GOVERNMENT OF THE DISTRICT OF COLUMBIA
PUBLIC EMPLOYEE RELATIONS BOARD

In the Matter of:	)	
District of Columbia Housing Authority,	)	**PERB Case No. 99-A-04**
	)	**Opinion No. 591**
Petitioner,	)	
and	)	
American Federation of Government Employees, Local 2725, AFL-CIO (on behalf of Grievant Lanre Banjo),	)	
Respondent.	)	

DECISION AND ORDER

On April 9, 1999, the District of Columbia Housing Authority (DCHA), filed an Arbitration Review Request. DCHA seeks review of an arbitration award (Award or Opinion) upholding a grievance filed by the American Federation of Government Employees, Local 2725, AFL-CIO (AFGE) reinstating a bargaining unit employee who had been terminated without cause. DCHA contends that the Award is contrary to law. AFGE opposes review, arguing no statutory basis exists for disturbing the Award.

The issue before the Board is whether "the award on its face is contrary to law and public policy... ." D.C. Code Sec. 1-605.2(6). The Board concludes that DCHA has not established a statutory basis for our review.

The causes cited by DCHA as the basis for the grievant's termination were: (1) inexcusable neglect of duty; (2) dishonesty; and (3) insubordination. (Opinion at 3.) The Arbitrator found that "facts sufficient to support the alleged causes for the action [were] not present." (Opinion at 4.) With respect to the cause based on "inexcusable neglect of duty", the Arbitrator found that although the underlying duty assigned the grievant was completed one day after its due date, the assignment was not negligently completed.

Finally, the Arbitrator found that DCHA's termination of the

grievant under the facts presented was punitive, not corrective as required under the parties' collective bargaining agreement. The Arbitrator concluded that the circumstances of the case warranted reducing the grievant's discharge to an admonition. (Award at 1.) He further ordered that the grievant be reinstated to his position without loss of compensation or benefits. (Award at 1.)

DCHA takes issue with the Arbitrator's findings of fact and the reduction of the penalty imposed. DCHA asserts that notwithstanding findings by the Arbitrator that the grievant: (1) did not complete his work assignment timely and did not inform the assigning supervisor of his difficulty with completing the assignment and (2) was out of the office on March 30, 1998, and could not be accounted for between 1 and 3 p.m., the Arbitrator "improperly and inconsistently concluded that the penalty of termination was not warranted, without a reasonable basis." (ARR at 6.) As such, DCHA contends the Award should be set aside as contrary to the evidence presented.

The significance of these factual findings were presented to the Arbitrator who resolved it by crediting the grievant's version of events.[1]/ DCHA's contentions concerning the significance of certain facts merely represents its disagreement with the Arbitrator's findings of fact supporting his conclusion that the asserted causes were not established. It is well settled that disputes over the Arbitrator's evaluation of the evidence does not raise an issue for review. D.C. Public Schools and Washington Teachers Union, 43 DCR 1243, Slip Op. No. 349, PERB Case No. 93-A-01 (1996). The weight and the significance of evidence is within the arbitrator's discretion and does not state a statutory basis for modifying or setting aside the Award. See, e.g., American Federation of State, County and Municipal Employees, D.C. Council 20, AFL-CIO and D.C. General Hospital, 37 DCR 6172, Slip Op. No. 253, PERB Case No. 90-A-04 (1990).

DCHA has also asserted that the Arbitrator's reduction of the grievant's termination to an admonition "does not comport with the permissible range of penalties allowed under the

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[1]/ Specifically, the Arbitrator found that the grievant's assignment was completed and submitted one day late and was accepted by the Director of Finance the day it was so submitted. The Arbitrator concluded under these facts, the grievant's performance did not establish inexcusable neglect of duty. (Opinion at 4.) The Arbitrator also found no evidence to rebut the grievant's contention that there was a policy requiring him to inform his supervisor of his whereabouts during his lunch hour or when he is away from the agency on official business during the period in question. Id.

C[ollective] B[argaining] A[greement]" for the causes charged against the grievant. (ARR at 6.) Having found no statutory grounds for upsetting the Arbitrator's finding of no cause for the grievant's termination, no basis for this ground for review exists.

Given the authority and findings of the Arbitrator, DCHA has provided no grounds for finding that the Award is contrary to law and public policy. In view of the above, the Request presents no statutory basis under the CMPA for remanding the Award to the Arbitrator or to modify or set aside the Award.

ORDER

IT IS HEREBY ORDERED THAT:

1. The Arbitration Review Request is denied.

2. Pursuant to Board Rule 559.1, this Order shall be final upon issuance.

BY ORDER OF THE PUBLIC EMPLOYEE RELATIONS BOARD
Washington, D.C.

June 10, 1999

CERTIFICATE OF SERVICE

This is to certify that the attached Decision and Order on in PERB Case No. 99-A-04 was transmitted via Fax and/or U.S. Mail to the following parties on the 10th day of June, 1999.

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