

Arbitration Award Summary

08-E—00588 – Written Reprimand / AWOL

Case Outline:

This grievance falls under the Collective Agreement expiring March 31, 2009.

The grievor received a warning letter following a day where she was perceived as away without leave by the Employer. The grievor had accompanied a family member on medical travel and had spoken to her supervisor about requiring further time. One additional day was approved but there was a miscommunication in regards to a second day for which the grievor did not receive pay.

Employer's Argument:

The Employer made a preliminary objection to the Arbitrator's jurisdiction in hearing this grievance, claiming that the final level of resolution under Article 37.01(2) was by the Minister.

They further argued that the letter of reprimand was warranted as the member had not requested leave. The grievance had been addressed by Mr. Robert McLeod, Minister of Human Resource at the final level and he had responded that he was "satisfied that (*the grievor*) failed to seek approved leave and was appropriately deemed absent without approved leave on February 19, 2008."

The Employer also noted that it was a matter of her not being paid for work not done, and receiving a written warning for her actions without financial penalty. The Employer did not view her as having grieved any denial of leave.

Union's Argument:

The Union argued that the matter came under Article 37.01(b) as a disciplinary action resulting in a financial penalty which allows an Arbitrator to resolve the matter under Article 37.01(2)(c) as the grievor's pay was docked.

Further, the Union submitted that this matter should be considered in its entirety with respect to the grievor's absence in order to determine whether any financial penalty existed. The foundation of the written reprimand was in the denial of the grievor's special leave. The Union viewed the leave denial as incorporated into the grievance of the written reprimand.

Arbitrator's Decision:

The Arbitrator found that he was without jurisdiction to convene an arbitration hearing and dismissed the grievance on that basis.

On his review of the formal grievance, he noted that though the warning letter was plainly grieved, that there was no specific reference to the denial of special leave resulting in a financial penalty. The grievance does speak to a misunderstanding between the grievor and her supervisor in regards to her requiring an additional day, but it did not list an improper denial of paid leave.

NOTE: Under Article 37 unless there is a financial penalty directly linked to a Written Reprimand, the final level for a grievance is to the Minister. For this reason, the Arbitrator ruled on jurisdiction and did not convene a full Arbitration hearing.