

**WEST VIRGINIA PUBLIC EMPLOYEES
GRIEVANCE BOARD**

SYNOPSIS REPORT

Decisions Issued in December 2022

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
STATE EMPLOYEES

<u>KEYWORDS:</u>	Termination; Family Medical Leave Act; Credibility; Falsified Paperwork; Gross Misconduct
<u>CASE STYLE:</u>	<u>Weekley v. Department of Health and Human Resources/William R. Sharpe, Jr. Hospital</u> DOCKET NO. 2021-1858-CONS (12/2/2022)
<u>PRIMARY ISSUES:</u>	Whether Respondent proved by a preponderance of the evidence that Grievant engaged in any misconduct.
<u>SUMMARY:</u>	Grievant was employed by Sharpe Hospital as a lead housekeeper. Grievant was away from work on Family Medical Leave Act leave that was exhausted on September 1, 2020. Subsequently, two forms for a Medical Leave of Absence were submitted to Respondent that appear to be completed by a representative of Lively Family Health clinic. One was submitted to Respondent by Grievant and one form was submitted from Lively Family Health clinic. Two inconsistencies were noted on the form by Respondent. Grievant was discharged from employment after Respondent came to the conclusion that Grievant had altered or falsified the form received from her. Respondent was unable to prove this charge by a preponderance of the evidence. This grievance is granted.

<u>KEYWORDS:</u>	Discrimination; Technological; Computer; Resolution; Performance; OT; Persistent; Error; Evaluation; EPA
<u>CASE STYLE:</u>	<u>Booker v. Public Employees Insurance Agency</u> DOCKET NO. 2022-0701-DOA (12/8/2022)
<u>PRIMARY ISSUES:</u>	Whether Grievant proved her claims of discrimination by a preponderance of the evidence.
<u>SUMMARY:</u>	Grievant is employed by Respondent as a Customer Service Representative II. Grievant asserts that Respondent has discriminated against her by causing her to experience persistent technological problems that hamper her ability to perform her job duties, and by failing to correct those problems. Respondent denies all of Grievant's claims and asserts that it has taken all reasonable steps to resolve the technological problems that Grievant is experiencing. Grievant failed to prove her claims by a preponderance of the evidence. Therefore, the grievance is DENIED.