

BEFORE THE ARBITRATOR

In the Matter of the Arbitration
of a Dispute Between

LaCROSSE CITY EMPLOYEES' UNION,
LOCAL 180, SEIU

and

CITY OF LaCROSSE

Case 269
No. 51798
MA-8742

Appearances:

Mr. James Birnbaum, Attorney at Law, appearing on behalf of the Union.

Mr. Peter Kiskan, Assistant City Attorney, appearing on behalf of the City.

ARBITRATION AWARD

The above-captioned parties, hereinafter the Union and the City or Employer, respectively, are signatories to a collective bargaining agreement providing for final and binding arbitration of grievances. Pursuant to a request for arbitration, the Wisconsin Employment Relations Commission appointed the undersigned to hear a grievance. A hearing, which was not transcribed, was held on June 13, 1995, in LaCrosse, Wisconsin. The parties filed briefs and reply briefs whereupon the record was closed September 6, 1995. Based on the entire record, the undersigned issues the following Award.

ISSUES

The parties stipulated to the following issues:

1. Did the City have just cause to suspend the grievant on October 20, 1994?
2. If not, what is the appropriate remedy?

PERTINENT CONTRACT PROVISIONS

The parties' 1994-1995 collective bargaining agreement contains the following pertinent provisions:

ARTICLE 19
RESERVATION OF RIGHTS

Except as otherwise specifically provided herein, the management of the City of La Cross and the direction of the work force, including but not limited to the right to hire, to discipline or discharge for proper cause, to decide initial job qualifications, to lay off for lack of work or funds, or for the reduction in the level of services, to abolish positions, to make reasonable rules and regulations governing conduct and safety, to determine the schedule or work, to subcontract work, together with the right to determine the methods, processes and manner of performing work, are vested exclusively in Management.

New rules or changes in rules shall be posted in each department five (5) calendar days prior to their effective date unless an emergency requires a more rapid implementation of such rules.

ARTICLE 20
LIMITATIONS OF DISCIPLINARY ACTIONS

- A. Any and all written reprimands and/or memos of reprimands for all disciplinary actions less than suspensions, shall be removed from the employee's personnel file two (2) years after the date of the reprimand.
- B. Any and all other disciplinary actions shall cease to have any force and effect and shall be removed from the employee's personnel file three (3) years after the date of the disciplinary action.
- C. It is the intention of the parties that any memorandum, notation or disciplinary action hereby removed from an employee's file shall not be used in any future disciplinary action.
- D. The City shall not warn, suspend, demote, and/or discipline or discharge any employee except for just cause. If the City warns, suspends, demotes and/or discharges an employee for just cause, the City shall notify in writing and forward a copy of the notification to the Recording Secretary of the Union at the time such action was taken.

BACKGROUND

Bruce Becker and Doug Berekvam are co-workers at the City's Water Utility. Both are in the bargaining unit represented by the Union. Becker is classified as a Laborer, and Berekvam is classified as a Maintenance Man II. The Maintenance Man II classification is higher on the Employer's organizational chart than is the Laborer classification. As a result, when working in the field the Maintenance Man II sometimes gives job directions to the Laborer.

There is a long history of mutual hostility and bad blood between Becker and Berekvam. They have exchanged words with each other on a number of occasions for a variety of reasons.

In 1991, when Becker was a union steward and member of the Union's executive board, he was involved in processing a grievance which resulted in an employe who had transferred into the Water Department (Mike Bernard) getting greater seniority than Berekvam. Berekvam was irritated with this result and he complained to the Union's executive board about the matter. The record does not indicate what the ultimate disposition of that matter was.

On August 9, 1993, Becker, Berekvam and another employe were working together on a manhole project. Part of that job involved digging sand from the manhole. Becker dug what he thought was his share of the sand from the manhole and refused to dig further. This caused a dispute between Becker and Berekvam over who was supposed to dig the sand. Afterwards, Becker was told by management that he was to have dug all the sand. Becker ultimately received a warning for refusing to dig all the sand. This warning, which was memorialized in writing, provided in part:

Their (sic) appears to be a problem in that you do not take direction from your co-workers as required.

In the future if their (sic) is another situation in which you fail to cooperate with your co-workers which outrank you or fail to perform all assigned tasks, you shall be disciplined.

Insofar as the record shows, this warning was not grieved.

FACTS

This case involves the discipline meted out to Becker for his involvement in a work place altercation with Berekvam on August 25, 1994.

On that afternoon, Becker and Berekvam were assigned to work together on a two-man job at the Myrick Park Water Department Pumping Station; Becker was assigned to operate a dump truck while Berekvam was assigned to operate a backhoe loader. Specifically, Berekvam's backhoe was loading waste concrete and dirt into the dump truck Becker was driving.

The witnesses at the arbitration hearing differed on who determines when a dump truck is full. Berekvam and Tom Berendes, the Water Utility Superintendent, testified that in operations of this sort, it is the backhoe loader operator who determines when the dump truck is full since the backhoe operator can see the truck's box better than the truck driver can. However, Becker and Bruce Knudson, the Water Utility Manager, testified that it is the dump truck driver who determines when the truck is full.

The first load which Berekvam loaded and Becker took to the drop off site was uneventful.

On the second load, Becker drove off before Berekvam thought the truck was full. This greatly perturbed Berekvam who yelled at Becker to come back to no avail. It is unclear whether Becker heard Berekvam yelling at him to come back.

While Becker was delivering that load to the drop off site, Berekvam went to his supervisor, Tom Berendes, and angrily told him what had just happened, namely that Becker had driven off before the truck was full. Berekvam also told Berendes that Becker was playing games with him. Berendes did not respond to Berekvam's complaint. Berendes testified that when Berekvam came to see him that day, he was dealing with another matter and it prevented him from responding to Berekvam. Berendes' non-response to his complaint about Becker further agitated Berekvam.

When Becker returned to the work site, Berekvam drove his backhoe up next to Becker's dump truck and a short conversation ensued. Specifically, Berekvam asked Becker why he left without a full load, to which Becker responded that he thought he had a full load. Berekvam told Becker he disagreed with him. Berekvam also told Becker to not leave next time until he (Berekvam) gave him (Becker) a signal that the truck was full.

Berekvam then proceeded to fill the dump truck again. While doing so, a large slab of concrete ended up hanging over a side of the truck's box. Berekvam wanted to push that concrete slab further back into the box. As Berekvam was positioning the loader to do just that (namely push the slab of concrete further back into the box), Becker drove off. This greatly irritated Berekvam who yelled at Becker to come back to no avail. Becker testified that before he drove off, he got out of his truck, stepped on the running board, and inspected his load. Berekvam disputed that. Becker also testified that he was aware that a slab of concrete was hanging over the edge of his truck, but he thought it (the concrete slab) was secure. As Becker drove off the lot, the slab of concrete in question fell off the truck before the truck made it to the public road.

After the slab of concrete fell off the truck, Berekvam again went to his supervisor, Berendes, and complained about Becker. Like the first time though, Berendes did not respond to Berekvam's complaint about Becker. Berendes' non-response to his complaint about Becker further agitated and frustrated Berekvam.

Both Becker and Berekvam then returned to the Municipal Service Center as it was the end of their shift. While they were there, the two men encountered each other on a staircase and loud words were exchanged between them. Specifically, Berekvam stood in front of Becker and said "What the hell do you think you're doing?," to which Becker responded irately "Get out of my face." Becker then walked away from Berekvam. As Becker was walking away with his back to Berekvam, Berekvam picked up a five gallon bucket of water which happened to be nearby and threw the water at Becker. Becker testified he caught the full force of the water. Berekvam then came up to Becker and grabbed at his (Becker's) throat, whereupon Becker knocked Berekvam's hand away. Berekvam then called Becker a "chicken shit." Becker then called out to Bill Baumgartner, who happened to be nearby, to get Berekvam "off his case." Baumgartner, a working foreman and member of the bargaining unit, responded to Becker that he was not going to get involved in the dispute. At some point during their verbal exchange, Becker used the words "hit me," although the exact phrase is disputed. Becker testified he told Berekvam in a very calm voice "hit me if that's what you gotta do," or words to that effect. Berekvam testified that Becker angrily said to him "hit me, hit me," pointing to his chin in the process. No blows were ever thrown though between the two men. The men then separated and nothing else happened between them.

After Becker left work, he went to the LaCrosse Police Station and filed a complaint against Berekvam over the incident that had just occurred at the Municipal Service Center. After the complaint was filed, the police contacted the Water Utility and informed them of Becker's complaint. The police also interviewed Berekvam for his version of the incident. Becker never heard anything from the police about the complaint which he filed. No criminal charges were ever filed as a result of Becker's complaint.

The next morning, August 26, 1994, Water Utility Manager Bruce Knudson learned of the altercation which had occurred the previous day between Berekvam and Becker, and he commenced his own investigation into same. During the course of his investigation, Knudson interviewed Berekvam, Becker, Baumgartner and Pat Wiley. Knudson interviewed Berekvam that same day. When Berekvam told Knudson his side of the story, he failed to tell Knudson that he had thrown water at Becker. Knudson then interviewed Baumgartner. Knudson did not interview Becker on that date because Becker was on vacation that day. Knudson interviewed Becker about the matter the following work day. When Becker told Knudson his side of the story, he told Knudson, among other things, that Berekvam threw a bucket of water at him. Knudson then interviewed Wiley, an employe who was nearby when the altercation occurred. After his investigation was completed, Knudson prepared a 16 page report concerning the August 25 incident. The section of that report entitled "Conclusion" provided as follows:

Conclusion:

It is my feeling that, after the interviews, this altercation was a culmination of hostile feeling that built up through a period of time.

Mr. Becker, as a laborer, will not take direct orders from anyone but a utility supervisor, even though employees with higher classifications are put in responsible charge of projects on which he assists.

Mr. Becker has also made himself the "watchdog" on what each employees' job description is and tells them on the job what they can and can't be doing. This becomes very irritating to the employees who are trying to get a project completed and feel they are doing what is right.

Because of these actions by Mr. Becker, utility supervisors have had to assign him to special projects away from certain work crews because the other employees do not want to work with him.

Through the interviews I got the impression that Mr. Berekvam is a very intense person with a "charge-ahead" work ethic. As in Mr. Berekvam's statement, he indicated "that Becker plays games at work and always gets away with little things that are irritating."

From the interviews of the individuals involved it is apparent that the two employees have two greatly diverse personalities, work habits, cooperation and regard for fellow employees.

I feel there is equal blame in the case of this altercation. First to Mr. Becker and for his actions to incite and irritate fellow employees. This, together with the events of August 25, 1994, was enough to fuel the altercation.

After Knudson completed his investigation, he decided that disciplinary action was needed against both Becker and Berekvam to remedy the altercation which occurred between them on August 25, 1994. Knudson decided to suspend both Becker and Berekvam for one day without pay. Knudson testified that the reason he imposed the same discipline on both employees was that, in his view, both employees were equally at fault. The date of Becker's suspension was October 20, 1994. The

record does not identify the date of Berekvam's suspension.

Becker grieved his suspension and the grievance was processed to arbitration. It is unclear from the record whether or not Berekvam grieved his suspension. In either event, Berekvam's suspension was not appealed to arbitration.

POSITIONS OF THE PARTIES

The Union's position is that the City did not have just cause to suspend Becker for one day. The Union initially asserts that just because a work place altercation occurred between two employees does not automatically mean that both employees should be disciplined equally. The Union believes that after the arbitrator examines what happened here he should decide that Becker was not the aggressor in the altercation, but rather an innocent victim, and as such is undeserving of punishment. Thus, the Union's view is that management should not have doled out equal penalties here. The Union makes the following arguments in support of this premise. First, it asserts that the City was negligent in its management of the work place because it (the City) was aware that Berekvam disliked Becker, but it failed to protect Becker from Berekvam. The Union also notes in this regard the Baumgartner failed to intervene in the altercation when asked to do so by Becker. Second, the Union argues it was Berekvam who was the culpable party in the altercation. According to the Union, Becker did not do anything to provoke Berekvam either previously or on the day in question. With regard to what had transpired between the two men previously, the Union asserts it involved exclusively protected activity that arose when Becker was union steward. With regard to what transpired on the day in question, the Union submits that it was Becker, not Berekvam, who was to determine when the truck was full. The Union argues in the alternative that even if Becker's conduct in the field did provoke Berekvam, the Union notes that some time passed between that and what happened later at the Municipal Service Center. With regard to what happened there (at the Municipal Service Center), the Union submits it was Berekvam who stood in front of Becker, loudly yelled at him and called him a "chicken shit," threw water at him, and grabbed at his throat. Third, the Union contends that Becker's response to the foregoing actions were both reasonable and justified. According to the Union, one is hard pressed to imagine what more Becker could have done to avoid the altercation with Berekvam. It notes in this regard that Becker walked away from Berekvam after the two initially exchanged words and that Becker made no movement toward Berekvam after he (Berekvam) doused him with water. With regard to Becker's "hit me" statement, the Union characterizes it as an attempt to diffuse Berekvam; not as a provocation. Fourth, the Union contends that the City's argument that Becker operated his dump truck in an unsafe manner was a pretext. According to the Union, this safety allegation is not referenced in Becker's suspension letter--only the altercation is. With regard to the (safety) matter though, the Union submits that Becker was not unsafe or negligent in his actions on the day in question. Fifth, the Union asserts that the City's investigation into the altercation was not adequate or complete because Knudson never talked to Becker about it.

Finally, the Union argues in the alternative that even if discipline was warranted here, the City did not follow progressive discipline. This argument is premised on the Union's contention that a "final warning" must be issued prior to a suspension, and that did not happen here. The Union therefore requests that the grievance be sustained and Becker made whole for the day he was suspended. As part of the remedy, the Union also asks that the 1993 warning be purged from Becker's record.

The City's position is that it had just cause to suspend the grievant for one day. According to the City, it proved that Becker did what he was charged with doing, namely being involved in a work place altercation with co-worker Berekvam on August 25, 1994. The City emphasizes at the outset that it does not condone Berekvam's actions herein. However, the City asserts Becker was not an innocent victim in the altercation. In the City's view, Becker provoked the altercation with Berekvam by what he did when the two men were working together in the field and at the Municipal Service Center. The City notes that when the two men were working together in the field, Becker twice drove his truck away when Berekvam was still loading it. According to the City, this not only angered Berekvam, but it also violated department safety rules against negligent use of equipment. With regard to what happened at the Municipal Service Center, the City submits that Becker taunted Berekvam by saying "hit me, hit me" when he knew Berekvam was fighting mad. The City contends that given the foregoing, Becker was equally at fault and therefore shares responsibility with Berekvam for their altercation. The City submits it cannot tolerate altercations between employees in the work place, so Becker's involvement in same was misconduct warranting discipline. With regard to the level of discipline which was imposed, the City believes a one-day suspension was appropriate under the circumstances. It makes the following arguments in support thereof. First, it notes that both Becker and Berekvam were given equal punishment since, in the City's view, both were equally at fault for the altercation. Second, it notes that the grievant had previously received a warning for failing to take directions from co-workers and failing to cooperate with them. According to the City, this warning put Becker on notice to not engage in such behavior or he would face discipline. The City asserts Becker did engage in such behavior however, so a suspension was warranted. The City therefore contends that the grievance should be denied and Becker's suspension upheld.

DISCUSSION

Article 20, Section D of the parties' labor agreement contains what is commonly known as a "just cause" provision. It requires that the City have just cause to discipline employees. What happened here is that two employees, namely Becker and Berekvam, were each suspended for one day. Becker's suspension was appealed to arbitration but Berekvam's was not. Thus, the question to be answered here is whether the City had just cause to suspend Becker.

As is normally the case, the term "just cause" is not defined in the parties' labor agreement. While the term is undefined, a widely understood and applied analytical framework has been developed over the years through the so-called common law of labor arbitration. That

analytical framework consists of two basic questions: The first is whether the employer demonstrated the misconduct of the employe and the second, assuming this showing of wrongdoing is made, is whether the employer established that the discipline imposed was contractually appropriate.

As just noted, the first part of a just cause analysis requires a determination of the employe's wrongdoing. Attention is now turned to making that call.

My discussion begins with a review of the facts that are undisputed herein. Those facts are as follows. There is a long history of animosity between Berekvam and Becker. Notwithstanding that animosity, they were directed to work together on August 25, 1994, on a two-man project wherein Berekvam loaded fill dirt and concrete into Becker's dump truck. On the second load, Becker drove off before Berekvam thought the truck was full. Berekvam was extremely angry with Becker for driving off early. In his view, Becker was playing games with him and he immediately reported it to his supervisor. When Becker returned from dropping off that load, Berekvam specifically told him to not leave next time until he (Berekvam) gave him a signal to do so. On the very next load though, Becker again drove off before Berekvam gave him a signal to do so. This time, Becker drove off when Berekvam was trying to push a piece of concrete further back into the box. The piece of concrete in question fell off soon after Becker drove away. Berekvam was extremely irritated with Becker for again driving off early, and he went and reported it to his supervisor a second time. Later that afternoon, the two men encountered each other at the Municipal Service Center and Berekvam verbally snapped at Becker who responded in kind. As Becker was walking away, Berekvam picked up a bucket of water and threw it at Becker, getting him wet. Berekvam then grabbed at Becker's throat, whereupon Becker knocked Berekvam's hand away. Berekvam then called Becker a "chicken shit." Becker then called out to Bill Baumgartner to get Berekvam "off his case," but Baumgartner declined to get involved. The two men then separated.

That said, there are also some facts that are disputed. They are as follows: whether it is the truck driver or the loader operator who determines when a dump truck is full; whether Becker inspected his truck's load before he drove off with the third load; whether at the Municipal Service Center Becker said "hit me, hit me" (as Berekvam testified), or whether Becker said "hit me if that's what you gotta do" (as Becker testified).

In the opinion of the undersigned, none of the disputed details just identified affects the ultimate outcome herein. Given this finding, no comments will be made concerning the disputed details just identified.

While the Union focuses attention on what happened between the two employes at the Municipal Service Center, that was just part of the overall picture. The other part, of course, was what happened in the field. What happened there was that Becker twice drove his dump truck away while Berekvam was loading it. It is unknown whether Becker intentionally drove away the

first time just to get under Berekvam's skin. In any event, that certainly was the end result because Berekvam was extremely irritated with Becker for driving off. When Becker returned from dropping off that load, Berekvam specifically told him (Becker) to not drive away next time until he (Berekvam) gave him a signal to do so. Since Berekvam was the higher ranking employe of the two and therefore the employe responsible for giving work directives, if needed, on that particular job, Berekvam's directive made it clear to Becker that he was not to drive away until he was given a signal to do so by Berekvam. Thus, Berekvam told Becker in plain terms to not drive off again. However, Becker failed to comply with this clear directive and drove off on the very next load without getting a signal from Berekvam to do so. Since Becker did the very thing he had just been directed not to do, the undersigned is satisfied that Becker drove away that second time just to irritate Berekvam and get under his skin.

It is against this back drop that Becker claims he was simply the innocent victim in what happened later at the Municipal Service Center. The problem with this contention is that it ignores what had just happened in the field, namely that Becker had gotten Berekvam very angry. People usually understand that there are consequences to their actions. Specifically, if a person says or does something that angers another, that person oftentimes responds in kind. Sometimes their response is considered appropriate; sometimes it is not. The undersigned surmises that Becker probably did not envision that Berekvam would respond to what happened in the field by throwing water at him and grabbing at his throat. From the Union's perspective, this response by Berekvam was inappropriate and unjustifiable. I agree with the Union on this point. If the events that occurred at the Municipal Service Center are looked at standing alone, it was Berekvam who was the aggressor in terms of both words and deeds. This is because it was Berekvam who first yelled at Becker, it was Berekvam who threw the water at Becker as he was walking away, and it was Berekvam who grabbed at Becker's throat. Having said that though, it cannot be overlooked that it was Becker, and he alone, that set these events in motion when he infuriated Berekvam in the field by twice driving his truck away. By doing so, he ceded to Berekvam, at least for the moment, the moral high ground. While Berekvam's response to Becker's conduct (i.e. yelling at Becker, throwing water at him and grabbing at his throat) was certainly inappropriate, the fact that Berekvam responded as he did does not mean that Berekvam alone bears responsibility for the altercation. Additionally, the fact that Berekvam responded as he did does not turn Becker into an innocent victim who was assaulted. It is therefore held that Becker shares responsibility with Berekvam for the altercation which occurred. In so finding, the undersigned is not saying Becker and Berekvam were "equally" at fault. Instead, I am simply saying they were both at fault because each provoked the other.

The Union offers several defenses for Becker's conduct which it believes should excuse his actions. The first is that the City was negligent in its management of the work place because it was aware that Berekvam disliked Becker but it nevertheless failed to protect Becker from Berekvam. It is noted at the outset that the City, like most employers, has posted work rules that are intended to govern employe conduct and behavior in the work place. If an employer is put on notice that there is conduct occurring in the work place which violates those rules, then the employer is obligated to take steps to rectify same. For example, if an employer is put on notice

that an employe is harassing another employe, then the employer is obligated to take action concerning same. Here, though, it does not appear from the record that Becker had previously put the City on notice that he needed protection from Berekvam. While the City certainly knew there was animosity and hostility between Becker and Berekvam, the record establishes that this animosity and hostility between the two was mutual. That being the case, the Union has not proven its contention that the City failed to protect Becker from Berekvam.

Another Union defense is that Baumgartner failed to intervene in the altercation when asked to do so by Becker. This contention is obviously based on the premise that Baumgartner, who was nearby when the altercation occurred, was obligated to intervene in the altercation. The problem with this contention is that while Baumgartner is a lead worker, he is still a bargaining unit employe. Thus, he is not a supervisor as asserted by the Union. The distinction between supervisors who are excluded from the bargaining unit and those employes who are included in the bargaining unit is important here because if it is assumed for purposes of discussion that supervisors are obligated to intervene in altercations between employes, bargaining unit employes have no such obligation because they are not paid to supervise employes. As a result, bargaining unit employes can respond to work place altercations between co-employes as they see fit. In this case, Baumgartner decided not to intervene in the altercation between Becker and Berekvam. That was his call to make. It is therefore held that Baumgartner's lack of intervention in the altercation has no bearing whatsoever on this matter.

Having previously concluded that Becker shares responsibility with Berekvam for the altercation, the next question is whether Becker's conduct warranted discipline. Arbitrators generally hold that altercations between co-workers on the employer's premises constitutes misconduct and cause for discipline. In accordance with this accepted view, the undersigned finds likewise.

The second part of a just cause analysis requires that the Employer establish that the penalty imposed was contractually appropriate. Based on the following rationale, I conclude that the one-day suspension which Becker received was contractually appropriate under the circumstances. To begin with, following the altercation Knudson conducted an investigation which consisted of interviewing both participants, their supervisors and possible eyewitnesses. The Union's contention that Knudson never talked to Becker for his side of the story is just plain wrong because Knudson interviewed Becker the next day that he worked, namely August 29, 1994. Knudson's subsequent written report on the altercation identified the same basic facts that were adduced at the arbitration hearing. That being the case, Knudson knew the facts before he disciplined Becker and Berekvam for their altercation. Second, Becker was warned in August, 1993, that he was to take directions from his co-workers and cooperate with them in the field. This warning put him on notice that if he failed to do so, he faced further disciplinary action. The disciplinary sequence identified in Article 20, D is for a warning to be followed by a suspension. Since that is exactly what happened here, the Employer followed the contractual progressive disciplinary sequence to the letter. Contrary to the Union's contention, nothing in Article 20, D

requires that a "final warning" be issued prior to a suspension. Third, nothing in the record indicates that Becker was subjected to disparate treatment in terms of the punishment imposed. The City was evenhanded in its imposition of discipline here in that both Becker and Berekvam received a one-day suspension. While their discipline was identical in terms of the length of the suspension, the disciplinary history of the two men was not identical. As previously noted, Becker had a warning in existence while Berekvam, insofar as the record shows, did not. This means that the City skipped the warning step for Berekvam, but it simply went to the next step (suspension) for Becker. In that sense then, Berekvam's punishment was greater than Becker's. Finally, the Union implies that Becker's suspension was the result of animus by the City toward Becker because he once served as a union steward and member of the Union's executive board. The problem with this contention is that there is nothing in the record to support such a conclusion. While the record does indicate that Becker was involved in processing a grievance in 1991 which resulted in an employee getting greater seniority than Berekvam, it was Berekvam that was irritated with this result--not the City. Consequently, Berekvam's irritation with Becker for Becker's involvement in processing that grievance cannot be attributed to the City, nor can it be bootstrapped to support a conclusion that the City held animus toward Becker for his activities in 1991 as union steward and union executive board member. Accordingly then, it is held that the severity of Becker's discipline (a one-day suspension) was neither disproportionate to the offense nor an abuse of management discretion, but was reasonably related to the seriousness of his proven misconduct. The City therefore had just cause to suspend Becker for one day.

Based on the foregoing and the record as a whole, the undersigned enters the following

AWARD

That the City had just cause to suspend the grievant on October 20, 1994; therefore, the grievance is denied.

Dated at Madison, Wisconsin, this 1st day of December, 1995.

By Raleigh Jones /s/
Raleigh Jones, Arbitrator