

COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF LABOR RELATIONS

In the Matter of the Arbitration Between: *
*
TOWN OF HOPKINTON *
*
-and- * ARB-20-8043
*
MASSACHUSETTS LABORERS' DISTRICT *
COUNCIL *

Arbitrator:

Timothy Hatfield, Esq.

Appearances:

Nicholas Anastasopoulos, Esq. - Representing Town of Hopkinton
Sal Romano - Representing Massachusetts Laborers' District Council

The parties received a full opportunity to present testimony, exhibits and arguments, and to examine and cross-examine witnesses at a hearing. I have considered the issues, and, having studied and weighed the evidence presented, conclude as follows:

AWARD

The Town was not arbitrary or capricious and did not abuse its discretion when it terminated the grievant. The grievance is denied.



Timothy Hatfield
Arbitrator
September 8, 2021

INTRODUCTION

Massachusetts Laborers' District Council (Union) filed a unilateral petition for Arbitration. Under the provisions of M.G.L. Chapter 23, Section 9P, the Department of Labor Relations (Department) appointed Timothy Hatfield, Esq. to act as a single neutral arbitrator with the full power of the Department. The undersigned Arbitrator conducted a virtual hearing via Web Ex on September 22, 2020.

The parties filed briefs on January 21, 2021.

THE ISSUE

Was the Town arbitrary, capricious, or did it abuse its discretion when it terminated the grievant in February of 2020 in violation of Article 6 and Article 7 of the collective bargaining agreement? If so, what shall be the remedy?

RELEVANT CONTRACT LANGUAGE

The parties' collective bargaining agreement (Agreement) contains the following pertinent provisions:

ARTICLE 6 MANAGEMENT RIGHTS (IN PART)

Nothing in this Agreement shall limit the Town in the exercise of its function of efficient management and in the direction and supervision of the Town's business. This includes, but is not limited to, the right to: ... establish job descriptions for each position; assign work and work to be performed; hire and promote employees; suspend, demote, discharge or take other disciplinary action against employees; ... determine standards of proficiency in work skills and physical fitness standards required for each position; ... except where any such right[s] are specifically modified or abridged by the terms of this Agreement.

Management also reserves the right to decide whether, when, and how to exercise its prerogatives, whether or not enumerated in this Agreement. ...

Notwithstanding the foregoing, all conflicts between the provisions of this article and the provisions of other articles in the contract will be resolved in favor of such other articles. The negotiated grievance procedure will be the sole process for resolving disputes as to the application, meaning and interpretation of this agreement.

ARTICLE 7 GRIEVANCE PROCEDURE (IN PART)

A grievance is a dispute which may arise between the parties as to the application, meaning or interpretation of this Agreement and shall be settled in the following manner: ...

Step 4: If the grievance is still unsettled, the Union may, within fifteen (15) working days after the response of the Town Manager or when the response of the Town Manager and/or the Board of Selectmen was due, by written notice to the other, request arbitration.

The Town and the Union agree to use arbitrators offered by the Division of Labor Relations (DLR). ...

[T]he Arbitrator shall have the power to direct a resolution of the grievance up to and including restoration to the job with all compensation and privileges that would have been due the employee, provided, however, that the award of the arbitrator does not include interest. The decision of the Arbitrator shall be final and binding on both parties and appealed only pursuant to M.G.L. c. 150C. The Arbitrator shall have no authority or jurisdiction to add to, delete from, alter, amend, or modify this Agreement, establish new terms and conditions under this Agreement, or substitute his or her judgment for that of management's actions are arbitrary, capricious and amount to an abuse of discretion(sic).

RELEVANT TOWN HANDBOOK LANGUAGE

As of January 2012, the policies, procedures and benefits contained in this Employee Handbook supersede all previous policies, procedures and benefits of the Town of Hopkinton, except as provided by collective bargaining agreement, or individual contract. Collective Bargaining unit employees and employees covered under an individual contract should consult the terms of their applicable agreement.

SECTION F-2: GUIDELINES FOR APPROPRIATE CONDUCT AND DISCIPLINE (IN PART)

Employees are expected to conduct themselves in a professional and respectful manner consistent with the high standards held by the Town. The list of infractions mentioned below, although not intended to be all-inclusive, illustrate some of the breaches of conduct that may result in disciplinary action, up to and including dismissal: ...

6. Engaging in insubordination or refusal to follow the lawful directions of a person with management responsibility.

7. Neglecting one's own job duties and responsibilities or refusing to perform work assigned. ...

JOB DESCRIPTION – MAINTENANCE MECHANIC

SUPERVISION RECEIVED AND EXERCISED

Performs varied duties of a routine to complex nature following acceptable standards of quality and performance. Duties often require the exercise of judgment in operating and maintaining a variety of public works equipment and in applying technical expertise to a particular situation. Works under the direction of the Highway Manager. Supervises an Assistant Maintenance Mechanic.

JOB ENVIRONMENT (IN PART)

Errors in judgment may impose undue and substantial expense recovering from errors, result in delays or loss of service, cause damage to buildings and/or equipment, injury to others and legal and/or financial ramifications.

FACTS

The Town of Hopkinton (Town) and the Union are parties to a collective bargaining agreement that was in effect at all relevant times to this arbitration. Unless otherwise provided by the collective bargaining agreement, bargaining unit members are covered by the Town's Employee Handbook. David Armstrong (Armstrong / grievant) has worked in the Town's DPW as a Maintenance Mechanic for approximately nineteen years. John Westerling (Westerling) is the DPW Director, and Michael Mansir (Mansir) is the DPW Highway Manager and Armstrong's immediate supervisor.

Armstrong had disciplinary issues dating back to 2013. In 2019, the Town held a disciplinary hearing for Armstrong. Armstrong attended this hearing with a Union representative. At the conclusion of this hearing, the Town stated in its findings that:

- You have an overall negative attitude towards the department, your co-workers and supervisors
- Your attitude creates a hostile work environment for other Department employees
- You are unprofessional, disrespectful and insubordinate, causing disharmony and disruption to the overall DPW operation.

As a result of its findings, the Town disciplined Armstrong stating:

Accordingly, you will be suspended without pay for thirty (30) days to be served on four (4) consecutive weeks, beginning on Monday, April 1, 2019. Additionally, for a period of two (2) years, you will be on a Last Chance status with the Town. If during that period you conduct yourself in a manner that constitutes a violation of Section F of the Employee Handbook, you will be immediately terminated.

Neither Armstrong, nor the Union filed a grievance over the discipline issued by the Town. Upon the completion of his thirty-day suspension, Armstrong returned to work. Upon his return to work, Armstrong met with Westerling and Mansir. In this meeting Westerling and Mansir outlined a list of items that Armstrong needed to address for a successful return to work. These items included:

1. Treat all employees with respect. No yelling, arguing or talking down to people.
2. Do not disrespect or talk back to supervisors. We are always willing to discuss items in a polite and professional manner.
3. Follow instructions from supervisors. There is always a reason behind the request. Supervisors are not just asking

you to do something just to order you around. It is to fulfill needs that you may not even be aware of.

4. Do not tell other employees what to do, what not to do or how to do their jobs. Please keep to the work you need to be focused on.
5. Be a team player. Be approachable by other employees should they have questions or needs. Be in the break room at 6:30 each morning for our brief meeting for any updates I may need to share with the team.
6. Keep the garage, parts room, fluid room and mechanics office clean & organized every day.
7. Keep up with repairs and preventative maintenance.
8. Do not let repair requests sit in IWORQ too long.

Again, neither Armstrong, nor the Union objected to any of these requirements.

During November 2019, Mansir began to have to address performance issues with Armstrong. Mansir spoke to Armstrong about repairs that continued to remain unresolved for extended periods in the IWORQ computer system. Mansir had to email Armstrong repeatedly and also follow up with him in-person when some of the emails were not responded to. Mansir also had to meet with Armstrong on his communication issues with his Assistant Mechanic Ray Shehata (Shehata) specifically, and with his co-workers in general about ongoing repairs. During some of these discussions, Armstrong became angry with Mansir and had to be reminded that his outbursts were unacceptable. Additionally, Mansir had to direct Armstrong to clean up two piles of speedy dry that were on the floor outside his office for numerous days. Armstrong did not offer an explanation as to why the speedy dry remained on the floor for numerous days, and Mansir had to remind

him that keeping the garage clean and organized on a daily basis was one of the issues discussed in his return-to-work meeting.

In early December 2019, Armstrong loaded a hot box onto truck S-12. This hot box was to be used to transport hot pavement mixture from the plant in Bellingham back to Hopkinton for pothole repairs. Armstrong secured the box with canvas straps instead of chains as the old chains did not fit in this particular truck. Some of the canvas straps were placed over metal edges on the truck. Some of Armstrong's co-workers complained to Mansir about the way the hotbox was secured to the truck during a tire incident on December 19, 2019, believing that the canvas straps over the metal edges of the truck were a safety hazard.

On December 19, 2019, Mansir directed Armstrong to replace a flat tire on truck S-12 as it was needed to pick up the hot pavement mix for pothole repairs around town. Armstrong removed the tire as directed, but unbeknownst to him, the tire he placed on the truck had a large gash in the sidewall of the tire. Armstrong did not notice the defect and deemed the truck ready to go. Two of Armstrong's co-workers noticed the defect in the tire before leaving the garage and notified Mansir of the problem and their safety concerns.

Mansir confronted Armstrong about the tire and a heated exchange between the two ensued. Armstrong had replaced the original tire with another tire that was resting against the wall of the garage instead of obtaining one from the mezzanine where the tires are usually kept. The tire had been removed from another vehicle due to the gash and had been resting on the wall of the garage for nine days. Armstrong had no response for how he did not see the defect in the

sidewall while mounting the tire and could not explain why the tire remained against the wall of the garage for nine days without being properly disposed of. Additionally, Mansir questioned Armstrong about the use of canvass straps over metal edges of the truck for securing the hotbox. Armstrong stated that the old chains did not fit this truck, and when pressed, acknowledged that the straps could wear over time.

The Town placed Armstrong on paid administrative leave on December 19, 2019. A disciplinary hearing was held on January 9, 2020 and February 5, 2020.

At this hearing, the Town presented evidence that:

- In April, 2019 you were suspended for misconduct and placed on a "Last Chance" agreement.
- In November and December, 2019, the Highway Manager, your immediate supervisor, met with you and followed up with emails that detailed specific incidences of poor performance, some of which were listed in the April 29, 2019 Last Chance agreement.
- Two piles of speedy dry were on the garage floor for at least 3 days and were not cleaned up, and you were directed to take time at the end of each day to sweep the floor, clean up and organize the shop and work areas.
- On December 19, 2019 you were asked to change a flat tire on vehicle S-12, and you did so. Subsequently, when employees were preparing to take the truck out, they noticed that the tire that you put on had a large rip in the sidewall.

When you and your supervisor went to look at the tire, your supervisor also spoke with you about nylon straps that you used to secure the hot box in S-12. He indicated they were rubbing on metal parts of the truck in two locations and expressed concern that they could wear through.

Several interactions between you and your supervisor during the November-December period of time, including the incident on December 19, were characterized by anger and a confrontational attitude on your part.

As a result of the evidence presented, the Assistant Town Manager Elaine Lazarus (Lazarus) stated:

I have determined that your performance violates your Last Chance agreement and Sections F-2.6 and F-2.7 of the Town's Employee Handbook. I am not inclined to view the various performance issues raised by the Highway Department in isolation as suggested by the Union. Instead, I am reviewing Mr. Armstrong's performance issues in the aggregate and note a decline in performance since his return from a significant unpaid suspension. I also reject the notion that the Highway Department was looking for any "excuse" to terminate Mr. Armstrong. To the contrary, the Highway Department was patient with Mr. Armstrong and counseled him on several occasions via email in order to (a) improve his performance and (b) avoid triggering his Last Chance. Unfortunately, Mr. Armstrong's behavior and performance not only violated his Last Chance but also placed his co-workers in harm's way.

Finally, the Union did not grieve Mr. Armstrong's thirty (30) day unpaid suspension and the reference to a Last Chance. Regardless of whether the Union believes the Last Chance is valid, a thirty (30) day suspension is significant in terms of progressive discipline.

Accordingly, my recommendation to the appointing authority is that you be terminated immediately.

By letter dated February 19, 2020, Town Manager Norman Khumalo accepted the recommendation of Lazarus and terminated Armstrong. The Union filed a grievance over the termination that was denied at all steps of the grievance procedure by the Town and resulted in the instant arbitration.

POSITIONS OF THE PARTIES

THE EMPLOYER

The Town's decision to terminate Armstrong for a violation of section F-2 of the Employee Handbook (Handbook) was based on application of reasonable work rules and job duties promulgated and reasonably enforced by the Town. In this

matter, the Town must prove by a preponderance of the evidence that its decision to terminate the grievant was not arbitrary, capricious or an abuse of discretion.

The evidence shows that the grievant was provided with written notice, as part of his thirty-day suspension in 2019, which clearly placed him on notice that failure on his part to comport with Section F-2 of the Employee Handbook would result in his termination. This point was clearly made by the Town Manager by placing him on a “Last Chance” status for a period of two years. Neither the “thirty-day suspension, nor the imposition of the “Last Chance” status with the Town were challenged by the grievant or the Union. The reason should be obvious: his underlying behavior was so egregious that it warranted his termination in March of 2019.

As testified to by Mansir and Westerling, the Town was interested in placing the grievant in the best position possible to succeed. To that end, a meeting was held with the grievant upon his return from suspension, where DPW management spelled out reasonable workplace expectations that were in keeping with his job description and Section F-2 of the Handbook.

The Town was patient with the grievant despite performance issues upon his return to work from his suspension. He was not meeting the performance standards set out for him. His deficiencies included: failure to diagnose and repair vehicles in a timely manner; failure to clear jobs from the IWORQ system; failure to manage and coordinate work between himself and the Assistant Mechanic; and failure to maintain a clean and orderly work area as evidenced by the pile of speedy dry left in the garage for several days directly in front of his office. Rather than

immediately invoking his “Last Chance” status and moving for termination, the Town opted instead to counsel the grievant in hopes that his performance would improve.

However, the grievant’s performance on the morning of December 19, 2020, left the Town with no choice but to terminate his employment. His carelessness and disregard for the quality of his work product was actually going to cause property damage and personal injury. Based on the testimony and video evidence, the gash in the sidewall of the tire installed by the grievant was obvious to all observers. How it was missed by the grievant, who actually mounted the tire at eye level, is inexplicable and inexcusable. The grievant simply slapped a used tire on the truck, without pausing to consider why the tire was leaning up against the wall of the garage for nine days and failed to inspect the tire once it came off the lift.

The decision to terminate the grievant after the tire incident must be reviewed in the context of all his performance issues upon his return from suspension. The Town made it clear to the grievant what was expected of him upon his return. The grievant’s performance demonstrates an inability to comport with basic workplace expectations. Whether it is managing the workload, clearing matters from IWORQ or simply cleaning a pile of speedy dry, the grievant lacks the necessary attention to detail and professionalism to be a successful mechanic. There is no doubt that the grievant’s installation of a damaged tire on a truck with a hotbox attached improperly, placed other bargaining unit members at

tremendous risk. This is especially true given that the truck was going to be traveling at a high rate of speed on the highway with mix in the hotbox.

Based on the record, the grievant was given every opportunity to succeed as the Town's Maintenance Mechanic. However, based on his serious and continuous performance issues, the Town was well within its rights to terminate him. The termination was not arbitrary, capricious or an abuse of discretion.

THE UNION

Armstrong was terminated based upon the alleged terms of a "Last Chance Agreement" which was non-existent, and performance related issues. The performance related issues used to justify termination were leaving or not cleaning up speedy dry left on the garage floor by an unknown third party, replacing a flat tire with an alleged defective tire and improper securing of a hot box into a DPW truck. The Town has failed to prove the facts they have introduced meet their burden in this case. The fact that they have not proved any willful violations or wrongdoings is fatal to any subsequent argument advanced by them.

The Town advanced its presentation of evidence by introducing a number of exhibits in an effort to support the existence of wrongdoing. There are also glaring, wrongful assumptions made by Lazarus when she refers to violations of a "Last Chance Agreement" which she believes is a by-product of a prior disciplinary issue resolved in 2019. The unrefuted evidence discloses Armstrong never agreed to the terms of a Last Chance Agreement, concluding the impossibility of violating something which does not exist. This leaves a troubling question. How do you

impose a punishment reserved for the most serious rule violations when you rely upon specifics which do not exist? The answer is simple – you cannot do so.

The Town claims that two small patches of speedy dry left on the floor was an act of insubordination. The evidence fails to show who poured the speedy dry on the floor, but it was not Armstrong. It was being used for its intended purpose, absorbing a liquid spilled on the garage floor eliminating a dangerous condition. The evidence does not establish how long it was on the floor or whether the absorption of the spill was complete. When Mansir told Armstrong to clean it up, he did so. The Town used this incident as part of their trident of reasons to terminate Armstrong. Applying these facts to any form and reasonable standard, one can only conclude that the Town has failed to demonstrate how they violate the Handbook rules.

Armstrong was replacing a flat tire with another tire which was previously mounted on a rim. Defective, unusable, and unsafe tires are supposed to be marked and stored outside the garage to be collected by a third-party vendor. The tire Armstrong installed was located in the garage and had no markings indicating it was defective. The defect was only visible after picking it open with a finger. The question becomes why didn't Mansir investigate who left the defective tire in the garage without the proper markings? This employee failed to make the same observations that Armstrong is being accused of. This is a clear example of the Town being arbitrary and capricious. When Armstrong was shown the problem, he stated that he didn't see the defect. Punishing Armstrong and not determining who or why the tire was left mounted and ready to utilize in the garage is clearly

an example of disparate treatment. The Town's actions are arbitrary, capricious and an abuse of discretion.

The last example used to support termination is the most preposterous. In the garage was a light duty truck with a small sander box secured in the dump body. Photos were introduced to show the method Armstrong used to secure the box. The photos are extremely helpful to show how ridiculous the Town's claims are. Armstrong was never given any instructions or instructional manual on the preferred method for securing the box. The method he used has been utilized by others in the past and no one has ever been disciplined for using nylon straps. This is another example of disparate treatment that is unacceptable. Mansir claims that the way the strap crossed over a body part of the truck was extremely dangerous, however he never presented any credible evidence to support his opinion. A commonsense observation of those photos renders his testimony foolish and ludicrous.

OPINION

The issue before me is: Was the Town arbitrary, capricious, or did it abuse its discretion when it terminated the grievant in February of 2020 in violation of Article 6 and Article 7 of the collective bargaining agreement? If so, what shall be the remedy?¹ For all the reasons stated below, the Town was not arbitrary or capricious and did not abuse its discretion when it terminated the grievant. The grievance is denied.

¹ The parties, at the outset of the hearing, agreed to this stipulated issue. As such, I decline to address any issues presented in post-hearing briefs that argue for a different standard to be applied.

The Town's decision to terminate Armstrong must be viewed in the context of Armstrong's recent disciplinary history. In April of 2019, the Town disciplined Armstrong. In its findings, the Town noted that:

- You have an overall negative attitude towards the department, your co-workers and supervisors
- Your attitude creates a hostile work environment for other Department employees
- You are unprofessional, disrespectful and insubordinate, causing disharmony and disruption to the overall DPW operation.

In response to these findings, the Town disciplined Armstrong stating:

Accordingly, you will be suspended without pay for thirty (30) days to be served on four (4) consecutive weeks, beginning on Monday, April 1, 2019. Additionally, for a period of two (2) years, you will be on a Last Chance status with the Town. If during that period you conduct yourself in a manner that constitutes a violation of Section F of the Employee Handbook, you will be immediately terminated.

Neither Armstrong, nor the Union filed a grievance over the discipline issued by the Town.

It is clear from the discipline imposed that Armstrong was on notice that his behavior had to change for him to remain employed by the Town. There is no ambiguity in the language used by the Town. Armstrong, upon his return from the thirty-day suspension, would be on a "Last Chance status" for a period of two years. The Union now claims that there was no "Last Chance Agreement" because Armstrong never signed such a document. While it is true, that there was no "Last Chance Agreement" ever codified, that argument is unpersuasive because the Town placed Armstrong on a "Last Chance status". Nowhere does the Town ever

say that it intended to execute a Last Chance Agreement with the Union and Armstrong, nor were they required to do so.

Generally, employers and unions enter into Last Chance Agreements that allow an employee to return to work under strict parameters that, if violated, will result in termination of the employee. These agreements also restrict the union's ability to grieve and/or arbitrate the matter if the employee violates the agreement. In this case, the Town never sought to restrict the Union's ability to grieve any discipline meted out to Armstrong upon his return to work. The Town simply, clearly, and unequivocally stated that Armstrong, upon his return, in exchange for not being terminated, would be on a "Last Chance status" for a period of two years. If the Union and/or Armstrong objected to Armstrong being placed on that status, their recourse was a timely grievance over that discipline.

In the present matter, the employee was suspended for thirty days, returned to work on a clearly articulated "Last Chance" status, and was placed on paid administrative leave pending a Loudermill hearing within eight months of his return to work. It is in this light that the actions of the Town must be evaluated.

Upon his return to work, Armstrong met with Westerling and Mansir. In this meeting Westerling and Mansir outlined a list of items that needed to be addressed by Armstrong for a successful return to work. These items included:

1. Treat all employees with respect. No yelling, arguing or talking down to people.
2. Do not disrespect or talk back to supervisors. We are always willing to discuss items in a polite and professional manner.
3. Follow instructions from supervisors. There is always a reason behind the request. Supervisors are not just asking

you to do something just to order you around. It is to fulfill needs that you may not even be aware of.

4. Do not tell other employees what to do, what not to do or how to do their jobs. Please keep to the work you need to be focused on.
5. Be a team player. Be approachable by other employees should they have questions or needs. Be in the break room at 6:30 each morning for our brief meeting for any updates I may need to share with the team.
6. Keep the garage, parts room, fluid room and mechanics office clean & organized every day.
7. Keep up with repairs and preventative maintenance.
8. Do not let repair requests sit in IWORQ to long.

Beginning in November of 2019, the Town became aware of issues with Armstrong's workplace performance. Mansir reached out to Armstrong via emails and then with in-person meetings trying to address the issues. Specifically, repairs were either not being completed in a timely manner and/or not being removed from the IWORQ system. Additionally, Mansir was not happy with the communication between Armstrong and Assistant Mechanic Ray Shehata. During this meeting Armstrong became upset at Mansir and needed to be reminded that his behavior and communication skills were not acceptable. Also, during November, there was an issue with Speedy Dry being left on the garage floor for an extended period. Armstrong needed to be directed to clean up the Speedy Dry as it was part of his job responsibilities. The Town did not move to terminate Armstrong for these interactions in November, as violations of his Last Chance status, instead it tried to work with him to correct his behavior.

Prior to December 19, 2019, Armstrong had loaded and secured a hot box to the back of truck S-12 to hold hot pavement mixture. Armstrong had used nylon tiedown straps to secure the box to the bed of the truck instead of the old chains which did not fit properly in this particular truck. When questioned by Mansir about the placement of the straps over metal surfaces of the truck and the potential for the straps to tear, Armstrong had no answer as to why he didn't order the proper chains and became exasperated in his discussion with Mansir, throwing up his arms as he was spoken to.

On December 19, 2019, Mansir directed Armstrong to replace a defective tire on truck S-12. S-12 was being used to pick up hot mix used for pothole repairs. The mix pickup required the truck to go to Bellingham on route 495. Armstrong removed the defective tire and replaced it with a tire that had been placed against the wall of the garage for about nine days. New tires were typically stored on a mezzanine above the garage floor. The tire Armstrong used had a large gash in the sidewall of the tire which he did not notice during installation. Upon stating that the truck was ready to go, two co-workers noticed the gash in the sidewall and notified Mansir. Mansir confronted Armstrong about the dangerous situation this created for his co-workers and a heated exchanged ensued. Armstrong had no explanation on how he missed the large gash in the tire, or why the tire remained against the garage wall for nine days without being disposed of.

The evidence is clear that placing the defective tire on the truck was a potentially catastrophic mistake. It could have caused an accident and hurt Armstrong's co-workers or members of the general public if an accident ensued

while transporting a full load of hot pavement mix on the highway. The fact that the defect was noticed before the truck left the garage does not absolve Armstrong of his responsibilities.

The tire incident, however, was just the culmination of a downturn in Armstrong's performance that was repeatedly noticed and addressed by the Town since his return from the thirty-day suspension. It is apparent that the suspension and Last Chance status had not changed or improved Armstrong's performance. Additionally, each time Armstrong was spoken to about these issues, his reaction was inappropriate and unproductive. The Town had relented and allowed Armstrong to return in April. It outlined what was expected of him upon his return and even worked with him when he did not meet expectations upon his return.

The Town, having followed the steps of progressive discipline, having provided Armstrong a final chance to prove he wanted to stay employed by the Town, and then, even working with Armstrong upon his return to correct issues, was well within its rights to terminate him for conduct that violated Section F of the Employee Handbook and directly placed his co-workers and the general public at risk.

For all the reasons stated above, the Town was not arbitrary or capricious and did not abuse its discretion when it terminated the grievant. The grievance is denied.

AWARD

The Town was not arbitrary or capricious and did not abuse its discretion when it terminated the grievant. The grievance is denied.

A handwritten signature in blue ink that reads "Timothy Hatfield". The signature is fluid and cursive, with a long horizontal stroke at the beginning.

Timothy Hatfield, Esq.
Arbitrator
September 8, 2021