

**WEST VIRGINIA PUBLIC EMPLOYEES
GRIEVANCE BOARD**

SYNOPSIS REPORT

Decisions Issued in January 2015

The Board's monthly reports are intended to assist public employers covered by a grievance procedure to monitor significant personnel-related matters which came before the Grievance Board, and to ascertain whether any personnel policies need to be reviewed, revised or enforced. W. Va. Code §18-29-11(1992). Each report contains summaries of all decisions issued during the immediately preceding month.

If you have any comments or suggestions about the monthly report, please send an e-mail to wvgb@wv.gov.

NOTICE: These synopses in no way constitute an official opinion or comment by the Grievance Board or its administrative law judges on the holdings in the cases. They are intended to serve as an information and research tool only.

TOPICAL INDEX
COUNTY BOARDS OF EDUCATION
PROFESSIONAL PERSONNEL

KEYWORDS: Suspension; Immorality; Insubordination; Intentional Disobedience; Misuse of Quasi-Public School Funds; Witness Credibility; Embezzlement; Restitution; Mitigation; Arbitrary and Capricious

CASE STYLE: Gray v. Raleigh County Board of Education
DOCKET NO. 2014-0560-RaIED (1/8/2015)

PRIMARY ISSUES: Grievant challenges the dispensary actions of Respondent.

SUMMARY: Raleigh County Board of Education, Respondent, sanctioned Grievant for the misuse of quasi-public school funds. Grievant was suspended without pay and ordered to repay a specific amount of restitution.

Grievant had been entrusted with administrating a substantial amount of funds earmarked for designated needy school children. Irregularities arouse with regard to the expenditure of the designated funds. A significant amount of the funds were expended for unauthorized purchases. Grievant's explanation for these events varies with time. It had been recommended that Grievant's employment be terminated. Respondent, after a full School Board disciplinary hearing, declined to terminate Grievant's employment but ratified suspension without pay for a total of 44 days and ordered Grievant to make a specific dollar amount of restitution. At the time of the School Board hearing, Grievant was in concurrence with Respondent's actions. Subsequently, Grievant appealed.

Respondent met its burden of proof by a preponderance of the evidence, and established just cause for disciplinary actions against Grievant. Further, Respondent demonstrated its disciplinary actions in the circumstances of this case were not arbitrary, capricious or clearly excessive. This grievance is DENIED.

KEYWORDS: Selection; Pay; Coaching Position; Untimeliness; Time Period; Fifteen Days; Breach

CASE STYLE: Wright v. McDowell County Board of Education
DOCKET NO. 2014-1503-McDED (1/22/2015)

PRIMARY ISSUES: Whether Respondent proved by a preponderance of the evidence that the grievance was not filed within the statutory time frame.

SUMMARY: Grievant asserts that Respondent violated applicable rules, policies and procedures and discriminated against him when, by its actions/inactions, Respondent prevented Grievant from taking the head coaching position for the middle school boys' basketball team at Mountain View High School at the beginning of the basketball season. Grievant contends that, but for these alleged violations, he would have applied for and been appointed to the coaching position by the beginning of the season. Grievant asserts that he lost payment for the nine weeks he was prevented from coaching. Grievant further contends that Respondent breached its contract of extracurricular employment with him when Respondent paid him only \$656.25 for the seven weeks he worked, by pro-rating the \$1,500.00 specified/allowed for middle school head basketball coaches under Respondent's policy on athletic personnel salaries, given that said contract specified Grievant would be paid \$3,500.00 for the season. The Board asserts the defense that, even assuming Grievant proved the asserted violations, Grievant failed to timely file his grievance. The record demonstrated that Grievant signed and dated, on March 25, 2014, a McDowell County Board of Education "Athletic Invoice for Coaching Supplement 2013-2014 School Year," which indicated that he would be paid \$656.25, which represented the usual middle school head coach's supplement of \$1,500.00, per Respondent's policy, pro-rated to reflect that Grievant coached for only seven weeks. Therefore, at the very latest date, Grievant knew on March 25, 2014, that Respondent would not pay him the \$3,500.00 stated in the contract, pro-rated or in full, but rather, would pay him a pro-rated portion of the \$1,500.00 permitted under Respondent's policy. Nonetheless, Grievant filed this grievance on April 28, 2014, beyond the 15-day statutorily prescribed period. Respondent proved that the grievance was untimely filed. Grievant offered no excuse for the untimely filing. Accordingly, this Grievance must be DISMISSED.

KEYWORDS: Probationary Contract; Non-Renewal; Contract; Arbitrary and Capricious

CASE STYLE: Conrad v. Grant County Board of Education
DOCKET NO. 2013-2085-GraED (1/9/2015)

PRIMARY ISSUES: Whether Grievant proved that Respondent's decision to not renew her contract was arbitrary and capricious.

SUMMARY: Grievant, a probationary employee, challenged the non-renewal of her probationary contract. Respondent properly followed the requirements of state law concerning the limited amount of due process provided in the non-renewal of Grievant's probationary contract. Grievant failed to prove that Respondent's decision was arbitrary and capricious given Grievant's history of poor attendance and the failure to meet expectations relating to the timely submission of lesson plans. Accordingly, the grievance is denied.

KEYWORDS: Private Industry Experience Credit; Uniformity Provisions; Duties and Assignments; Pay Level

CASE STYLE: Smith, et al. v. Randolph County Board of Education
DOCKET NO. 2014-0385-CONS (1/14/2015)

PRIMARY ISSUES: Whether Grievants established a violation of W. Va. Code § 18A-4-5b.

SUMMARY: Grievants have all been employed by Respondent as Career and Technical Education instructors for a number of years. Grievants seek salary adjustments based upon the submission of years of industry experience. This request was granted to two Grievants by Respondent, but denied to the other three Grievants. A majority of Grievants in the instant case were able to establish a violation of the uniformity provisions set out in W. Va. Code § 18A-4-5b and are entitled to appropriate relief based on the record of this grievance. Based upon the facts of this case, Respondent is ORDERED to award Mr. Daniels, Mr. Isner, and Mr. Pennington ten (10) years industry experience as well as back pay, plus interest. Respondent is ORDERED to award Mr. Broschart eight (8) years industry experience as well as back pay, plus interest. The grievance filed by Mr. Smith is denied as it appears he received the appropriate relief at level one. All requests for the award of Master's pay level are denied.

TOPICAL INDEX
COUNTY BOARDS OF EDUCATION
SERVICE PERSONNEL

KEYWORDS: Left-Over Food; Theft; Federal Funding; False Statements; Immorality; Insubordination; Credibility

CASE STYLE: Burton v. Mercer County Board of Education
DOCKET NO. 2014-1682-MerED (1/7/2015)

PRIMARY ISSUES: Whether Respondent was justified in terminating Grievant from employment for stealing left-over food.

SUMMARY: Grievant was employed by Respondent as a Cook for seven years and had a good work history. Grievant was dismissed from employment for immorality and insubordination for stealing food in violation of policy and lying about the theft when confronted. Respondent proved Grievant stole left-over food, that Grievant was aware she was prohibited from removing left-over food, and that Grievant lied when confronted. Although the monetary value of the food is limited, the conduct is much more serious as the theft was a violation of policy tied to federal funding. Respondent proved Grievant's conduct was immoral and insubordinate. Accordingly, the grievance is denied.

KEYWORDS: Left-Over Food; Theft; False Statements; Policy; Immorality; Insubordination

CASE STYLE: Tyree v. Mercer County Board of Education
DOCKET NO. 2014-1683-MerED (1/7/2015)

PRIMARY ISSUES: Whether Respondent was justified in terminating Grievant from employment for stealing left-over food.

SUMMARY: Grievant was employed by Respondent as a Cook for ten years and had a good work history. Grievant was dismissed from employment for immorality and insubordination for stealing food in violation of policy and lying about the theft when confronted. Respondent proved Grievant stole left-over food, that Grievant was aware there was a policy prohibiting the removal of left-over food, and that Grievant lied when confronted. Although the monetary value of the food limited, the conduct is much more serious as the theft was a violation of policy tied to federal funding, for which Respondent had previously been penalized through loss of funding. Respondent proved Grievant's conduct was immoral and insubordinate. Accordingly, the grievance is denied.

KEYWORDS: Untimely filed; statutory time frame; overtime; advisory opinion; relief; extra-duty work

CASE STYLE: Lewis, et al. v. Kanawha County Board of Education
DOCKET NO. 2014-1590-CONS (1/2/2015)

PRIMARY ISSUES: Whether any relief can be granted by the Grievance Board.

SUMMARY: Grievants are both employed by Respondent Kanawha County Board of Education (KCBOE) in the Maintenance Department ("Maintenance"). Grievant Lewis is employed as a painter and Grievant Koenig as a carpenter. During the time period of January 2014, through May or June of 2014, Respondent offered extra-duty assignments of water delivery and mulch delivery/spreading exclusively to employees/trades in one department of the four departments in Maintenance. Grievants seek to require Respondent to allow all Maintenance employees the opportunity to participate in general maintenance extra-duty assignments that involve work that is not within their particular trade(s)/classification(s), rather than giving such assignments exclusively to the trades within one particular "shop" of the four "shops" in Maintenance. Grievants assert that any general maintenance extra-duty assignments that do not require the specific skills of a particular trade should be assigned to maintenance employees in any/all of trades in Maintenance, if the employees are willing to take that overtime/extra-duty work. Grievants also contend that the work should be assigned based upon seniority in each shop/trade, rather than being assigned exclusively to the trades within one "shop," which practice they assert violates W. Va. Code §18A-4-8b. Grievants do not assert that they are entitled to compensation for the extra-duty work at issue in this grievance. As such, Grievants seek an advisory opinion on whether Respondent assigned this extra-duty work in violation of W. Va. Code §18A-4-8b. Respondent also asserts the defense that Grievants failed to timely file their grievances. Respondent proved that the grievances were not timely filed, and Grievants offered no excuse for their untimely filing. Moreover, the Grievance Board does not issue advisory opinions. Accordingly, this Grievance must be DISMISSED.

KEYWORDS: Contract; Salary; Timeline; Work Experience; Policy; Arbitrary and Capricious

CASE STYLE: Chapman, Jr. v. Fayette County Board of Education
DOCKET NO. 2014-0855-FayED (1/23/2015)

PRIMARY ISSUES: Whether Respondent's correction of Grievant's contract was arbitrary and capricious or a violation of law, rule, or policy.

SUMMARY: Grievant was previously employed by another county school board, which had paid him a salary based partly on experience gained outside a school system. Grievant was awarded a new position with Respondent. Respondent did not have a salary supplement to allow payment of salaries based on experience gained outside a school system. Respondent mistakenly issued Grievant a continuing contract with a salary based on experience gained outside a school system. Grievant was not entitled to a continuing contract or that salary, as those provisions did not comply with the applicable statutes. Respondent's correction of Grievant's contract was not arbitrary and capricious or a violation of law, rule, or policy. Accordingly, the grievance is denied.

KEYWORDS: Compensation; Extracurricular Rate; Default; Merits; Relief; Remedy

CASE STYLE: Thomas v. Marion County Board of Education
DOCKET NO. 2014-0499-MrnED (1/20/2015)

PRIMARY ISSUES: Whether Respondent demonstrated that the remedy requested by the Grievant was contrary to law or contrary to proper and available remedies.

SUMMARY: Since Grievant prevailed on the merits by default, the sole issue is whether the remedy sought by Grievant is contrary to law or contrary to proper and available remedies. The Respondent has the burden of proving this affirmative defense by a preponderance of the evidence. Record established that compensation of \$15 per hour for the minimum of 1.5 hours per day on the days upon which Grievant rode a bus to serve students from 12:30 p.m. to 2 p.m. during the 2013-2014 school was not contrary to law or contrary to proper and available remedies.

TOPICAL INDEX
STATE EMPLOYEES

KEYWORDS: Workplace Access; Deactivating Badge; Annual Leave; Policy; Arbitrary and Capricious

CASE STYLE: Morris v. Department of Health and Human Resources/William R. Sharpe, Jr. Hospital
DOCKET NO. 2013-0987-DHHR (1/6/2015)

PRIMARY ISSUES: Whether Respondent's decision to deactivate Grievant's badge violated any law, rule, or policy or was otherwise arbitrary and capricious.

SUMMARY: Grievant is employed by Respondent at William R. Sharpe Jr. Hospital. Grievant's husband, also an employee of the hospital, was accused of making a workplace threat of violence. Respondent immediately suspended Grievant's husband and deactivated his badge to prevent his entry into the hospital. Respondent also deactivated Grievant's badge, without notice, also to prevent Grievant's husband entry into the hospital. Grievant was angry and upset over these events and requested annual leave, which was granted. Grievant's husband was later acquitted of a criminal charge relating to the threat allegation and was reinstated to his position by the Grievance Board. Grievant failed to prove that Respondent's decision to deactivate her badge, which prevented her entry and exit from the building, violated any law, rule, or policy or was otherwise arbitrary and capricious. Grievant failed to prove she was entitled to the return of annual leave that she requested and used due to her anger over Respondent's decision to deactivate her badge. Accordingly, the grievance is denied.

KEYWORDS: Disciplinary Action; Sleeping on the Job; Rule Violation; Operating Procedures; Mitigation; Arbitrary and Capricious

CASE STYLE: Jividen v. Division of Highways

DOCKET NO. 2014-0562-DOT (1/8/2015)

PRIMARY ISSUES: Whether Grievant demonstrated that the disciplinary measure imposed was disproportionate to the offense.

SUMMARY: Grievant was suspended for one (1) day after he was discovered sleeping in a state vehicle in a bar parking lot. Sleeping on the job, among other delineated offenses, is a duly identified and sanctionable violation of agency policy. See West Virginia Division of Highways Administrative Operating Procedures. Grievant challenges the discipline imposed. Grievant failed to carry the affirmative burden of proof in demonstrating that the disciplinary action taken against him was excessive. Respondent established by a preponderance of the evidence that Grievant violated applicable DOH Administrative Operating Procedures. Considerable deference is afforded the employer's assessment of the seriousness of the employee's conduct and the prospects for rehabilitation. It is not established that Respondent abused its discretionary options in the circumstances of this case. This grievance is DENIED.

KEYWORDS: Interview Committee; Personal Relationship; Nepotism

CASE STYLE: Leonard v. Division of Corrections/Lakin Correctional Center

DOCKET NO. 2014-1094-MAPS (1/12/2015)

PRIMARY ISSUES: Whether Grievant demonstrated there was a flaw in the selection process, because one of the members of the interview committee had been married to the successful applicant's sister.

SUMMARY: This grievance was filed when Grievant was not selected for a posted Corrections Program Specialist position. Grievant argued the selection process was flawed because one of the members of the interview committee had at one time been married to the successful applicant's sister, and the successful applicant had resided with her sister and her husband for a period of time. Although the interview committee recommended six applicants to the Warden, Grievant was not among these six. Grievant did not demonstrate a violation of any law, policy, procedure, or rule, that there was a flaw in the selection process, or that he should have been selected for the position.

KEYWORDS: Progressive Discipline; Unprofessional Conduct; Poor Work Performance; Arbitrary or Capricious

CASE STYLE: Hatfield v. Department of Health and Human Resources/Bureau for Children and Families
DOCKET NO. 2015-0073-DHHR (1/15/2015)

PRIMARY ISSUES: Whether Respondent has proven the allegations against the Grievant by a preponderance of the evidence.

SUMMARY: Grievant was suspended for 10 days for her continuing poor work performance, specifically for her failure to timely complete her assigned work. Grievant asserts that her 10-day suspension was improper. Respondent contends that it showed a clear progression through its Progressive Disciplinary Policy for continued work performance deficiencies, justifying the suspension. Grievant received a Verbal Reprimand, a Written Reprimand, a 3-day suspension and a 10-day suspension and all disciplinary action was for poor conduct or work performance. Grievant failed to demonstrate that Respondent did not follow its progressive discipline policy in suspending her for 10 days. Respondent has proven by a preponderance of the evidence that Grievant failed to timely complete FFAs. Respondent further demonstrated that that it warned Grievant about her unsatisfactory work; attempted to work with Grievant to correct her backlog, took into consideration and granted Grievant's requests for accommodations to help her erase that backlog, and that the excuses proffered by Grievant are insufficient to warrant Grievant's poor work performance. Grievant's work performance was poor and her 10-day suspension was justified and appropriate. Accordingly, the grievance is DENIED.

KEYWORDS: Probationary Employee; Unsatisfactory Work Performance; Unable to Safely Use Equipment; Fitness; Essential Duties; Weight Limits

CASE STYLE: Stoneking v. Division of Highways
DOCKET NO. 2014-1699-DOT (1/15/2015)

PRIMARY ISSUES: Whether Grievant demonstrated that his performance was satisfactory during his probationary period.

SUMMARY: Grievant was dismissed from his probationary employment as a Bridge Inspector I because of unsatisfactory performance. Grievant was unable to perform the essential duties of his position due in part to the fact that his weight exceeded the safety limits for use of equipment necessary to perform his job duties. Grievant did not demonstrate that his performance was satisfactory as a probationary employee.

KEYWORDS: Functional Demotion; Voluntary Transfer; Res Judicata; Claim Preclusion

CASE STYLE: Morgan v. Division of Highways

DOCKET NO. 2015-0378-DOT (1/22/2015)

PRIMARY ISSUES: Whether Respondent demonstrated that all of the elements of the doctrine of claim preclusion (res judicata) are met in the present grievance.

SUMMARY: In his present grievance, Mr. Morgan contests what he characterizes as a functional demotion allegedly occurring on October 6, 2014. Grievant was informed at that time that he would be permanently placed in a Mechanic 3 position. Mr. Morgan had previously filed two grievances: one on October 18, 2013, alleging "Discipline, including suspension, without good cause;" and another on November 7, 2013 alleging, "Demotion without good cause." Those grievances were consolidated with additional grievances filed by Curtis Barnes and Robert Eggert and styled Morgan, et al., v. Division of Highways, Docket No. 2014-0549-CONS. The main issue in the November 7, 2013, grievance was whether Mr. Morgan was demoted from an Equipment Supervisor 1 position to a Mechanic 3 position, or whether that transfer was voluntary. In a decision issued September 25, 2014, the Administrative Law Judge specifically found that Grievant Morgan voluntarily applied for the position of Mechanic 3 and that he was not demoted. Grievant has remained in the Mechanic 3 position since the original grievance was filed and has suffered no change of position, loss in pay, nor supervisory authority subsequent to the decision in Morgan et al. supra. The issue of whether Grievant was demoted when he moved from Equipment Supervisor 1 to Mechanic 3 was specifically decided in the previous grievance. That status was not changed in October 2014 when the present grievance was filed. The issue of demotion is barred from being litigated anew by issue and claim preclusion doctrines of res judicata and collateral estoppel.

KEYWORDS: Transfer; Float Position; Family Medical Leave Act; Arbitrary and Capricious

CASE STYLE: Hull v. Department of Health and Human Resources/William R. Sharpe, Jr. Hospital

DOCKET NO. 2014-0158-DHHR (1/6/2015)

PRIMARY ISSUES: Whether Respondent's decision to transfer Grievant to the Nurse Clinical Coordinator office was arbitrary and capricious.

SUMMARY: Grievant has been employed as a Licensed Practical Nurse at Sharpe Hospital for three years. In late July 2013, Grievant was advised that she was transferred from Unit G2, and would be assigned to different units at the hospital as the need arose. Grievant maintains that this was done because she was on leave under the Family Medical Leave Act, and was unreasonable. As the level one evaluator correctly notes, it is well settled that state agencies have wide discretion in the reassignment of employees. Grievant has failed to demonstrate that Respondent's decision to transfer Grievant from unit G2 to a float position was arbitrary and capricious.

KEYWORDS: Work Performance; Job Duties; Employee Appraisal; Due Process

CASE STYLE: Resh v. Jefferson County Health Department

DOCKET NO. 2014-1659-JefCH (1/26/2015)

PRIMARY ISSUES: Whether Respondent demonstrated that Grievant was unable to competently perform his duties, constituting good cause for dismissal.

SUMMARY: Grievant was dismissed from his employment by Respondent for unsatisfactory performance. Respondent demonstrated that Grievant's performance did not meet the standards expected of employees.

KEYWORDS: Suspension; Leave Restriction; Unauthorized Leave; Falsification; Docked Pay; Absences; Mitigation; Arbitrary and Capricious

CASE STYLE: Kirk v. Division of Highways

DOCKET NO. 2014-1764-CONS (1/27/2015)

PRIMARY ISSUES: Whether Respondent proved the charges against Grievant and whether the discipline imposed upon Grievant was appropriate.

SUMMARY: Grievant is employed as a Secretary 2 by Respondent. Grievant was placed on a leave restriction in March 2014, for attendance issues, and did not grieve the same. In March 2014 and June 2014, Grievant was disciplined for violating the terms of her leave restriction on four occasions. Grievant was also charged with falsifying her time sheet in June 2014. Respondent docked Grievant's pay for some of the instances of unauthorized leave, and also imposed two one-day suspensions. Grievant asserted a challenge to the leave restriction and denied all charges against her. However, Grievant did not grieve the imposition of her leave restriction. Grievant also argued that Respondent's actions were unreasonable, and that the discipline imposed upon her was excessive. Respondent denies Grievant's claims and argues that all disciplinary actions taken were warranted and appropriate. Respondent proved the charges against Grievant by a preponderance of the evidence, and justified the disciplinary actions taken. Grievant failed to prove that Respondent's actions were arbitrary and capricious, and failed to prove that mitigation was warranted. Therefore, the grievance is denied.

KEYWORDS: Attendance Improvement Plan; Leave Restriction; Absences; Annual Leave; Unauthorized Leave; Arbitrary and Capricious; Docked Pay

CASE STYLE: Samosky v. Department of Health and Human Resources/Bureau for Children and Families

DOCKET NO. 2014-0229-DHHR (1/14/2015)

PRIMARY ISSUES: Whether Grievant proved that his attendance improvement plan was improper or unreasonable, whether Respondent proved that Grievant took unauthorized leave, and whether Respondent was justified in docking Grievant's pay.

SUMMARY: Grievant is employed by Respondent as an Economic Service Worker. In March 2013, Grievant had a sick leave balance of approximately eleven hours. Grievant's supervisor determined that Grievant's frequent use of leave was rendering him undependable to perform the duties of his job and such was interfering with the operation of the office. As such, Grievant's supervisor placed him on an attendance improvement plan ("AIP"), which set forth restrictions on how he could use his accrued leave. One such restriction was that he was to provide a doctor's statement for any use of sick leave while on the AIP. Grievant did not grieve his being placed on the AIP. Grievant complied with the terms of his AIP until July 12, 2013. On that date, Grievant called in sick, using six hours of sick leave, and did not obtain a doctor's statement for this absence. Grievant explained to his supervisors that he did not need to see a doctor for his condition, and even if he did, he was too ill to drive himself to the doctor. Respondent determined that Grievant failed to comply with the terms of his AIP for his July 12, 2013, absence, and that such leave was unauthorized. Accordingly, Respondent docked Grievant's pay for the six hours of unauthorized leave. Grievant asserts that his placement on the AIP was improper and that its terms were unreasonable and impossible to comply with. Grievant also argues that his sick leave on July 12, 2013, was not unauthorized leave and that Respondent was not justified in docking his pay. Grievant failed to prove by a preponderance of the evidence that his claims that the AIP was improper and its terms, unreasonable. Respondent proved by a preponderance of the evidence that Grievant's leave on July 12, 2013, was unauthorized leave pursuant to the DOP Administrative Rule, and that docking his pay for said leave was justified. Therefore, this grievance is DENIED.

KEYWORDS: Selection; Training; Qualified; Flawed; Arbitrary and Capricious

CASE STYLE: Hoskins v. Division of Highways and Robert McDonald and Joshua Cline, Intervenors
DOCKET NO. 2014-0810-DOT (1/28/2015)

PRIMARY ISSUES: Whether Grievant proved that the selection process was flawed, or was arbitrary and capricious.

SUMMARY: Grievant applied for two Transportation Crew Supervisor positions. Respondent held one round of interviews to fill both vacancies at the same time. However, Grievant was not selected for either position. Grievant asserts that he was the most qualified candidate, and that he was placed at a disadvantage because Respondent failed to provide him with supervisor training as it had been ordered to do in a prior grievance; therefore, the selection process was flawed and arbitrary and capricious. Respondent denies Grievant's allegations, asserting that the selection process was conducted properly, and that the most qualified candidates were selected. Grievant failed to meet the burden of proving his claims by a preponderance of the evidence. Therefore, this grievance is DENIED.

KEYWORDS: Return to Work; Job Duties; Failure to Comply; Job Abandonment; Medical Documentation; Leave of Absence; Arbitrary and Capricious

CASE STYLE: Adkins v. Division of Natural Resources
DOCKET NO. 2014-1148-DOC (1/30/2015)

PRIMARY ISSUES: Whether Respondent's termination of Grievant's employment was lawful.

SUMMARY: Grievant was issued a dismissal letter for job abandonment. Grievant was released to full duty with no restrictions after a leave of absence. Grievant disputed the finding and failed to return to work. Grievant failed to provide medical evidence that Respondent determined adequate to confirm the necessity for his leave or a medical release, and indicating a date when he would be physically able to return to perform the essential duties of his position. Despite numerous efforts to secure Grievant's return to work, Grievant failed to do so. Respondent demonstrated that Grievant's extended absence from work was unauthorized. Unauthorized leave from the workplace is sanctionable conduct. Applicable policies permit the actions that were exercised by Respondent. The undersigned does not conclude, in the circumstances of this matter, that Respondent's actions were excessive. This grievance is DENIED.