

COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF LABOR RELATIONS

In the Matter of the Arbitration Between:

TOWN OF SANDISFIELD

-and-

INTERNATIONAL BROTHERHOOD OF
TEAMSTERS, LOCAL 404

ARB-25-11409

Arbitrator:

Timothy Hatfield, Esq.

Appearances:

Brian Maser, Esq. - Representing Town of Sandisfield

Nicholas Balatsos, Esq. - Representing Teamsters, Local 404

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 did not have just cause to terminate the grievant and is ordered to reinstate him to his former position, make him whole for all losses of pay and benefits, and remove any reference to the termination from his personnel file.



Timothy Hatfield, Esq.
Arbitrator
September 28, 2026

INTRODUCTION

On July 9, 2025, Teamsters, Local 404 (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 October 7, 2025.

The parties filed briefs on November 11, 2025.

THE ISSUE

The parties agreed upon the following issue:

Did the Town have just cause to terminate the grievant? If not, what shall be the remedy?

RELEVANT CONTRACT LANGUAGE

The parties' Collective Bargaining Agreement (Agreement) contains the following pertinent provisions:

ARTICLE VII - DISCIPLINE AND DISCHARGE (In Part)

Paragraph 7.0 The Employer has the right to discipline and discharge employees for just cause. The Employer, in making determinations to impose discipline, recognizes the concept of corrective discipline when, in the Employer's judgment, the facts and circumstances lend themselves to correction. ...

Paragraph 7.2 The Employer and the Union agree and understand that these steps are only guidelines and that the Employer reserves the right to determine the level of discipline assessed and to accelerate or decelerate the steps taking into consideration the severity of the particular incident and circumstances in any given case.

Paragraph 7.3 When an employee is disciplined or discharged by the Employer, the Union shall be promptly notified in writing. If the employee or the Union claims that such discipline or discharge has been taken without just cause, such claim must be made in writing and filed with the Employer within ten (10) working Days.

ARTICLE VIII - GRIEVANCE AND ARBITRATION PROCEDURE

Paragraph 8.0 The Town and the Union understand that the grievance procedure is designed as a procedure for prompt resolution of disputes. Therefore, no grievance may be commenced more than ten (10) working days after the occurrence of the incident or event upon which the grievance is based, or after the grieving party knows, or should have known (through the exercise of reasonable diligence), of such occurrence. For the purpose, the knowledge of any employee involved or the knowledge of a Union officer shall be deemed knowledge of the Union. ...

Step 3: Arbitration: If the grievance is unresolved at the Step 2 level, the parties shall attempt to agree on an arbitrator. If unable to agree, then within fifteen (15) days of the response from Step 2, the Union Business Agent shall request arbitration through the Massachusetts Board of Conciliation and Arbitration in accordance with their rules and regulations.

Paragraph 8.2 If the matter grieved to this Article is a disciplinary action against an employee, at the arbitration hearing, the Employer shall have the burden to prove by a preponderance of the evidence that there was just cause for the disciplinary action.

Paragraph 8.3 The decision and award of the arbitrator shall be final and binding on the Town and the Union and the employee or employees, shall be enforceable under an arbitration proceeding shall be subject to the provisions of Chapter 150C of the Massachusetts General Laws, as the same may be amended from time to time.

Paragraph 8.4 The arbitrator shall have no power to add to, subtract from or modify this Agreement and may only interpret such items and determine such issues as may be submitted to him or her by agreement of the Parties. ...

ARTICLE IX - MANAGEMENT RIGHTS

Paragraph 9.0 The management of the employees and the direction of the working force, including the right to plan, direct and control operation; to schedule and assign work to employees; to determine the means, methods, processes, materials and schedules pertaining to the overall operation of the institution; to establish standards and to maintain the efficiency of employees; to establish and require employees to observe departmental rules and regulations; to hire, lay off or relieve employees from duties; to maintain order and to suspend, demote, discipline and discharge employees for just cause, are the recognized and reserved rights of the Employer. ...

FACTS

The Town of Sandisfield (Town or Employer) and the Union are parties to a collective bargaining agreement that was in effect at all relevant times to this arbitration. Since November 2023, Antonio Suares (Suares / grievant) served as the Working Foreman in the Town's Department of Public Works (DPW).

In September 2023, the Town created the position of Working Foreman as part of an addendum to the July 1, 2022 – June 30, 2025 collective bargaining agreement that resulted in a restructuring of the DPW. The Working Foreman position was created to provide adequate coverage and supervision in the event the Superintendent was absent. The position is not administrative in nature, and the employee is expected to be heavily involved in the work being performed on a day-to-day basis. The Working Foreman position is physically demanding and is not intended to be purely supervisory. The Foreman works side-by-side with the other employees of the DPW. The posting on the Town's website for the Working Foreman describes the position as being physical and that applicants must be able to lift 50 lbs. Suares testified that he performed heavy manual labor including the

operation of large vehicles and heavy equipment, pothole repair, sidewalk maintenance, mowing, signage installation, tree trimming, storm drain work and repairs, manual snow removal, and loading and unloading of work equipment.

The DPW is responsible for the year-round care and maintenance of ninety-three miles of roadway within the Town's borders. The DPW staff conduct general road maintenance, road paving and dirt road grading (roughly 50% of the roads in Sandisfield are unpaved), line of sight maintenance, mowing of roadside grass, culvert repair and maintenance and road washout repairs.

A non-union Superintendent oversees the day-to-day operations of the DPW. The remainder of the DPW consists of the Working Foreman, a Grader/Operator, an Operator/Laborer and a Laborer. The normal hours of the DPW are Monday-Friday from 6 AM to 2 PM. DPW staff respond to after-hours calls on an as-needed basis and are paid overtime for work performed outside of their normal working hours.

On February 1, 2025, Soares underwent a liver transplant. Soares was placed on medical leave under the Family Medical Leave Act (FMLA) for twelve weeks during which time he maintained his health insurance and received compensation through his unused employee benefits.

On May 8, 2025, in response to a Town inquiry, Soares produced a letter from Dr. Deepika Devuni which stated that Soares would be absent for at least three additional months. The letter did not provide a definitive date on which Soares would be able to return to full duty.

The DPW, as of May 8, 2025, was behind in its day-to-day operations. Given the additional time that Soares was going to be absent, the Select Board sent the following letter:

Re: Notice of Show Cause/Fitness for Duty Hearing

Dear Mr. Soares:

Since January 27, 2025, you have been unable to fulfill your role as DPW Foreman due to a medical condition. While the Town has supported your leave under the Family Medical Leave Act (FMLA) and allowed use of all accrued time, you have now exhausted these benefits. Your most recent medical documentation does not provide a date by which you can return to full-duty work, and the Town must consider how to ensure critical services continue without further disruption.

This letter is to notify you that the Select Board has scheduled an Executive Session to discuss the potential termination of your employment with the Town of Sandisfield. The session will take place at Sandisfield Town Hall, 66 Sandisfield Road, on Monday, June 9, 2025 at 5:30 p.m.

You have the right to:

- Attend the Executive Session and speak on your own behalf;
- Record the session by stenographic or other means;
- Be accompanied by an attorney or representative (for advisory purposes only); and
- Request that the hearing be held in Open Session.

If you do not attend, the Board may proceed in your absence and finalize your termination, effective immediately.

While this situation is difficult, we want to express our sincere appreciation for your service to the Department of Public Works. You have been a valuable asset to the Town, and your contributions are truly appreciated. Should your condition improve and a vacancy exist in the future, you are encouraged to apply, and you will be given preference for rehire in accordance with G.L. c. 152, § 75A.

We thank you once again for your service and wish you all the best in your recovery and future endeavors.

Sincerely,
Janey Snyder
Town Manager Town of Sandisfield

On June 4, 2025, in response to the hearing notice, Soares produced a nurse practitioner's note clearing him for full duty except for a 10lbs lifting restriction. Soares was attempting to provide the Town with a reasonable accommodation offer which would allow him to perform many of the duties of his position, including all of his supervisory duties and the operation of all the heavy duty machinery. The Town, however, decided to move forward with the hearing on Soares' termination instead of trying to accommodate Soares and his lifting restriction.

On June 9, 2025, the Select Board held an Executive Session to discuss the Soares situation. During the meeting, Board members discussed what they believed the effects of Soares returning with the lifting restriction would be. One Board member mistakenly likened the situation to Soares being confined to desk duty. Further discussion by the Board members made it clear that they intended to terminate Soares regardless of what he might testify to at the hearing. Thus, Soares declined to speak at all during the hearing as his union representative felt it would be futile since the decision to terminate Soares had already been made. The Board voted unanimously to terminate Soares' employment due to his inability to fully perform the functions of his position.

The Union filed a grievance over the termination that was denied by the Town at each step of the grievance procedure, resulting in the instant arbitration.

POSITIONS OF THE PARTIES**THE EMPLOYER****Grievant Unable to Perform Essential Functions of Job**

It is a well-established principle in arbitration that management has the right to terminate an employee whose physical condition renders them unable to perform the essential functions of their job.¹ Simply put, an employer needs to be able to rely upon its employees to show up to work. At some point, the employer must be able to terminate the services of an employee who is unable to work more than part-time, for whatever reason.²

Suares was physically unable to perform the essential functions of his job at the time of his termination. Suares went out of work due to major surgery on or about February 1, 2025, and immediately began using his twelve-week FMLA leave. After exhausting his FMLA leave, Suares provided the Town with the May 8, 2025, physician's note stating that he required approximately three additional months of leave. Notably, this physician's note did not provide a set date as to Suares' return to work in a full capacity. An employer is not required to wait an exorbitant amount of time for an employee to regain the ability to return to work, and, as the Town established through Steven Seddon's undisputed testimony, Suares' position of DPW Working Foreman is an essential one.

The DPW has few employees and needs to ensure that critical services continue without further disruption. Specifically, a five-member staff which includes Suares' position is responsible for covering miles of roadway

¹ Meier Metal Servicenters, 100 LA 816 (1993).

² Cleveland Trencher Co., 48 LA 615, 618 (1967).

maintenance and repair work. The three additional months of leave would have had a tremendously negative effect on the DPW's ability to complete timely repairs and services especially as the Fall and Winter months approached.

The Town does not dispute that prior to the June 9, 2025, fitness for duty hearing, Soares provided the Select Board with a nurse practitioner's note stating that he could return to work with a ten-pound lifting restriction. The note outlines the fact that Soares could not return to work at full capacity, which is what the job requires. Indeed, the contract between the parties does not include a light duty clause, and the DPW could not function appropriately with any member of its staff in a light duty assignment.

Further, a ten-pound lifting restriction is not possible for the position of DPW Working Foreman. The job description itself is clear that the individual in the position must have the ability to engage in physical labor and carry material and equipment up to fifty pounds. Soares' return to work with the lifting restriction would pose a danger to himself, fellow DPW workers, and the general public. The Town had the right to terminate Soares in these circumstances as he could not perform the essential functions of his job at the time of his separation.

Ten-Pound Lifting Restriction is not a Reasonable Accommodation within the DPW

Soares' ten-pound lifting restriction is not a reasonable accommodation as it would be a burden on DPW operations to allow Soares to work as the Working Foreman with that restriction in place. Courts have steadfastly determined that a request for accommodation does not require the employer to excuse an employee

from performing an essential job function.³ Absent the ability to lift more than ten pounds, Soares would be unusable to the DPW, because the role requires physical labor which includes lifting up to fifty pounds.

Under the pressure of the continued under-staffing of the DPW, Town Manager Snyder sent the June 3, 2025 letter giving notice to Soares that because he had not provided a specific date of return, and could not perform his role of DPW Working Foreman, the Select Board had scheduled the fitness for duty hearing to discuss potential termination.

Following the Town Manager's letter, Soares produced a medical letter stating that he could return to work with a ten-pound lifting restriction. This modified the proposed accommodation to a drastic reduction in job responsibilities. In a small department, where every employee but the Superintendent is required to conduct physical labor, it is apparent that there were no alternative positions that could accommodate this request. To allow Soares to return with the restriction, the Town would have needed to fundamentally alter the requirements of the position, and/or reallocate some of the Working Foreman responsibilities to other subordinate employees.

During the fitness for duty hearing, the Town gave Soares the opportunity to express his desire for the accommodation but acknowledged that the DPW Working Foreman position required physical strain which Soares could not perform, and that there were no other available positions which could

³ See Cox v. New England Telephone & Telegraph Co., 414 Mass. 375, 383 (1993).

accommodate the lifting restriction. Neither Soares, nor the Union representative provided any information to consider in identifying alternatives.

Therefore, the Town acted properly in terminating Soares after careful consideration that he could not perform the essential functions of his job, and there was no suitable accommodation that could be made without fundamentally altering the requirements of the job or reshaping the DPW's staff responsibilities.

Conclusion

For all of the foregoing reasons, the Town requests that the arbitrator find that it had just cause to terminate Soares and dismiss the grievance.

THE UNION

The Town's termination of Soares lacked just cause. Soares was terminated while recovering from a liver transplant. At the time of his termination, the Town was on notice that he was medically cleared to return to work with a temporary ten-pound lifting restriction. Moreover, terminating someone over a ten-pound lifting restriction is not reasonable under the circumstances. Not only is it directly discriminatory based on disability and other protected statuses, but as Soares testified, the restriction did not inhibit him from doing his job. When he was not supervising or handling paperwork, Soares operated and drove mowers and other machinery that did not require him to lift anything.

Finally, the restriction itself was temporary. He was terminated because of the restriction on June 9, 2025, but on July 31, 2025, the restriction was lifted and Soares was completely medically cleared to return to work. This amounted to a fifty-two-day restriction, a minimal restriction.

The Town's investigation into this matter was also flawed. The Town never asked Soares how long he expected to have the lifting restriction and never asked him to undergo an independent medical examination, or for further documentation.

Furthermore, the Town violated Soares' due process rights. During the show cause hearing, the Town did not give Soares the opportunity to be heard or ask questions, and did not ask him any questions, until it had already informed him that they had made a decision to terminate him. Although there was some small talk prior to the hearing, there was no official opportunity for him to be heard and present his side of the story before the decision to terminate had been made.

Conclusion

Based on the above and the record as a whole, the Union submits that the Employer lacked just cause for termination. The Union requests that the Arbitrator sustain its grievance, reinstate Soares and make him whole.

OPINION

The issue before me is:

Did the Town have just cause to terminate the grievant? If not, what shall be the remedy?

For all the reasons stated below, I find the Town did not have just cause to terminate the grievant. The Town shall make the grievant whole for all losses of pay and benefits, reinstate him to his former position, and remove any reference to the termination from his personnel file.

The evidence and testimony demonstrated that Soares was a good employee with a satisfactory work record prior to his need for a medical leave for

a liver transplant. The Town's issues with Soares' medical leave and his ability to return to work, appear to begin with the receipt of the first doctor's note dated May 8, 2025. In this note, Dr. Devuni stated that:

It is anticipated that he [Soares] would need to be out an additional 3 months to recover from this major operation.

The testimony presented at the hearing indicated that the Town was unhappy with the lack of a specific date on which the doctor felt that Soares could definitively return to work. Unfortunately, the Town failed to timely inform Soares of its concerns with the doctor's note he presented, leaving him unable to potentially cure the Town's concerns in an expedited manner. Instead, on June 3, 2025, the Town sent Soares a "Notice of Show Cause / Fitness for Duty Hearing Notice".

The Town's decision to issue this notice instead of taking numerous other steps to resolve this matter is problematic as it relates to just cause. The Town could have easily spoken to Soares and expressed its concern with the first doctor's note, thus offering Soares the opportunity to address the Town's concerns in an expedited manner. The Town could have sent Soares for an independent medical evaluation to offer clarification on when Soares would be available to return to his position. Instead, the Town jumped past all possible amicable solutions and sent the misguided Show Cause Notice.

One of the other avenues available to the Town was the second medical note offered by Soares on June 4, 2025, after the Town sent the Show Cause notice. This nurse practitioner's note cleared Soares to return to work with a ten-pound lifting restriction. Instead of working with Soares to review what work tasks he could and could not perform with a ten-pound lifting restriction, the Town simply

rejected the idea going so far as to complain that Soares would be on “desk duty” if the Town was to accept this restriction. The Town’s refusal to work with Soares to make this reasonable accommodation manageable for everyone weakens its argument that it had just cause to terminate him.

The Show Cause Notice, in addition to informing Soares of the date and time of his hearing, clearly insinuates that the decision to terminate Soares had already been made. Town Manager Snyder states in relevant part that:

If you do not attend, the Board may proceed in your absence and finalize your termination, effective immediately.

While this situation is difficult, we want to express our sincere appreciation for your service to the Department of Public Works. You have been a valuable asset to the Town, and your contributions are truly appreciated. Should your condition improve and a vacancy exist in the future, you are encouraged to apply, and you will be given preference for rehire in accordance with G.L. c. 152, § 75A.

We thank you once again for your service and wish you all the best in your recovery and future endeavors.

Sincerely,
Janey Snyder
Town Manager
Town of Sandisfield

Wishing Soares “all the best in your recovery and future endeavors” prior to hearing from Soares can mean only one thing; the decision to terminate Soares had already been made and nothing Soares said or presented at the Show Cause hearing was going to change that decision. Not surprisingly, Soares was indeed terminated at the conclusion of the Show Cause Hearing.

In addition to the Town’s Show Cause Hearing notice blatantly exposing the Town’s violation of Soares’ due process rights, the Town’s participants in the

hearing also violated Suarez's due process rights. The Town's conduct during the hearing clearly showed that the decision to terminate Suarez happened prior to hearing any testimony from him as he was not asked to comment until well after the Town's participants made it clear that they were in favor of termination. On advice of his union representative, Suarez declined to offer testimony after the hearing participants had already made their feelings on his termination known.

The combination of a hearing notice from the Town Manager wishing the grievant well in his future endeavors prior to the show cause hearing, and the Town's failure to give the grievant a chance to speak prior to making their decision on his termination clear are due process violations which are fatal to the Town's argument that it possessed the just cause necessary to terminate the grievant. Having violated the grievant's due process rights, the Town is unable to prove that they had the just cause necessary to terminate Suarez.

Additionally, the Town's decision to bypass Suarez' offer of a reasonable accommodation working with a 10lbs lifting restriction, combined with its failure to send Suarez for an independent medical evaluation when presented with the first doctor's note precludes a finding of just cause.

As such, I find that the Town did not have just cause to terminate the grievant. I hereby order the Town to reinstate Suarez to his former position, make him whole for all losses of pay and benefits from the date of his termination, and remove any reference to the termination from his personnel file. I will retain jurisdiction until such time as the parties have agreed on the proper remedy to satisfy this decision.

AWARD

The Town did not have just cause to terminate the grievant and is ordered to reinstate him to his former position, make him whole for all losses of pay and benefits, and remove any reference to the termination from his personnel file.



Timothy Hatfield, Esq.
Arbitrator
September 28, 2026