

Another Union Arbitration Win

Matt Champagne had been working for almost two (2) years as an order selector for Canada Safeway in the Edmonton Distribution Centre when he was summarily fired along with another employee for an incident of horseplay when they were throwing bits of damaged product at one another one evening for a short period of time.

While Mr. Champagne did not dispute that there was a bit of horseplay going on that evening, both he and the Union were of the view that firing Matt for this was akin to dispatching a mosquito with a hand grenade.

Safeway argued that Matt was guilty of damaging saleable merchandise. In fact what Matt was throwing in the warehouse was cheese slices that had been laying on floor and which had been run over by a pallet jack. We find it difficult to comprehend that Safeway would consider selling this merchandise but I guess they know their business better than we do. Safeway noted that there was a significant amount of debris laying around the floor of the warehouse and tried, without any evidence at all, to argue that Matt and the other individual involved were guilty of throwing all of it. Matt refused to admit to throwing all of the stuff on the floor, though he did own up to the cheese slices. Accordingly, the Employer added dishonesty to their allegations because he wouldn't own up to throwing merchandise that he had nothing to do with. In addition, when Safeway security got involved they tried to question Matt without the presence of his Union Representative. When Matt refused to answer any questions until his Union Representative, Zig Zigart was present, they then attempted to use this request for representation against him also.

It should be noted that the Employer became aware of the cheese throwing incident as a result of a co-worker and a fellow Union member ratting the gentlemen out to Management. Not only did that bargaining unit member rat them out in regards to this incident, he also went back and started thinking up other things he could accuse them of and reported these things to Management as well. It should be noted, however, that when this matter proceeded to arbitration the arbitrator had little use for the individual who ratted out his co-workers and advised that he was left "questioning both his reliability and his motives".

After hearing several days of evidence, Arbitrator Hornung found in favour of Mr. Champagne and the Union. Neither Mr. Champagne nor UFCW had ever suggested that he should walk away unscathed. We argued, however, that in selecting a level of discipline an employer must look at the employee's record and give him the benefit of "progressive discipline" prior to resorting to the ultimate sanction of termination. Termination has been described in the various arbitration authorities as being "industrial capital punishment". We argued and Arbitrator Hornung agreed, that "progressive discipline" was the most appropriate way to go in a case such as Mr. Champagnes.

"Progressive discipline" can be described essentially as a verbal warning for a first offense, followed by a written warning should behaviour continue, followed by a short

suspension for the next offense, followed by a longer suspension for the offense following that, and finally, after all of these steps or similar steps have failed, then termination. In making this finding, Arbitrator Hornung quoted from another very well know arbitrator stating the following:

“Progressive discipline usually envisages that in disciplining an employee, the Employer will proceed first by way of warnings, oral or written, then by way of increasingly long suspensions, with discharge being used only as a last resort if the employee’s conduct or performance continues to be unsatisfactory. One reason for requiring progressive discipline is to ensure that the employee fully realizes that his or her job will be in jeopardy if his or her conduct continues to be unsatisfactory. Another is to ensure that the employee has a chance to make the necessary improvement”.

Arbitrator Hornung reinstated Matt Champagne to his employment with Canada Safeway stating that termination was “excessive in the circumstances”. The arbitrator substituted a one (1) month suspension. Mr. Champagne received back pay of more than twelve thousand (\$12,000.00) dollars.

In a separate Arbitration the second employee involved in the cheese throwing incident was also reinstated to his job with compensation. The amount is still to be calculated.

Please don't take from this that UFCW Local 401 condones horseplay in the work place. We clearly do not. However, another thing we don't condone is an Employer who grossly over reacts in the amount of discipline necessary. When this happens your Union is prepared to file grievances and fight the matter on your behalf.