
City of Stamford, Board
of Education

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CASE NO. 2023-A-0010

And

Date of Award: July 28, 2023

Hearing Dates: November 17, 2022, December 5, 2022

& January 6, 2023

Stamford Board of Education
Employees Association

Location of hearing: Via Zoom

Gabriel J. Juran, Esq. for the City

John M. Gesmonde, Esq. for the Union

ISSUE

Did the City of Stamford have just cause to discipline the Grievant?

If [not], what shall be the remedy, consistent with the collective bargaining agreement?

The City of Stamford /Stamford Board of Education (City) and the Stamford Board of Education Employees Association (Union) have a long-standing relationship based upon the collective bargaining agreement they negotiated covering the employment of maintenance personnel. Union member Roy Carbino (Grievant) was temporarily demoted from Head Custodian to Custodian for violating the sexual harassment policies of the City of Stamford.

Factual Background

The Grievant was accused of by a co-worker in a September 21, 2022, written complaint of a pattern of unwelcome sexual advance despite being told she was not interested in his invitations. The City investigated and found there was sufficient evidence to discipline the Grievant. Based upon his work record and length of service the City chose to demote the Grievant from Head Custodian at Springdale School to Custodian for at least six months.

The City's Position

Recognizing that a written complaint charging sexual harassment required a thorough investigation the City did so with each of the complaint's claims. Interviewees included the accuser, the Grievant and coworkers identified as witnesses to his unwanted comments, advances, or interaction.

The investigation determined the incident in the doorway where the complainant repeatedly asked to be allowed to pass with an "excuse me" was wholly ignored by the Grievant. When questioned during the investigation the Grievant had no answer for why he chose to put her in this awkward situation.

A review of the other issues cited by the complainant, including repeated unwanted invitations to go out for dinner or drink as well as commenting on her appearance were also confirmed by the investigation. Despite being told by the complainant and other co-workers that she was not interested in him, the Grievant continued with his unwanted advances.

The investigation, as well as the Grievant's admission during the interview, substantiated several of the written complaints that he clearly presented a pattern of unwanted, sexually based behavior, towards the complainant. The pre-disciplinary hearing found after reviewing the Grievant 's side of the story and work history, that a temporary demotion and transfer to a different school would be appropriate for an employee with his tenure and work record.

The Union's Position

The Union argued expansively that the City "...did not follow the law; that is neither the Sexual Harassment Policy of the City of Stamford nor the Stamford Board of Education. "(Union Brief pg.10) Further they claimed the documents used to judge if a violation had occurred were either out of date or not officially approved for use by the Board of Education. Their conclusion, the Grievant was not afforded due process.

On the specific charges of unwanted invitations, the Union suggested that the three instances he was charged with happened over a 1 1/2- and 2-year period, were hardly an example of "sexual harassment." The Union recognized the doorway incident as an example of where "...the Grievant did not get out of the way immediately or fast enough upon her request..."

DISCUSSION

In the last several years the definition of and tolerance for sexual harassment has changed remarkably with an expansion of the classification and a substantially lower tolerance for its occurrence. What we have here is an excellent example of how society has changed and, slowly, the work environment has followed but not everybody is on the same page. By his actions the Grievant remembers how it was acceptable to make the casual sexual comment be it an unambiguous invitation or something more physical. The unsolicited invitations/suggestions or the "accidental" brush-by in the doorway are no longer acceptable, especially following the explicit, no, I am not interested, coming from the target of his attention. The Grievant was not terminated but demoted temporarily which is minimal discipline when termination was a legitimate possibility and one that was contemplated by the City.

DECISION

The grievance is denied.

STATE OF CONNECTICUT, LABOR DEPARTMENT
BOARD OF MEDIATION AND ARBITRATION

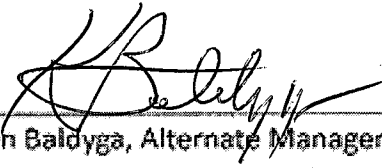
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Mark E. Sullivan Alternate Public Member

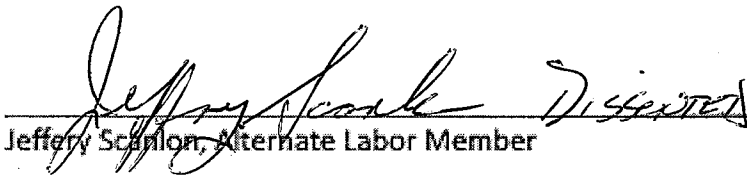
6-22-23

Date



Ken Baldyga, Alternate Management Member

Date



Jeffery Scanlon, Alternate Labor Member

7/27/23

Date