

COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF LABOR RELATIONS

In the Matter of the Arbitration Between:

TOWN OF BARNSTABLE

and

TEAMSTERS, LOCAL 59

ARB-24-10605

Arbitrator:

Timothy Hatfield, Esq.

Appearances:

Michael J. Maccaro, Esq. -Representing the Town of Barnstable
Jennifer McGrew, M.Ed., Esq.

Nicholas S. Balatsos, Esq. -Representing Teamsters, Local 59

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 Airport had just cause to terminate James Barrie, and the grievance is denied.



Timothy Hatfield, Esq.
Arbitrator
September 16, 2026

INTRODUCTION

On April 29, 2024, Teamsters, Local 59 (Union) filed a unilateral petition for Arbitration with the Department of Labor Relations (Department). Under the provisions of M.G.L. Chapter 23, Section 9P, the 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 WebEx on October 3, 2025.

The parties filed briefs on or about February 2, 2026.

THE ISSUE

The parties agreed upon the following issues:

Did the Airport have just cause to terminate James Barrie?

If not, what shall be the remedy?

RELEVANT CONTRACT LANGUAGE

The Collective Bargaining Agreement (Agreement) between the Union and the Town of Barnstable (Town or Employer) contains the following pertinent provisions:

ARTICLE 12- DISCHARGE OR SUSPENSION**12.1**

The Employer shall not discharge or suspend any employee without just cause. In all cases involving the discharge or suspension of an employee, the Employer must immediately notify the employee in writing of discharge or suspension and the reason therefor. Such written notice shall also be given to the Steward within three (3) working days from the time of the discharge or suspension.

12.2

In respect to discharge or suspension, except for:

- 12.2.1 Insubordination
- 12.2.2 Use of illegal or non-prescribed drugs
- 12.2.3 Dishonesty and/or theft
- 12.2.4 Drunkenness
- 12.2.5 Physical Violence

the Airport Manager must give at least two (2) warning notices of the specific complaint against such employee in writing with a copy to the Steward....

ARTICLE 23: HOURS OF WORK AND OVERTIME

23.1

The regular work week for employees covered by this Agreement shall commence on Friday and consist of five (5) consecutive eight (8) hour work days and two (2) consecutive days off except for the part time employees who will be granted a minimum of 25 hours.

23.2

All employees' work schedules shall provide for one (1) fifteen minute rest period during each one-half (1/2) shift per day. Meal breaks shall not exceed one-half hour.

FACTS

Background

The Cape Cod Gateway Airport (Airport), also known as the Barnstable Airport, is a department within the Town. It is a commercial airline hub that is also used for corporate, private and military aviation. The Town employs approximately 26 public employees in three departments at the Airport, and private entities, such as commercial airlines, employ over 1000 employees there.

One of the Town's three departments at the Airport is the Maintenance Department, where custodians work. There are two custodial shifts each day on Mondays through Fridays, and one shift each from 9:00 a.m. to 5:00 p.m. on Saturdays and Sundays. During their shifts, custodians are expected to complete

certain tasks, such as picking up trash inside and outside the terminal building and cleaning the restrooms and floors. There is a check list of their specific duties on each shift. Custodians are not required to fill out the check list, but they are expected to complete the duties on the list.

Custodians are subject to contractual time frames for breaks during their shifts. They receive fifteen minutes during each one-half shift per day for rest breaks, and 30 minutes per day for meal breaks.¹ It is common for custodians to incorporate their rest breaks into their meal break so that they could extend their lunch time to 45 minutes or one hour. Custodians are permitted to leave the Airport grounds on their breaks, but not at other times.

Barrie's Position

At all relevant times, James Barrie (Barrie or grievant) was a maintenance supervisor who managed a staff of eight employees. Barrie also performed regular maintenance duties. At the time of his termination, Barrie had worked for the Town at the Airport for over 20 years and had never previously received formal or serious discipline.

Barrie's office was in a part of the Airport known as the Maintenance Bay, which is separate from the Airport terminal where custodians perform their duties. Barrie was eligible to work custodial weekend shifts on an overtime basis, and

¹ Although employees may have occasionally taken lunch and/or rest breaks that exceeded the strict contractual limits, the Union did not establish that taking excessive rest or meal breaks was a common practice that the Employer recognized and accepted. In his testimony, Barrie admitted that when he trained new employees, he did not tell them that they were allowed to exceed the contractual break times.

when he did so, he was expected to perform regular custodial duties for that shift. He was also subject to the contractual time frames for rest and meal breaks during a shift.

Barrie's December 30, 2023 Weekend Overtime Shift:²

Barrie worked a weekend overtime shift on Saturday, December 30, 2023. According to the Airport's records, he punched in at the Maintenance Bay around 8:05 a.m. and remained there until he entered the terminal at 10:08 a.m. He returned to the Maintenance Bay at 10:31 a.m. until he left the airfield at 11:45 a.m. He was not in the terminal and not on the airfield for 145 minutes (2 hours and 25 minutes), until he returned to the airfield at 2:10 p.m. Around 2:17 p.m. he went to the terminal and performed custodial duties for 1 hour and 45 minutes. He claimed 8 hours of overtime work, but spent only 2 hours and 5 minutes in the terminal. He was not present in the terminal or anywhere else on the airfield for 2 hours and 25 minutes during this shift.

Barrie's January 20, 2024 Weekend Overtime Shift

Barrie also worked a weekend overtime shift on January 20, 2024. That day, he punched in at 8:22 a.m., got to the terminal around 9:41 a.m., and left the airfield at 12:35 p.m. From 12:35 p.m. to 2:20 p.m., he was not in the terminal or on the airfield. He returned to the terminal at 2:23 p.m. and performed several custodial duties until 3:42 p.m. From 3:42 p.m. to 4:20 p.m., he was not in the terminal or

² The Airport introduced a summary chart that details Barrie's activities and location on each of the four days in question. The Union did not dispute the accuracy of this document, and I credit it.

on the airfield. He was on the airfield, not the terminal, from 4:20 to 5:17 p.m. when he punched out.

For that day, Barrie claimed 8 hours of overtime work. He was in the terminal for 3 hours. Additionally, for 143 minutes (2 hours and 23 minutes), Barrie was not on the airfield.

Barrie's January 27, 2024 Weekend Overtime Shift

Barrie worked an overtime shift on Saturday, January 27, 2024. He punched in at 8:40 a.m. and punched out at 5:17 p.m. and claimed 8 hours of overtime. He was either in the terminal or on the airfield until 12:05 p.m. and for 2 hours and 8 minutes, was not in the terminal or on the airfield. He returned to the terminal at 2:13 p.m., remained there for 56 minutes, and left the terminal at 3:15 p.m. He was on the airfield until he punched out.

For that day, he was in the terminal for 92 minutes (1 hours and 32 minutes). Additionally, for 128 minutes (2 hours and 8 minutes), he was not on the airfield.

Barrie's February 3, 2024 Weekend Overtime Shift

Barrie worked a Saturday overtime shift on February 3, 2024. He punched in at 7:46 a.m., punched out at 5:06 p.m. and claimed 8 hours of overtime. He was on the airfield but not in the terminal until 11:52 a.m. He was not in the terminal or on the airfield for 91 minutes (1 hour and 31 minutes), until he returned at 1:30 p.m. Then he was either in the terminal or on the airfield until he punched out. That day, Barrie was in the terminal for 66 minutes (1 hour and 6 minutes). Additionally, for 91 minutes (1 hour and 31 minutes), he was not on the airfield.

Time Summary for the 4 Weekend Overtime Shifts

The Town's time records showed that Barrie took 8 hours and 27 minutes of breaktime during the four dates at issue; 4 hours and 27 minutes of which exceeded the contractual limits. Barrie admitted at the hearing that he took longer breaks on those four days. He also testified that once he completed his custodial tasks on each of these four days, he attended to other supervisory responsibilities.³

The Town's Investigation Into Barrie's Work Time

Following a report by another employee, administration officials reviewed footage from some of Barrie's overtime shifts and noted that he had spent time away from the terminal. They then then reviewed access control logs and video camera footage to see when Barrie was in and out of secure areas in the terminal and when he left the airfield. A timeline was created of Barrie's activities during some of his overtime shifts, including where he was at various points in time. Former airport Manager Katie Servis (Servis) notified Human Resources Director Bill Cole (Cole) of the findings and conclusions.

Cole, Servis and Assistant Airport Manager Matthew Elia (Elia) met with Barrie on February 6, 2024, to notify him that he would be placed on paid administrative leave pending the outcome of an investigation into allegations of inappropriate conduct and judgment.

³ The Union alleged that management never instructed Barrie that he could not perform non-custodial tasks when no custodial work was required. I need not make this finding because my decision rests on the fact that Barrie claimed overtime payment for hours that he was not working, meaning he was not on the airfield and not in the terminal, in excess of his contractual break times. For the same reason, I make no findings on whether Barrie completed all the custodial tasks he was expected to perform on each of the four shifts in question, or whether he did an adequate job.

On February 16, 2024, Cole, Servis and Elia met with Barrie and Union Representative Jeff Sharp (Sharp) to review the allegations against Barrie and gather more information relating to the administrative leave and “apparent theft of time.” They identified the four shifts that they reviewed and questioned Barrie about his activities during each of those shifts.

During the meeting, Servis summarized their observations of Barrie’s time and whereabouts on the days in question as follows (in part):⁴

12/30/2023:

- For an 8-hour custodial shift on 12/30/2023, you were in the terminal for 2 hours and 5 minutes; for 20-minutes of that time, custodial work was not conducted.
- Additionally, for 2 hours and 25 minutes, you were not on the airfield.
- Per Article 23, Section 23.2, “All employees’ work schedules shall provide for one (1) fifteen minute rest period during each one-half (1/2) shift per day. Meal breaks shall not exceed one-half hour.[”]
- See summary examples below....

- By 1031, you left the terminal, went to the Maintenance Bay then returned to exit Gate E. We did not observe you on airport for over 2 hours and 25 minutes.
- You did not return to the terminal until 1417 and performed custodial duties for 1 hour and 45 minutes.

1/20/2024:

- For an 8-hour custodial shift on 1/20/2024, you were in the terminal for a total of 3 hours.

⁴ The Town submitted notes of its meetings with Barrie and Sharp on February 6, February 16, and March 7, 2024. I credit the statements contained in these notes.

- Additionally, for 2 hours and 23 minutes, you were not on the airfield.
- Per Article 23, Section 23.3....

1/27/2024:

- For an 8-hour custodial shift on 1/27/2024, you were in the terminal for a total of 1 hour and 32 minutes.
- Additionally, for 2 hours and 8 minutes, you were not on the airfield. Per Article 23, Section 23.3....

2/3/2024:

- For an 8-hour custodial shift on 2/3/2024, you were in the terminal for a total of 1 hour and 6 minutes.
- Additionally, for 1 hour and 31 minutes, you were not on the airfield.
- Per Article 23, Section 23.3....

Servis then advised Barrie that the “main” concern” was the lack of hours completing the task as assigned and “apparent theft of time and falsification noted on your timesheet.” In response, Barrie stated:

“I did put in the shift, I just didn’t do the job adequately. None of those times were ever I left in my own vehicle (sic). I was there. I was on shift. Can say I wasn’t doing a good job. Wasn’t stealing time in my point of view.

Cole then asked Barrie if he would dispute being off the airfield for over 2 hours for 3 instances and “1:30 in another an excess of break time (sic).” Barrie responded by stating:

Yes, excess of break time. I don’t know what I was doing. I usually take lunch off property. Usually, if it ran late, I would come back and make sure all the duties in the terminal looked good before I left. Sometimes I might not have put half the effort in to get things done. Might be the amount of OT I need to put in to get a clean terminal.

One of the administrators then stated that they would review Barrie's comments, take them under advisement, and be back in touch with their decision. Following a short caucus for Barrie and Sharp to talk, the group reconvened. Sharp asked if there was a timeframe, whether they were leaning in a specific direction, and whether there was any other information that would help. The meeting ended shortly thereafter.

Servis, Elia and Cole met again with Sharp and Barry on March 7, 2024, to convey the results of their investigation and their decision to terminate Barrie. At that meeting, they gave Barrie a written termination letter advising him that the Town was terminating him that day for "time theft."

The Union subsequently filed a grievance which the Town denied at all steps of the grievance procedure. The Union filed the instant petition for arbitration on April 29, 2024.

POSITIONS OF THE PARTIES

THE UNION

The just cause standard requires an employer to satisfy specific criteria, and in a case where an employer charges an employee with what could be criminal conduct, like stealing time, the employer faces a high evidentiary burden. Here, the Town failed to show that Barrie knowingly violated a rule that warranted termination. For the following reasons, termination was too harsh a punishment for this long-term employee whose misconduct consisted only of performing non-custodial tasks on a few Saturday shifts and – like many other employees – taking a few extended lunch breaks.

First, the Town failed to forewarn Barrie of the probable disciplinary consequences of his actions. Barrie routinely performed other operational duties when no custodial work was needed on one of his weekend shifts, and the Town never told him it was wrong. Further, the Town routinely permitted employees to extend and combine their breaks on relaxed weekend shifts.

Second, the Town failed to obtain substantial evidence of guilt because it didn't prove that he failed to perform custodial work on his Saturday shifts. Instead, it merely speculates that he left custodial tasks undone. The checklist of duties was a guide, rather than mandatory documentation, so his failure to complete it is immaterial. Ultimately, the Town could not identify a single custodial task that Barrie was required to perform and failed to complete.

Similarly, the Town did not show that Barrie intentionally misrepresented his work time during several extended lunch breaks. When questioned, Barrie did not conceal or justify his actions because he reasonably believed – based on the long-standing practice - that the Town permitted flexible lunch breaks.

Third, the degree of discipline was not reasonably related to the seriousness of the proven offense and Barrie's long-term, clean work record. Barrie had worked for the Town for over 20 years, and the Town's witnesses admitted that he was a good worker with a strong work ethic and no serious or formal discipline in his record. Even if the arbitrator accepts the Employer's characterization of the events, this was a first offense. Arbitrators consistently hold that discharge is inappropriate when lesser corrective measures would address the issue. Here, the Town terminated Barrie without giving him the opportunity to correct his conduct.

Conclusion

Termination – the industrial equivalent of capital punishment – is reserved for employees whose conduct is either so egregious that they can't be returned to the workplace or have repeatedly failed to improve after prior corrective steps. None of those circumstances exist in this case. The Town should have followed progressive discipline here, and its failure to do so here is fatal to its case.

THE EMPLOYER

The Employer had just cause to terminate Barrie's employment. The just cause standard requires the employer to establish that the employee received fundamental due process, and that the penalty imposed was reasonably related to the seriousness of the offense, the employee's disciplinary record, and any mitigating or extenuating circumstances. As discussed below, the Town proved that Barrie committed the alleged offense, the Airport provided due process, and the discipline was reasonably related to the seriousness of the offense.

First, Barrie engaged in dishonesty and theft in violation of Airport policy by falsifying his timecard. Article 12.2.3 of the CBA prohibits discharge or suspension in the absence of at least two warning notices, except for dishonesty and/or theft. Barrie knowingly and willfully documented on his timecard that he completed eight hours of overtime work on four different occasions when in reality, he only spent a fraction of that time working. Although he tried to explain that he was performing supervisory duties, during the work shifts at issue, he was working as a custodian and not a supervisor. Barrie acknowledged that he was supposed to complete custodial duties during those shifts but failed to do so. Also, during the time he was

supposed to be performing custodial duties, he took extended breaks, including leaving the airfield for over two hours at a time. Instead of properly noting his time away, Barrie listed those hours as time worked. This is clear theft because he received money from the Airport for services that he did not render.

Second, Barrie's dishonesty and theft gave the Town just cause to terminate his employment. "A single occurrence of certain types of misconduct may warrant discharge notwithstanding that it is a first offense."⁵ The Airport terminated Barrie because of the severity of his actions and the fact that multiple instances of dishonesty made it impossible for the Airport administrators to trust him as a supervisor.

Third, the Town provided Barrie all applicable procedural due process. Following a report by a fellow supervisor, the Airport placed Barrie on paid administrative leave and initiated a formal investigation into the claims against him. The investigation included a review of time logs, access control logs, and security camera footage. At the February 16, 2024 meeting, the Airport administrators explained their allegations and gave Barrie the opportunity to respond to questions. The Airport administrators considered Barrie's response as they completed their investigation and ultimately determined that Barrie had engaged in the reported misconduct.

Finally, Barrie's termination is reasonably related to the seriousness of his misconduct based on dishonesty and theft from the Airport.

Conclusion

⁵ Brand & Biren, *Discipline and Discharge in Arbitration*, (2nd ed. 2008) p. 2-57.

The Town had just cause to terminate Barrie because he engaged in conduct that he had been warned against. Thus, the grievance should be denied.

OPINION

I am not troubled by Barrie's alleged failure to complete all the custodial tasks on the checklist or the fact that he may have left the terminal periodically to perform his regular supervisory duties. If those were his only transgressions, a lesser penalty may have been warranted. But Barrie's misconduct was significantly more serious than failing to empty trash cans or lingering at lunch, and as a supervisor, he knew or should have known that his conduct was wrong. On four weekend shifts between December 30, 2023 and February 3, 2024, Barry took over four extra hours of breaktime during which he left the Airport grounds. Although he had a long-term, discipline-free work record, there were no mitigating circumstances to justify claiming eight hours of overtime on four dates when he worked significantly less and was somewhere off the property when he was supposed to be working. The Town is not required to excuse or compensate Barrie for this level of dishonesty simply because other employees may also have been stealing time. Thus, the Town had just cause to terminate Barrie.

The standard that an employer must meet to establish "just cause" is well known. The employer must show that: (1) the employee is on notice of a rule or policy, the infraction of which may result in discipline; (2) the employee committed an infraction of the rule or policy; and (3) the amount of discipline issued is in keeping with the seriousness of the offense. For the following reasons, the Town met these standards.

First, Barrie knew or should have known that he should not bill the Town for more hours than he worked. Although he denied that he engaged in “stealing time,” he did not dispute that stealing time was wrong, and he offered no explanation in his pre-termination interview for the large amounts of time where he was nowhere to be found. The fact that employees under his supervision may have occasionally extended their lunch breaks does not justify Barrie’s actions. Barrie admitted that he would not train a new employee to enlarge break and mealtimes as he did on these four separate occasions. Thus, the Employer has satisfied its burden to show that Barrie was on notice of a rule or policy, the infraction of which may result in discipline.

Second, the Town documented through a review of access control logs and video camera footage that Barrie submitted time sheets for time he did not work. The Union did not introduce any contrary evidence to cast doubt on the veracity of the Town’s findings or the chart that summarized and documented those findings. Barrie also admitted at the February 16 meeting that he did not dispute exceeding his break time. Thus, it is effectively undisputed that Barrie charged the Town for time he did not work.

Further, the severity of the discipline is in line with the seriousness of the offense. The collective bargaining agreement provides that in all cases involving the discharge or suspension of an employee, the Airport Manager must give at least two warning notices of the specific complaint against the employee in writing with a copy to the Steward, *except* in cases involving dishonesty, theft, or certain other enumerated offences. Submitting a timecard for time not worked constitutes

dishonesty and theft. Thus, there was no contractual requirement for the Town to impose progressive discipline or even warn Barrie that it would not tolerate his conduct.

Finally, the Union did not establish any valid mitigating factors. It argued that Barrie's long-term stellar service, promotion, and lack of prior discipline for similar conduct reflected the Employer's trust in his judgment and performance. However, neither Barrie nor the Union offered a compelling explanation for Barrie's significant absences from the airport, and both focused on the claim that other employees took extended breaks too. Unfortunately, neither the Union nor Barrie understood that time theft simply isn't excusable.

In short, Barrie was dishonest about the number of hours he was actually working, and as a supervisor, he knew or should have known it was wrong. Thus, despite his many years of valuable service to the Town and his unblemished work record, the Town was not obligated to impose a lesser form of discipline. Barrie didn't just do an "inadequate" job, as he claimed, or lose track of time when taking a rest break. He boldly billed the Town for hours when he wasn't even at the Airport. Thus, the Airport had just cause to terminate his employment.

AWARD

The Airport had just cause for terminating James Barrie. The grievance is denied.

A handwritten signature in blue ink, reading "Timothy Hatfield". The signature is fluid and cursive, with a long horizontal line extending from the "T" and a stylized "H".

Timothy Hatfield, Esq.
Arbitrator
September 16, 2026