

Opening Statement by Union - Example

Good evening Arbitrator White. My name is Kate and with me here today is Tom. We are here to arbitrate the matter of Union and the Grand Rapids Police Department.

On August 31st around 4:00PM Officer Sue was on patrol with Officer Tom when they observed a juvenile throw a rock at a car in front of them. This action caused severe damage to the car's windshield and forced the driver to swerve and nearly hitting a bicyclist. The driver called 911 and dispatch relayed the incident over the radio. Officer Sue pulled the car over and radioed to dispatch that they were on scene.

Officer Sue made sure everyone was ok and then talked to the juvenile, James, who threw the rock. Officer Sue has had 3 prior instances with James for the same behavior, all of which are documented. The driver of the car wished to press charges so Officer Sue arrested James for throwing a rock at the car as well as malicious destruction of property. Also note that because this is the fourth incident Officer Sue considered James to be an incorrigible juvenile.

Officer Sue informed James that he was under arrest, read him his Miranda rights, and placed him in the back of her patrol car until he calmed down. It was at this point that James' father, and then mother, arrived on scene. Officer Sue explained to them the situation and why their son was under arrest. Since there had been 3 prior instances she felt further action had to be taken to alter his behavior. After Officer Sue talked to James' parents she eventually relented and released James back to his parents. She then informed them that this case would be turned over to the prosecutor's office and that a warrant may be obtained for James' arrest for malicious destruction of property.

The employer stated in the letter of discharge that Officer Sue violated Rule #3: do not touch or speak to anyone in an abusive or harassing manner, Rule #8: do not engage in behavior that is harmful to the reputation of employer, and Rule #14: do not use authority of employer in abusive or demeaning manner. Officer Sue did not violate any of these 3 rules during the arrest. The union believes that the employer did not have just cause in the discharge of Officer Sue. Officer Sue did not believe that her behavior was unreasonable given the circumstances and her previous encounters with James. She used her best judgment to remedy the situation at hand. Officer Sue was not aware that arresting James would lead to discipline.

A similar situation is exhibited in arbitration award **Brown #1** where the police department stated one of their officers used excessive force. An officer cursed, threatened, and left a suspect alone for an extended period time. This officer also pulled the suspects hair, handcuffed him to a chair, as well as a steam pipe. The discipline that this officer received was originally termination; however, the arbitrator determined that the discharge was too severe and that the appropriate penalty should have been a suspension. The grievant was reinstated with full seniority and made whole. In that case, unlike this case, the officer did many things wrong.

Therefore we request that you uphold the grievance and reinstate Officer Sue's employment with the Grand Rapids Police Department. Thank you, we are prepared to proceed.

Note: The video used for this arbitration may be found on YouTube at this web address:

<http://www.youtube.com/watch?v=idO07rk5YVY&feature=related>