

ONE INSTANCE OF NEGLIGENCE OF DUTY NOT CAUSE FOR TERMINATION

While finding that there was just cause to discipline an employee (a paramedic with over 21 years of service) for neglect of duty, an arbitrator concluded that a decision to discharge was improper. Evidence showed that the employee did not fulfill his duties or follow proper protocol when he transported a 68-year old patient with a complaint of syncope and acute abdominal pain—the employee failed to contact the hospital regarding the patient’s condition, he did not administer oxygen or an IV or monitor ECG—and instead of acting as the patient’s advocate, the employee felt the patient was not seriously ill, but rather he was being “theatrical.” The arbitrator felt the employer had shown a rule violation for neglect of duty, and thus, there was cause for discipline.

However, under the second charge filed against the grievant—General Rule 11, Guidelines for Disciplinary Action—“neglect of duty” called for “Written Rep. To Dismissal and/or Demotion” when employees are “Found guilty of repeated violations of Dept. General Rules and Policy Directives or any other course of conduct indicating that a member has little or no regard for his responsibility as a member of the Fire Dept.” The arbitrator found that though the employer had shown a rule violation for neglect of duty, GR 11 called for “repeated violations,” and there were no repeated violations shown. In addition, although the patient died shortly after coming out of surgery, the evidence did not demonstrate that the actions taken by the employee in any way caused the patient’s death. The employee was reinstated with back pay. (City of Detroit Fire Department and International Union of Operating Engineers, Local 547, AFL-CIO, 08-1 ARB ¶4153, Patrick A. McDonald, April 13, 2007)