

COMMONWEALTH OF MASSACHUSETTS  
DEPARTMENT OF LABOR RELATIONS

In the Matter of the Arbitration Between:

CITY OF REVERE

-and-

MASSACHUSETTS LABORERS DISTRICT,  
COUNCIL, LOCAL 22

ARB-22-9161

Arbitrator:

Timothy Hatfield, Esq.

Appearances:

Matthew Buckley, Esq. - Representing City of Revere

Sal Romano - Representing Massachusetts Laborers District  
Local 22

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 City had just cause to terminate Joseph Scoppettuolo, and the grievance is denied.



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Timothy Hatfield, Esq.  
Arbitrator  
September 28, 2023

## **INTRODUCTION**

On July 18, 2022, Massachusetts Laborers District Council, Local 22 (Union) filed a unilateral petition for Arbitration. 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 Web-Ex on June 28, 2022.

The parties filed briefs on September 20, 2022.

## **THE ISSUE**

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

## **RELEVANT CONTRACT LANGUAGE**

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

Article III – Management Rights (In Part)

### **Section 1**

In the interpretation and administration of this Agreement, the City shall not be deemed to have been limited in any way in the exercise of the regular and customary functions of municipal management or governmental authority and shall be deemed to have retained and reserved unto itself all the powers, authority and prerogatives of municipal management or governmental authority including, but not limited to, ... the demotion, suspension, discipline, discharge of any employee for just cause; ... Nothing in this article shall be interpreted or deemed to limit or deny any rights of management provided the City by law.

### **Section 2**

The City of Revere and its management officials have the right to promulgate reasonable rules and regulations pertaining to the

employees covered by this Agreement, so long as such rules and regulations do not conflict with any term or condition of this Agreement.

### **STIPULATION**

In September 2021, the City of Revere, after notice to and negotiation with all City bargaining units, including Local 22, implemented a non-mandatory vaccination program for all City employees, offering a \$250 bonus payment for proof of vaccination and requiring non-participants to be tested weekly and to provide proof thereof.

### **FACTS**

The City of Revere (City) and the Union are parties to a collective bargaining agreement that was in effect at all relevant times to this arbitration. Joseph Scoppettuolo (Scoppettuolo) was a Sanitation Inspector in the City's Inspectional Services Department. Prior to his September 2, 2021 transfer to the Inspectional Service Department, he worked in the City's Parking Control office. Upon his transfer, he was asked his vaccination status by his supervisor Michael Wells (Wells). Scoppettuolo told Wells that he was vaccinated.

In September 2021, the City of Revere, after notice to and negotiation with all City bargaining units, including Local 22, implemented a non-mandatory vaccination program for all City employees, offering a \$250 bonus payment for proof of vaccination and requiring non-participants to be tested weekly and to provide proof thereof.

On November 1, 2021, employees were asked to upload their vaccination cards to receive the \$250 incentive bonus. On November 2, 2021, Scoppettuolo submitted a vaccination card that purported to show that he received two doses of the Pfizer vaccine at a Walgreens pharmacy, the first dose on July 21, 2021, and

the second dose on August 11, 2021. The card did not specify which Walgreens location.

On November 2, 2021, Lauren Buck (Buck), the City's Director of Public Health began verifying the employees' card submissions. Buck compared each card submission with information contained in the Massachusetts Immunization Information System (MIIS). The MIIS system contained no record of Scoppettuolo receiving either dose of the vaccination listed on his submitted card.

On November 2, 2021, Buck emailed Wells and informed him that she was unable to verify the information submitted by Scoppettuolo and that Scoppettuolo would have to go to the pharmacy to have the information uploaded for verification. Wells informed Scoppettuolo of the verification issue. Scoppettuolo insisted that he had been vaccinated and said he would go to Walgreens and fix the issue. Buck also spoke to Scoppettuolo and he told her that he had gone to the Walgreens each time without an appointment and received his vaccination. Dr. Nathalee Kong (Dr. Kong), the City's Chief of Health and Human Services called Walgreens to inquire about Scoppettuolo's vaccination status. She was informed that even if Scoppettuolo had walked in each time without an appointment, Walgreens would still have records of his visit, and that no record existed of either alleged visit.

On November 9, 2021, Scoppettuolo tested positive for COVID-19, and Wells inquired as to the status of the vaccination information. Scoppettuolo informed him that Walgreens had no information or record of him receiving his vaccinations from them, but again insisted that he had received the vaccinations

and that his vaccination card was legitimate. The City informed Scoppettuolo that it was not satisfied with his response.

On December 7, 2021, Scoppettuolo uploaded another vaccination card after receiving a single dose of the Johnson and Johnson vaccine from Rite Aid. When asked by Wells why he would receive another vaccination if he was already vaccinated, he responded “so I could upload a verifiable card.”

On February 3, 2022, Mayor Brian Arrigo (Mayor Arrigo) terminated Scoppettuolo’s employment with the City stating:

[y]ou lied about your vaccination status upon inquiry and later provided false documentation in support thereof. Even after being questioned regarding the lack of any record of your vaccination, you insisted you were vaccinated and blamed Walgreen’s pharmacy for having lost the records. As a sanitation inspector you are in a position of trust. The lying and falsification of documents is a very serious matter for any City employee and cannot be tolerated.

A grievance over the termination was filed by the Union. The grievance was denied at all steps by the Employer, resulting in the instant arbitration.

### **POSITIONS OF THE PARTIES**

#### **THE EMPLOYER**

There is just cause to terminate Scoppettuolo and it has shown by a preponderance of the evidence that he falsified a vaccination card and submitted it in order to receive the two hundred and fifty dollar payment and to getting tested weekly.

Buck, the City’s Director of Public Health testified that all such records are kept in the MIIS. Upon returning to Walgreens for the second shot, Walgreens would have attempted to ascertain Scoppettuolo’s first shot information before

administering the second dose and would have updated any discrepancies prior to administering the second dose. It simply defies credulity that Walgreens would err in that regard once, let alone twice, with the same individual.

Walgreens is a major pharmacy chain in the United States. They have vaccinated thousands of people during the COVID-19 epidemic and they get paid for every vaccination administered. Surely, Walgreens would have been able to dig up a record of Scoppettuolo receiving a vaccination on July 21, 2021, and August 11, 2021. Scoppettuolo's statement that Walgreen's did not have any record of either transaction corroborates the fact that the vaccinations never occurred.

Walgreens is also highly regulated, and anyone receiving a vaccination is required to fill out a form including identifying information as well as medical information. While Scoppettuolo has been remarkably consistent in his insistence that he has been vaccinated twice, in so doing, he is asking the City to believe that he simply walked into Walgreens and they just administered the shot and gave him the card without making any record of it, not once but twice. That didn't happen.

#### Just Cause For Termination

At the time Scoppettuolo engaged in the misconduct noted above, he was employed in the City's Inspectional Services Division as a Sanitation Inspector. It is a position of autonomy and trust. As an agent of the City, he is assigned to code enforcement duties with extensive contact with the public at large. Acts of fraud and dishonesty are anathema to such a position. The City no longer has

confidence that Scoppettuolo will conduct himself, going forward, with the honesty, trust and rectitude that the position requires.

While it is a tenet of labor law that, generally, disciplinary action should be rendered progressively, it is also well established that certain offenses for certain positions warrant discharge in the first instance. This is such a case. Not only did Scoppettuolo flout the City's well-founded efforts to address the long-lingering COVID-19 epidemic simply because he was unwilling to abide by them, he placed others at risk, including co-workers and members of the public with whom he must interact. He then compounded the problem by attempting to profit from the City's vaccination incentive program.

### Conclusion

Scoppettuolo surreptitiously failed to follow the COVID-19 protocol, lied to his supervisor about his vaccination status, and then heightened the misconduct by providing fraudulent documentation to obtain benefits to which he was not entitled. He did so for either money or convenience or possibly to conceal his lack of compliance. For all the reasons stated above, the City requests that the termination of Scoppettuolo be upheld and that the grievance be denied.

### **THE UNION**

Mayor Arrigo terminated Scoppettuolo for lying and falsification of documents. In order to support its required burden of proof, an examination of evidence is necessary. The first place to look is the lack of any specific rule, regulation, or administrative procedures being cited by the City in the termination notice. This is a failure of the basic premise required by Article III, Section 1 of the

collective bargaining agreement. The City is unable to prove that the grievant's conduct was done in a willful or intentional manner. Scoppettuolo's statements to Wells and his testimony at the hearing were consistent and credible. The City never introduced any evidence showing that his testimony was unverifiable or untrue. Scoppettuolo provided the same account of his vaccination experience as prior to his termination. The City never investigated or attempted to verify any factors provided to them by the grievant prior to his termination.

In order to support the existence of just cause, the City called only two witnesses, Public Health Director Buck and Director of Municipal Inspections Wells. Their testimony was no more substantive than their emails which have been submitted as exhibits. The testimony reveals that Scoppettuolo was never informed that if he did not obtain vaccinations, he would be disciplined. In fact, he was not disciplined for his vaccination status; rather the City claimed his Walgreens card was fake and that he lied about its authenticity. This is a blatant assumption based upon speculation and conjecture without a scintilla of proof to support the allegations.

The sole basis for the City to conclude the Walgreens card was fake was that the Walgreens' information could not be located in a database system utilized by Buck. No one from the City attempted to seek an explanation for this error in record keeping, nor did anyone ever ask Walgreens to examine the COVID card provided by Scoppettuolo. The questions of an error occurring either in the Walgreens system or the City's system was never determined. Given the escalation of the City's concerns, and knowing that Walgreens was suffering from

an unexplainable failure in its database, Scoppettuolo decided to get revaccinated. This, in hindsight, was probably not a good idea. Scoppettuolo, however, decided that if the City was being unreasonable, he would just get revaccinated as it was less risky than losing his job as an inspector for the City.

### Conclusion

Scoppettuolo was terminated for doing what was required of him. The City never discovered any evidence establishing that he lied or presented a fake card, nor was his testimony or prior statements proven to be untrue. The actions of the City violate the provisions of the collective bargaining agreement. The City has failed to provide any reasonable, acceptable or suitable arguments to support their unjust decision to terminate Scoppettuolo. Their unilateral and unjust judgment must be rejected. This industrial tragedy can only be remedied by sustaining the grievance, reinstating him to his former position and making him whole.

### **OPINION**

The issue before me is: Did the City have just cause to terminate the grievant, Joseph Scoppettuolo? If not, what shall the remedy be?

For all the reasons stated below, the City had just cause to terminate Joseph Scoppettuolo, and the grievance is denied.

The City presented convincing evidence and testimony to prove that Scoppettuolo committed the offenses outlined in his termination letter. Specifically, upon his transfer into the City's Inspectional Services Department, Scoppettuolo lied to his supervisor about his vaccination status. Scoppettuolo further exasperated his problems by then submitting a fake vaccination card in an attempt

to defraud the City and receive a bonus payment to which he was not entitled. When confronted by Wells and Buck, Scoppettuolo continued to lie about his vaccination status and the authenticity of his submitted vaccination card, going so far as to blame Walgreens and suggest that he would get the problem fixed.

Notwithstanding the Union's unfounded claim to the contrary, the City performed its due diligence in each step of the process. Wells inquired of Scoppettuolo's vaccination status upon his transfer into the department. Buck used the Commonwealth of Massachusetts' MIIIS system to try to verify Scoppettuolo's fraudulent vaccination card upon submission. Both Wells and Buck then spoke to Scoppettuolo to discuss the verification issue and offer him another opportunity to tell the truth, which he failed to do multiple times. Finally, the City had Dr. Kong call Walgreens and discuss the discrepancy over Scoppettuolo's vaccination card. Dr. Kong came away convinced that the issue was Scoppettuolo's truthfulness about the veracity of his vaccination card, not a Walgreens documentation issue.

On the opposite side of the argument is Scoppettuolo's wholly unbelievable and unconvincing testimony that he walked into Walgreens on July 21, 2021, and August 11, 2021 without an appointment, filled out no paperwork and received two doses of the COVID-19 vaccine. The fact that Scoppettuolo has remained consistent in his claims does not make them any more credible. Additionally, his attempt to defraud the City, by procuring a bonus payment to which he knew he was not entitled, increases the discipline that is justifiable in this matter. His belated attempt to rectify the situation by obtaining a one-shot dose of the Johnson

and Johnson vaccine and submitting a valid vaccination card only reenforces his continued dishonesty as he still insists that he received the other doses and obtained a different third dose to comply with the card submission verification process.

Finally, the City is correct that it must be able to trust its inspectors, who are responsible for code enforcement within the City and serve as agents of the City in their daily interactions with the public. Scoppettuolo, by his repeated dishonest and fraudulent conduct cannot be trusted by his employer, a necessity for his continued employment.

**AWARD**

The City had just cause to terminate Joseph Scoppettuolo, and the grievance is denied.



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Timothy Hatfield, Esq.  
Arbitrator  
September 19, 2023