidating or demeaning behavior. The policy requires employees to act with civility, professionalism, and decorum which are qualities that enable a work place to be efficient and successful.

Similarly, the City's Personnel Rules are also appropriate and reasonably related to the City's goals and objectives to have rules that are properly adhered to for the benefit and safety of all its employees. We have determined that the Grievant's actions violated several of these rules. Amongst them the most important ones are:

- a. Insubordination, or refusal by an employee to follow a supervisor's instruction concerning a job related matter.
- b. Fighting with either a fellow employee or visitor to the City of Middletown while on work time
- c. Threatening or intimidating supervisors or fellow workers, or members of the general public
- d. Failure to wear assigned safety equipment or failure to abide by safety rules and policies
- e. Engaging in any form of harassment that violates the Zero Tolerance Policy.

3. Effort was made before discipline was issued to determine whether the employee was guilty as charged.

The Panel noted that the City afforded the Grievant due process and the benefit of a doubt before it terminated his employment. He was placed on paid administrative leave while the City conducted a lengthy 4 ½ months investigation. The City interviewed everyone involved in the incident which resulted in an investigative report being issued. After this report was issued the City held a Loudermill hearing where the Grievant was allowed to present his version of the facts, while being represented by his Union. The Mayor did not make his final decision until after he read the investigative report and held the Loudermill hearing. We find that the City met the third principle for just cause.

4. The investigation was conducted fairly and objectively.

We find that the City has also complied with this principle of just cause. As discussed above in item 3, the City fully investigated the matter before issuing its disciplinary action. A full investigation was conducted, the Grievant was placed on paid Administrative Leave and allowed to present his evidence and version of the facts. Although the Grievant alleged that Darley used an ethnic slur against him, the Panel finds it incredulous that Darley called him a "spic". Darley had already been threatened by the Grievant on November 21, 2021 when the Grievant came to his office and said "my friend and I are going to kill you and bury you". We don't believe that Darley would engage in such an insult believing that this was a very violent individual that could probably carry out such a threat.

5. Substantial evidence of the employee's guilt was obtained.

We also have determined that the City met the requirements of this just cause principle. The Panel finds that the Grievant engaged in physical violence, threats and intimidation. Darley's recount of the altercation is credible. The Grievant grabbed him by his jacket's collar and then shoved him against the truck while placing his forearm against his throat. He also made threats to kill Miano and Darley. He also engaged in intimidation tactics by watching his co-workers at work and by showing up at their lunch establishments.

The Panel was particularly amazed at the Grievant's audacity when he showed up at the Mayor's office with Mr. Mazzotta (but without the Union) while his case was pending. The Grievant did not go there to ask the Mayor for a second chance because he had lost his temper or his cool. Mr. Mazzotta said when first introduced to the Mayor, that people said that Mazzotta was "mafia, mafia, mafia". He did not have to say that but the message was clear that the Grievant had some dangerous friends. The Panel also noted that if the Grievant had shown remorse of his actions and requested an opportunity to mend his ways that the Mayor could have reduced the termination to some lesser disciplinary action. At the time of this meeting the Mayor had not made his decision to terminate the Grievant's employment.

6. Rules were applied fairly and without discrimination

We conclude that the City applied its rules fairly and without discrimination. There is no evidence that the City treated the Grievant different and unfairly because he is a Hispanic male. The Grievant asserts that Darley insulted him by calling him a "spic" but we have already determined that was very improbable. The City provided the Grievant with due process and allowed him to provide his version of the facts while being represented by the Union. There was no evidence presented that showed that the City had permitted any employee to intimidate his/her co-workers nor to threaten to kill supervisors and to assault them.

7. The degree of discipline was reasonably related to the seriousness of the employee's offense and past record.

We have determined that the City had just cause to terminate the Grievant's employment because of the totality of his conduct. He engaged in intimidation of his supervisors and threatened to kill both Darley and Miano, his direct supervisors. They were so intimidated that they were afraid to bring the threats up to upper management for fear of retaliation from the Grievant. The Grievant then proceeded to start an altercation that resulted in Darley being assaulted by the Grievant. The City determined that given the Grievant's propensity for violence that the appropriate decision was to terminate his employment.

Based upon the above review of the events of this case, it is the unanimous conclusion of this Panel that the City had just cause to terminate the Grievant's employment. There have been too many incidents in this nation, and in Connecticut, of employees engaging in violent acts against their co-workers and supervisors, including assaults and homicide. It is a generally accepted principle of labor relations that if an employee threatens to kill and/or assaults his/her supervisor that the employee loses his/her job. No employer can permit the type of behavior

engaged in by the Grievant to continue without it getting progressively worse. The City had just cause to terminate the Grievant's employment. Accordingly, the grievance is denied.

AWARD

The grievance is denied.

**CONNECTICUT STATE BOARD OF
MEDIATION AND ARBITRATION**

By Nestor L. Diaz

Nestor L. Diaz

Panel Chair & Alternate Public Member

By Michael C. Culhane, Sr.

Michael C. Culhane, Management Member

By Peter Carozza

Peter Carozza, Alternate Labor Member