

AFSCME Council 24
WISCONSIN STATE EMPLOYEE UNION, AFL-CIO
Arbitration Award Summary

WON:		CONTRACT	1997-99
LOST:	XXX	CASE NO.:	16543
SPLIT:		VOLUME:	12-15
ISSUE:	OVERTIME PAY	PROVISIONS:	ARTICLE VI, SECTION 2
ARBITRATOR:	VER PLOEG		
HEARD:	12/6/99		
AWARD:	12/10/99	LOCAL:	3394
		BARG. UNIT:	S&PS
		EMP. UNIT:	DOC-CCI

The Grievant was a Correctional Officer in the Columbia Correctional Institution. In August of 1998, an inmate prepared a written statement accusing the Grievant of violating the Employer's fraternization policy and receiving drugs from the inmate. The Employer immediately undertook an investigation and initially allowed the Grievant to continue working. However, in October of 1998, the Grievant was placed on a paid suspension pending further investigation. In January of 1999, the Grievant was returned to the workplace and no discipline was imposed. Although the Grievant was in full pay status during the suspension, she did not earn the overtime pay which she normally would have been eligible for.

The Employer argued that the allegations made against the Grievant were very serious and that it had an obligation to investigate them. It noted that the Grievant was in full pay status and that her movements were not restricted. Therefore, it acted reasonably when it declined to pay for overtime not worked.

The Union argued that the Employer dragged out the investigation longer than was necessary. It also argued that, because the allegations against the Grievant were found unsupported, she should have been made whole in all respects-including made whole for the overtime she would otherwise have worked.

According to the Arbitrator, the evidence demonstrated that, while the investigation was lengthy, the delay was reasonable given the difficulty involved. Thus the question became who, between two innocent parties, must stand the loss stemming from circumstances for which neither was responsible. The Arbitrator could find no help in the pertinent language of the collective bargaining agreement. However, the Arbitrator noted that the Employer accommodated the Grievant during the suspension requiring only that she be available by phone during her normal working hours. She was even allowed to take a trip without charging it to her vacation credits.

For all of the above reasons, the grievance was denied.