

CUPE/School District No. 23 (Central Okanagan): Termination of Custodian

The grievor, a custodian with 12 years' service who was advancing in age and had physical ailments, was terminated. A number of meetings had been held and warnings issued regarding the grievor's failure to meet district standards for cleaning. At the time of termination the grievor was being accommodated in a six hour position rather than working full time.

Arbitrator Chris Sullivan dismissed the grievance. The arbitrator determined that there was no linkage between the grievor's poor performance and his medical issues and found the employer had met the test for dismissal on two bases:

- Culpable — "The Employer has diligently followed a course of progressive discipline that included a two week suspension and a two-day suspension, and a number of letters of reprimand that were not grieved. The Union filed a grievance against the one-day suspension... but has not pursued this."
- Non-culpable — "The Employer clearly defined the level of job performance required and it communicated the standards orally on a number of occasions, and also by providing the Grievor with copies of the Custodial Standards document...provided ample supervision and instruction to the Grievor. The Grievor was given a reasonable opportunity to meet the standard and, on occasion, showed he did possess the knowledge and ability to perform his work. Ultimately, however, the Grievor failed to maintain an acceptable standard for any reasonable length of time. For whatever reason he invariably reverted to a pattern of sloppy and slow, unacceptable, work."

BCPSEA Reference No. A-09-2006.

Questions

If you have any questions concerning these decisions, please contact your BCPSEA liaison. If you want a copy of the complete award, please contact **Nancy Hill at nancyhi@bcpsea.bc.ca** and identify the reference number found at the end of the summary.