



NH Supreme Court declined appeal of this decision on July 31, 1992, NH Supreme Court Case No. 92-168.

**State of New Hampshire**  
PUBLIC EMPLOYEE LABOR RELATIONS BOARD

GORDON SUMMERS	:	
	:	
Complainant	:	
	:	
v.	:	CASE NO. S-0327:5
	:	
MERRIMACK COUNTY COMMISSIONERS	:	DECISION NO. 92-18
	:	
Respondent	:	
	:	

APPEARANCES

Representing Gordon Summers:

John G. Vanacore, Esq., Counsel

Representing Merrimack County Commissioners:

Andrea K. Johnstone, Esq., Counsel

Also appearing:

Gordon Summers  
Carol A. Bickert, Merrimack County  
William R. Potter, Merrimack County

BACKGROUND

The complainant in these proceedings was formerly employed by the Merrimack County Department of Corrections until he was discharged effective December 19, 1988, under the provisions of Article 17 of the collective bargaining agreement. That discharge was processed through the grievance procedure of the collective bargaining agreement, culminating in a final and binding arbitration hearing before Arbitrator Allan C. McCausland on April 14, 1989. Arbitrator McCausland issued his decision May 15, 1989, sustaining the discharge.

By letter of August 23, 1989, Attorney John Vanacore, representing the Complainant, requested that this Board review the arbitrator's decision based upon a belief that the arbitrator had applied inappropriate standards relative to the discharge. Complainant alleges that he was terminated under Article 17.3.C.5 (c) of the contract which provides "employees who receive two written warnings for the same offense may be discharged by receipt of a final written notice of subsequent violation for that offense" but that his employment history did not reflect three written warnings for the same offense. The arbitrator found to the contrary.

A pre-hearing conference was scheduled and held November 21, 1989. On January 25, 1990, the Board's hearing officer issued Decision No. 91-04, finding that the arbitrator had considered all the issues and acted in accord with Article 17.3.C.5 (c) of the contract and declined to overturn (or recommend overturning) his decision. Attorney Vanacore requested a copy of Decision 91-04 by letter of July 16, 1991. That copy was sent on July 30, 1991. Attorney Vanacore requested a hearing before the Board by letter of August 30, 1991. Respondent filed a Motion to Dismiss on January 14, 1992.

A hearing before the Board was held at the PELRB office in Concord, New Hampshire on January 21, 1992.

DECISION AND ORDER

After reviewing documents and hearing arguments by the parties, this Board concludes that the issues raised before it on January 21, 1992, had been fully explored by the arbitrator in his decision of May 15, 1989, wherein he explained that the grievant had received the requisite number of written warnings "for failure to follow proper policy and procedures when handling issues dealing with inmates" and sustained the discharge.

Thereafter, it was moved, seconded and unanimously voted that:

This Board has reviewed the decision of the arbitrator concerning the issues that were raised by the complainant in detail and finds no reason to overturn the final and binding decision, and, therefore, moves to uphold the hearing officer's decision not to overturn the arbitrator's decision in Case S-0327:5, Decision No. 91-04.

Case DISMISSED.

So ordered.

Signed this 23rd day of January, 19 92.

  
EDWARD J. HASELTINE  
Chairman

By unanimous vote. Chairman Edward J. Haseltine presiding. Members Richard W. Roulx and E. Vincent Hall present and voting.