

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

In the Matter of:

BRIDGEPORT HOUSING AUTHORITY/
PARK CITY COMMUNITIES

And

AFSCME COUNCIL 4, AFL-CIO
LOCAL 1303-430

Case No. 2022-A-0191

September 20, 2022

ARBITRATION AWARD

Representing the Union:

Cherlyn Poindexter
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Connecticut Council 4
AFSCME, AFL-CIO
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**Representing the Bridgeport
Housing Authority:**

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Arbitration Panel:

Peter Carozza – Union Representative
Richard Podurgiel - Management Representative
M. Jackson Webber -Neutral

FACTS:

Raymond Collette (hereinafter called "Collette" or the "Grievant") is a Senior Accountant with the Bridgeport Housing Authority d/b/a Park City Communities (hereinafter called the "Housing Authority") (See Union Brief Page 7). His personnel file was "...clean..." prior to receiving a written warning that has given rise to the instant arbitration (See Union Exhibit 4 and Union Brief Page 7). In 2021 he was elected President of Local 1303-430 that has brought this grievance matter (See Union Brief Page 7).

Within thirteen (13) calendar days, two incidents involving the Grievant resulted in his receiving a "written warning" from the Housing Authority. On April 1st, 2021, the Grievant interjected himself into a conversation between Deidre Perry, the Housing Authority's Chief of Property Operations, and the Chief Financial Officer of the Housing authority by opining that Tamara Brown who is a non-bargaining employee (non-union) of the Housing Authority shouldn't be placed in the reception area "...to man the bathrooms..." The entrance to the bathroom is located to the right of Ms. Brown's reception and work desk (See Employer Exhibit 1 and Housing Authority Brief Page 4). The Grievant also made "...inappropriate and abusive comments directly to Ms. Brown about 'manning the bathrooms.' " Ms. Brown complained to Jillian Baldwin, the Chief Executive Officer of the Housing Authority (See Housing Authority Brief Pages 4 and 5).

On April 13, 2022, Deidre Perry and Syeatta Bolden, the Housing Authority's Manager of Human Resources were making copies in the copy room which opens directly on the conference room area. They were in the process of "onboarding nine (9) temporary employees" into full-time positions. Those nine people were in the conference room (See Housing Authority Brief Page 5). The Grievant challenged Ms. Perry and loudly said: "I heard you hired nine temps and none of them are white" (See Housing Authority Brief Page 5). He then added: "That's going to be a problem..." and abruptly left the room. There was testimony from both Ms. Perry and Ms. Bolden that the newly hired employees overheard the Grievant's comments (See Housing Authority Brief Page 5).

The evidence is that none of the people being onboarded to full time positions who were in the conference room were white (See Housing Authority Brief Page 5). Both Ms. Bolden and Ms. Perry are African Americans. The Grievant's remarks implied that they were racist (See Housing Authority Brief Page 5).

Based on those two incidents, the Housing Authority issued a written warning on May 11, 2021 citing rudeness to co-workers...and violations of Company Policies. His written warning stated that his bathroom comments were "...not only unprofessional, but... disparaging, derogatory and in violation of your Collective Bargaining Agreement, as well as..." the "Policies and Procedures" of the employer. (See Joint Exhibit 3).

As to the Grievant's comments made on April 13, 2021, and overheard by the new employees, the written warning asserted that they were "...unprofessional and in violation of your Collective Bargaining Agreement, as well as..." the Policies and Procedures" of the Housing Authority (See Joint Exhibit 3).

In response, on May 13th, the Union filed a grievance claiming that the written warning against Mr. Collette was a violation of Article 1, 7, 9 and 12 of the Collective Bargaining Agreement between the Union and the Housing Authority (See Joint Exhibit 4) and Union Brief Page 8).

UNION ARGUMENT

Local 1303-430 of Council 4, AFSCME, AFL-CIO (hereinafter called the "Union") pointed to another, earlier disciplinary case against an employee of the Housing Authority by name of Patricia Lewis. The Union offered that the actions complained of in that case were more egregious than anything the Grievant in the instance case may have done in that Ms. Lewis was accused of "...refusal to obey a lawful directive of a supervisor..." The Union offered that in that case, Ms. Lewis was given "progressive discipline," i.e., first a verbal warning and then a written warning. Therefore, the Union contended that the Grievant in the instant matter was never given progressive discipline, but rather was given a written warning in the first instance (See

Union Brief Page 8 and Page 9). The Union contended that the disparate treatment between the penalties given to Ms. Lewis and that given to the Grievant ‘...should compel the arbitrator to set aside the discipline...’ of the written warning (See Union Brief Page 8). The Union further maintained that “...even if Mr. Collette had violated some policy, procedure, or contract provision, he should have been afforded progressive discipline as a corrective tool. Mr. Collette should have been allowed the opportunity to correct his alleged infraction” (See union brief Page 11).

The Union further asserted that the Housing Authority never “warned” the Grievant that his actions in this matter could result in a written warning. It contended that the Housing Authority didn’t produce even “one exhibit” that showed a procedure for addressing management. In fact, it asserted that the Grievant was inquiring about the hiring in “...his official capacity as Union President...” Therefore, it complained that the Housing Authority did not have “Just Cause” to issue a written warning to the Grievant (See Union Brief Page 9).

The Union strongly contended that the Grievant, in his capacity as President of the Union Local 1302-430 of Council 4, AFSCME, AFL-CIO, had “...every right to make inquiries” (See Union Brief Page 10). It asserted that those inquiries were not “...comments based on race...”

HOUSING AUTHORITY ARGUMENT

The Housing Authority asserted that it had “Just Cause” to issue a written warning to the Grievant in this matter. It acknowledged that to justify the imposed discipline, it “...must establish a preponderance of the evidence...” (See Housing Authority Brief Page 5). It further agreed that in order to show that Just Cause exists, two elements must be met. First, whether the facts are such that a “...basis for discipline exists and second, “...whether the amount of discipline was proper under the circumstances...” (See Housing Authority Brief Page 6)

Further, the Housing Authority argued that since discharge is a management function, the “...sole duty of the Arbitrator is to determine whether management’s decision was arbitrary, capricious, unreasonable or based on a mistake of fact...” (See Housing Authority Brief

Page 6). In this regard, the Housing Authority points to the Grievant's "...unprofessional, abusive, belittling, boorish and racist comments on April 1, 2021 and April 13, 2021..." as having occurred. The comments claimed were factual! Therefore, just Cause follows those facts (See Housing Authority Brief Page 6).

In addition, it offered the testimony of Ms. Baldwin who at the arbitral hearing stated that she had in fact, prior to April 1, 2021, verbally warned the Grievant about the "inappropriate manner in which he interacted with co-workers," although she did not put the verbal warning in writing and in his personnel file (See Housing Authority Brief Page 6 and 7).

Based upon the comments, the Housing Authority asks that it be found that the discipline was proper. It asks that the Grievance be denied. (See Housing Authority Brief Page 6 and 7).

ISSUE:

1. Did the Housing Authority of the City of Bridgeport d/b/a Park City Communities have Just Cause to issue a written warning to Raymond Collette (the "Grievant") on or about May 11, 2021?
2. If not, what shall the remedy be?

AWARD:

The Housing Authority of the City of Bridgeport d/b/a Park City Communities did have Just Cause to issue a written warning to Raymond Collette (the "Grievant") on or about May 11, 2021. The Grievance is denied. The discipline stands.

REASON:

There is no evidence to contradict the accusations and testimony against the Grievant that on April 1, 2021, he made demeaning comments about Tamara Brown manning the bathrooms not only to Ms. Brown but also to Deidre Perry, the Housing Authority's Chief of Property Operations, and the Chief Financial Officer of the Housing authority. Further there is

no evidence to contradict the accusations and testimony against the Grievant that on April 13, 2021, he made inappropriate and discriminatory remarks based on race in front of new employees and administrators. That the Grievant did make the alleged statements have not been contradicted by the Union, albeit it insists that the Grievant "...did not make comments based on race..." (See Union Brief Page 10)

It is also clear that the employees of the Housing Authority, under their "Personnel Policy "...have the right to work in an environment free of offence or hostility." The policy stresses that discrimination based on "...sex, race, color, religion, age, national origin, ancestry, citizenship... is unlawful under Federal and State law and will not be tolerated..." by the Housing Authority. Therefore, the grievant had knowledge of, or should have had knowledge that racial discrimination will not be tolerated (See Joint Exhibit 2 – Personnel Policy Page 17). By his comments, he abused that policy causing great concern among fellow employees like Ms. Brown, Deidre Perry, and his superiors. That he did so in front of newly hired personnel is established.

The Grievant's argument that he was only acting in his capacity as Union President, inquiring about hiring practices is not credible. To begin with, his credentials as President of Local 1303-430 do not apply to the instances discussed in this arbitral proceeding. Ms. Brown is non-bargaining employee not subject to his Union and the nine employees being onboarded on April 13 who overheard his remarks would become members of Local 2311, not the Grievant's Local 1303-430. In other words, he had no jurisdiction over the said nine people or the appropriateness in their being hired. He simply stepped in where he wasn't needed and abused both employees and staff. (See Housing Authority Brief Page 5).

It is found that the discipline of a written warning was not arbitrary or capricious. Rather, it was fair and reasonable in light of the facts established. The Grievant made the negative comments and did not refute them at hearing. He made the comments in front of employees, staff, and new hires. He knew or should have known the Personnel Policy against such actions and comments. As stated above, there was testimony that at an earlier date, the

Grievant had been issued an oral warning about his "...inappropriate..." interaction with co-workers that was not reduced to writing and placed in his personnel file. In spite of all that, the Housing Authority did not choose stronger discipline such as a requirement to enroll in sensitivity training, or suspension etc. Its written warning was a moderate exercise of its management right to exact discipline.

The Grievance is denied.

Respectfully submitted:


Peter Carozza – Union Representative


Richard Podurgiel - Management Representative


M. Jackson Webber - Neutral

August 26, 2022