

**AMERICAN ARBITRATION ASSOCIATION**

*In the Matter of Arbitration Between:*

**INTERNATIONAL ASSOCIATION OF  
FIRE FIGHTERS, LOCAL 22**

**AAA Case #01-22-0003-9392  
(Gr: Lt. Kwaja Matthews)**

**and**

**Walt De Treux, Arbitrator**

**CITY OF PHILADELPHIA**

*Hearing Date: 5/17/23  
Decision Date: 6/30/23*

**Appearances:** For the IAFF – Marc Gelman, Esq., *HOLROYD GELMAN*  
For the City – Megan Malone, Esq., Estaban Rodriguez, Esq.,  
*CITY OF PHILADELPHIA LAW DEPARTMENT*

**Introduction and Statement of Relevant Facts**

In 2019, City of Philadelphia Fire Lieutenant Kwaja Matthews created a summer camp to honor Fire Fighter Joyce Craig, who was killed in the line of duty. The Joyce Craig Summer Safety Camp successfully provided youth with a summer program centered on Fire Department activities and fire prevention.

At the conclusion of the camp, the Fire Commissioner expressed a desire to continue the camp in the future. In late August 2019, [REDACTED], Lt. Matthews' [REDACTED] Division to which she was detailed for the camp work, instructed the lieutenant to create a work plan and estimated budget for the camp. The Department requires all [REDACTED] Division programs to have a work plan and estimated budget.

██████████ issued several verbal requests to Lt. Matthews over a period of months to prepare the work plan and budget. When she did not comply, ██████████ sent her an email ordering her to produce the documents by January 31, 2020. When he received no response from the lieutenant, he recommended Trial Board Charges to ██████████

██████████ intervened with Lt. Matthews and requested that she complete the work plan and budget. Lt. Matthews declined to do so, expressing a concern that the Department was trying to take the camp away from her. While he waited for a more positive response from the lieutenant, ██████████ prepared a work plan and budget based on his understanding of the camp operations from updates Lt. Matthews had given him during the development of the camp in 2019. He asked Lt. Matthews to review his work plan and budget, but she declined. Failing to gain Lt. Matthews' compliance with the request, ██████████

On August 2, 2021, the Department served notice on Lt. Matthews that she was suspended without pay for a period of 36 hours. It charged her with insubordination, neglect of duty, disobedience of orders and an unspecified violation.

Lt. Matthews timely grieved her suspension. The parties were unable to resolve the grievance through the contractual steps and referred the matter to arbitration. On May 17, 2023, a hearing was held at the Philadelphia offices of the American Arbitration Association, during which time both parties had a full and fair opportunity to present documentary and other evidence, examine and cross-examine witnesses, and offer argument in support of their

respective positions. The parties closed their presentations with oral argument and submitted the matter to the Arbitrator for a decision.

### **Issue**

The parties stipulated to the following issue,

*Did the City of Philadelphia has just cause to suspend Lt. Kwaja Matthews? If not, what shall be the remedy?*

### **Analysis and Decision**

Grievant acknowledges that she did not submit a work plan and budget for the summer camp, but she offers reasons to justify her non-compliance, asserts that she helped [REDACTED] [REDACTED] prepare his work plan and budget, and alleges that the 36-hour suspension is too harsh a disciplinary penalty.

Grievant first asserts that the request for a work plan and budget fell outside her scope of duties because she was regularly assigned to the [REDACTED] Division. She contends that the requests were made by officers outside her chain of command. Grievant also maintains that she was unfamiliar with work plans and budgets.

Grievant's first contention appears to be an after-the-fact justification for her refusal to complete the work plan and budget. When [REDACTED] directed her to prepare the work plan and budget, she did not object on the grounds that she was not regularly assigned to the [REDACTED] Division. She did not raise a command structure issue with the [REDACTED] Division officers or with her chain of command. Instead, she told

[REDACTED], who described himself as a friend of the lieutenant and reluctant to go down the disciplinary path, that she would not prepare the work plan and budget because she feared the Department was trying to take the program away from her. [REDACTED] testified that Grievant advised him that the Department can “write me up.” Grievant denied the “write me up” remark, but she did not refute [REDACTED] testimony that she refused to comply with the request out of concern she would be replaced as the summer camp operator. That concern motivated her non-compliance, not any issues with her [REDACTED] detail or her chain of command.

Grievant also asserts that she did not know how to prepare a work plan and budget. On cross-examination, however, she acknowledged that she served in the [REDACTED] around 2016 and supervised employees who ran programs governed by work plans and budgets. She conceded that she generally understood work plans and budgets and monitored her subordinates progress based on those work plans. Contrary to her assertion, Grievant had sufficient knowledge to prepare a work plan and budget.

Grievant testified that she assisted [REDACTED] in his creation of a work plan and budget for the summer camp. [REDACTED] credibly testified that he prepared the work plan based on the knowledge he gathered from Grievant as she developed the 2019 camp. She did not help him develop the plan in 2021, but rather, he relied on his prior consultations with her at the time the camp was created. Grievant not only refused to help the [REDACTED] prepare the plan, she refused to review the plan once he wrote it.

Grievant refused to comply with [REDACTED] requests for a work plan and budget because she believed that the Department would replace her and

entrust the camp operation to another employee. That concern may or may not have been legitimate, but it does not justify her refusal to perform the work requested. The Department had just cause to discipline Grievant.

The Department cited Grievant for four violations of the disciplinary code (insubordination, neglect of duty, disobedience of orders, and unspecified). [REDACTED] [REDACTED] was assigned to the Special Investigations Office and investigated the matter. He testified that he dropped the unspecified charge at the start of his interview with Grievant and subsequently found that the insubordination charge did not apply. He recommended the 36-hour suspension based solely on the neglect of duty and disobedience of orders charge. [REDACTED] approved the recommendation.

Grievant argues that the disciplinary penalty is excessive and ignores the concept of progressive discipline. The Department's Disciplinary Code provides a disciplinary penalty range based on the nature of the offense and the number of times an employee has committed the offense. The disciplinary penalty range for a first offense for neglect of duty (failing to comply with any order, directive, regulation, etc., verbal or written) and for disobedience of orders is reprimand to a 48-hour suspension. [REDACTED] testified that he agreed with the recommendation because he saw Grievant's repeated refusals to prepare the work plan and budget as a "blatant disregard for authority."

A 36-hour suspension fits within the range of disciplinary penalties in the Department's Disciplinary Code. Grievant's supervisors issued several requests and at least two direct orders to complete the work plan and budget. While the Department could have issued lesser

discipline at an earlier point in time, Grievant's supervisors exercised patience and gave her more than sufficient time to comply. Because of the repeated refusals and a direct refusal to review [REDACTED] work plan, a meaningful disciplinary suspension within the prescribed range for first offenses is appropriate in this case and comports with just cause.

For these reasons, I find that the City of Philadelphia had just cause to suspend Lt. Kwaja Matthews.

#### **Award**

The grievance is denied.

*Walt De Treux*

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WALT De TREUX