



STATE OF NEVADA
EMPLOYEE-MANAGEMENT COMMITTEE
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Meeting Minutes of the Employee-Management Committee
May 11, 2017

Held at the Blasdel Building, 209 E. Musser St., Room 105, Carson City, Nevada, and the Grant Sawyer Building, 555 E. Washington Ave., Room 1400, Las Vegas, Nevada, via videoconference and teleconference.

Committee Members:

Management Representatives	Present
Ms. Mandy Hagler–Chair	X
Ms. Pauline Beigel	
Mr. Guy Puglisi	X
Ms. Sandie Ruybalid	X
Mr. Ron Schreckengost	
Ms. Jennifer Bauer	
Employee Representatives	
Ms. Donya Deleon	X
Mr. Tracy DuPree	
Ms. Turessa Russell	X
Ms. Sherri Thompson	X

Staff Present:

Mr. Robert Whitney, EMC Counsel, Deputy Attorney General
Ms. Nora Johnson, EMC Coordinator
Ms. Kara Morris, Hearing Clerk

- 1. Chair Mandy Hagler** called the meeting to order at approximately 9:00 a.m.
- 2. Public Comment**

There were no comments from the audience or Committee Members.

3. Adoption of the Agenda – Action Item

Chair Hagler requested a motion to adopt the agenda.

MOTION: Moved to approve the Agenda.

BY: Member Sherri Thompson

SECOND: Member Donya Deleon

VOTE: The vote was unanimous in favor of the motion.

4. Adjustment of Grievance of Milton Lewis (paper), College of Southern Nevada – Action Item

Prior to the beginning of the meeting, Member Turessa Russell disclosed that she is employed by University of Nevada, Las Vegas (UNLV), which is part of the Nevada System of Higher Education (NSHE), however, Member Russell does not have any interaction, through UNLV with the College of Southern Nevada (CSN).

Chair Hagler asked if there was any objection from either the grievant or the employer to Member Russell sitting for the above grievance to which there were no objections from either party.

This matter was heard before the Employee-Management Committee (“EMC”)¹ on May 11, 2017, pursuant to NAC 284.695 and NAC 284.6955, regarding a grievance filed by Milton Lewis (“Mr. Lewis” or “Grievant”). Mr. Lewis was present and represented by Jeanine Lake, AFSCME Local 4041 (“Ms. Lake”). The College of Southern Nevada (“CSN”) was represented by Chief Human Resources Officer John Scarborough and Senior Director of Human Resources Eric Gilliland.

Both parties submitted exhibits, and there were no objections to the exhibits. Mr. Lewis, Custodial Worker I, Darrell Coleman (“Mr. Coleman”), Senior Associate Vice-President of Facilities Management, Sherri Payne (“Ms. Payne”), Custodial Supervisor II Rosa Talavera (“Ms. Talavera”), Custodial Supervisor IV, Daniel Gonzalez (“Mr. Gonzalez”), and Custodial Supervisor II Jason Archuleta (“Mr. Archuleta”) were sworn in and testified at the hearing.

STATEMENT OF THE CASE

Mr. Lewis stated in substance that he disagreed with the written reprimand issued to him on March 16, 2016. Mr. Lewis in substance indicated that on March 11, 2016 he was called into a meeting in Room 202, Building G at CSN with three supervisors, where he was threatened and intimidated, and that the situation escalated until he left the room. Mr. Lewis also stated in substance that his version of events was not considered in this situation, and that five day days before he was given the written reprimand he was given a letter of instruction (“LOI”) concerning the same incident for which he received the written

¹ The EMC members present at the hearing representing a quorum were as follows: Chair Mandy Hagler (Risk Mgmt), who chaired the meeting; Co-Vice Chair Sandie Ruybalid (DHHS), Sherri Thompson (DETR), Co-Vice Chair Guy Puglisi (DHHS), Donya Deleon (DHHS) and Turessa Russell (UNLV). Counsel for the EMC, Deputy Attorney General Robert A. Whitney, was also present.

reprimand. Mr. Lewis, through Ms. Lake, argued in substance that LOIs were supposed to be instructional tools concerning an employee's performance from which the employee is expected to learn after being given a reasonable amount of time.

CSN urged the EMC to sustain the written reprimand given to Mr. Lewis for inappropriate behavior and argued that the written reprimand for Mr. Lewis' inappropriate behavior was justified. CSN noted in substance that Mr. Lewis admitted that he raised his voice during the March 11, 2016 meeting and had said to Mr. Archuleta that he was lying, and so Mr. Lewis had in effect admitted the allegations in the written reprimand.

Mr. Coleman testified about a conversation with Mr. Lewis that he had at the start of his shift in Building G at CSN on March 11, 2016. Mr. Coleman stated in substance that the conversation was work-related. Mr. Coleman in substance stated that Mr. Lewis was on the first floor at that time because he needed some chemicals from Mr. Coleman's closet on the first floor. Mr. Coleman testified in substance that when he was speaking with Mr. Lewis he was not ranting about anything, was calm, and that he never heard Mr. Lewis say "this is bullshxx." Additionally, Mr. Coleman stated in substance that he never received an LOI for speaking with Mr. Lewis on March 11, 2016. Mr. Coleman also testified in substance that he was not in Room 202 of Building G at the time the alleged incident involving Mr. Lewis and his supervisors took place.

Mr. Lewis testified in substance that he was a Custodial Worker I, had worked at CSN for approximately ten years, and that his employee evaluations had always been satisfactory. Mr. Lewis stated in substance that on March 11, 2016, he started his work after a team meeting had finished. Mr. Lewis testified in substance that he went to the second floor of Building G, pulled his cart out, but had forgot his bucket, so he went down to the first floor. Mr. Lewis said in substance that he met Mr. Coleman on the first floor, and was discussing cleaning issues when all of a sudden Mr. Gonzalez, Mr. Archuleta and Ms. Talavera came around a corner. Mr. Lewis stated in substance that he asked them why they were there. Mr. Lewis indicated in substance that Mr. Gonzalez replied that Ms. Talavera, Mr. Archuleta and he were there to develop plans pertaining to the floors in Building G and to come with them. Mr. Lewis in substance testified that nothing was said until they all reached Room 202, and that at no time did he say "this was bullshxx."

Mr. Lewis stated in substance that he was a little upset that the group was going to discuss Room 202's floor because he had recently walked that floor with his lead and Ms. Talavera, and was in substance told not to worry about the floor any longer and that the work order for the floor would be closed.

Mr. Lewis testified in substance that Mr. Gonzalez let him know that he had received complaints about Room 202's floor, and that he responded by asking what did that have to do with him, since it was not his responsibility to strip and wax the floor. Mr. Lewis further testified in substance that he asked Mr. Archuleta what the problem was, to which Mr. Archuleta responded with: "You're not doing your job." Mr. Lewis then stated in substance that he pointed

at and stated to Mr. Archuleta that he was lying, although Mr. Lewis stated that he never raised his voice during the meeting.

Mr. Lewis testified in substance that after he stood up and pointed at Mr. Archuleta, Mr. Gonzalez, who was standing in the doorway, yelled "Don't go after Jason like that!" Mr. Lewis stated that he did not feel comfortable, and so he left Room 202, and that to do so he had to walk around Mr. Gonzalez, after which Mr. Lewis stated that Mr. Gonzalez told him that he could not walk away from a supervisor like that, and to come back. Mr. Lewis also testified in substance that he stated, when he walked away from Mr. Gonzalez, that the conversation was over and that the situation was a hostile work environment. Mr. Lewis also stated in substance that he never used words during the meeting such as "Don't mess with me man" or "don't tell me to stop," and that these words were not noted in his written reprimand. Additionally, Mr. Lewis testified in substance that he was never loud or threatening during the meeting that he never moved towards Mr. Archuleta and that Mr. Gonzalez never jumped between Mr. Lewis and Mr. Archuleta. Additionally, Ms. Lake pointed out that Mr. Gonzalez never reported, in his e-mails sent after the incident on March 11, 2016, that Mr. Lewis moved towards Mr. Archuleta, or that he had to step between Mr. Lewis and Mr. Archuleta.

Upon questioning by Mr. Scarborough, Mr. Lewis stated in substance that it was not appropriate to tell a supervisor that he was lying, but that it was human nature. Additionally, Mr. Lewis testified in substance that normally it should only have taken him a few minutes to get his bucket and supplies to start his work.

Ms. Payne testified that she had been with CSN since 2003, had been in her current position since 2007, and that in her current position she oversaw everything related to facilities, grounds and custodial work. Ms. Payne stated in substance that a custodian is given his or her work assignment by their leads, and that the leads circulate though campus in order to provide assistance and oversight to custodians and to monitor work quality. Additionally, Ms. Payne testified in substance that it was common practice for leads and supervisors to walk through work areas. Ms. Payne also state in substance that any proposed discipline went thought her for approval so that she could see if the discipline was justified, consistent and could be upheld.

Ms. Payne testified in substance that Mr. Lewis was informed prior to the written reprimand that if he deviates from his work location or in the time it takes to do something then he needed to contact his lead and tell them of the deviation. With respect to the incident on March 11 involving the supervisors, Ms. Payne stated in substance that the incident was witnessed by three supervisors, and that the discipline imposed on Mr. Lewis was consistent with discipline CSN had imposed in the past for similar incidents. Ms. Payne stated in substance that it was concerning to her that the incident on March 11 had resulted in the three supervisors feeling threatened, and stated in substance that supervisors should not have to worry about employees becoming threatening or aggressive. Additionally, Ms. Payne testified in substance that Mr. Lewis had claimed that

he had been harassed multiple times prior to March 11, 2016, but that she could find no evidence that he had been.

Ms. Payne also stated in substance that she still believed that the written reprimand was justified because of Mr. Lewis' egregious behavior and because he had threatened other employees, who then felt threatened, and that after hearing of all the facts of the matter felt that simply issuing a written reprimand showed restraint on CSN's part.

Ms. Payne also testified in substance, with respect to Mr. Lewis meeting with three supervisors, that one needed to bring in the people it was felt necessary to resolve the problem at hand, and that there was no reason for Mr. Lewis to feel intimidated in meeting in Room 202. Ms. Payne also explained in substance that the reason an LOI was issued initially, and then later a written reprimand on March 16, 2016, was because all of the relevant facts were not relayed initially at once, and that once all the relevant facts were known, upon reflection it was determined that Mr. Lewis' behavior was so egregious that it rose above simple coaching. Ms. Payne also noted in substance that an LOI went out quickly on March 11, 2016, because it was felt that Mr. Lewis' behavior had been out of line, and that there was a need to stop his behavior immediately.

With respect to the floor in Room 202, Ms. Payne testified in substance that the floor had been scrubbed and sealed the month before, so that it was too soon for the floor to have needed to have been scrubbed and sealed again. Ms. Payne stated in substance that because of this fact, it was her understanding that Mr. Gonzalez took Ms. Talavera and Mr. Archuleta to Room 202 to see what was going on, and that there was no intention of getting anyone in trouble, and that even if Mr. Lewis felt uncomfortable during the meeting on March 11 this did not justify his aggressiveness or egregious behavior.

Mr. Gonzalez stated in substance that he had been a Custodial Supervisor IV for ten years at CSN, and that his duties involved supervising other employees, planning and cleaning. Mr. Gonzalez also stated in substance that his job also involved walking through each building on campus to check for cleanliness.

Concerning March 11, 2016, Mr. Gonzalez testified in substance that complaints had been received about the floor in Room 202, and so he told Mr. Archuleta and Ms. Talavera to come with him to Room 202 so that they could create a plan of action for the floor. Mr. Gonzalez stated in substance that when the three supervisors entered Building G he saw Mr. Coleman and Mr. Lewis having a conversation, and that soon after they entered the building Mr. Coleman left.

Mr. Gonzalez stated in substance that as he was going to get on the elevator, Mr. Lewis stated that "he was tired of this bullshxx," and that the elevator ride was quiet and awkward. Mr. Gonzalez also stated in substance, in response to questioning, that Mr. Coleman had left by the time Mr. Lewis had used the profanity. Mr. Gonzalez also testified in substance that he commented to Mr. Lewis that they were going to go to the second floor and create a plan of action, and he invited Mr. Lewis to come along, and that Mr. Lewis did go with them. Mr. Gonzalez stated that the group entered Room 202, and that the door closed

behind them. Mr. Gonzalez then testified in substance that he inspected the floor, and began to specify what needed to be done, and that Mr. Lewis told him that he needed to stop lying, and that Mr. Lewis also pointed at Mr. Archuleta and asked him why he was lying and saying that he took an hour break. Mr. Gonzalez stated that Mr. Archuleta responded and said that he had not said that Mr. Lewis had taken an hour break, only a twenty minute break.

Mr. Gonzalez also testified in substance that Mr. Lewis began to move towards Mr. Archuleta while pointing towards him, and that he and Mr. Lewis made physical contact while Mr. Lewis was moving towards Mr. Archuleta, and that he told Mr. Lewis to stop three times, while Mr. Lewis moved him about three feet after contacting him. Mr. Gonzalez added in substance that he did not know what was going to happen (and added that he thought Mr. Archuleta might get hurt), and that Mr. Lewis had told him not to tell him to stop. Mr. Gonzalez also stated in substance that he asked Mr. Lewis to go to the next room and talk, but that Mr. Lewis had responded and said no, that he was in a hostile work environment and being harassed.

In response to questioning, Mr. Gonzalez acknowledged in substance that he had stated in his e-mails sent to Ms. Payne soon after the March 11 incident that Mr. Lewis was ranting about Mr. Archuleta, but that there was no mention of this in his LOIs, and that he did not believe that it would be intimidating to Mr. Lewis to have met in the room with his three supervisors. Additionally, Mr. Gonzalez stated in substance that he did not mention in his e-mail to Ms. Payne sent soon after the incident that Mr. Lewis had used profanity or had moved in an aggressive or agitated manner, or that Mr. Lewis had made physical contact with him.

Ms. Talavera testified that she was a Custodian II, and had worked at CSN for twenty years, and that part of her duties included checking all of the buildings to see that they had been cleaned properly. Ms. Talavera testified in substance that she went to Building G with Mr. Gonzalez and Mr. Archuleta on March 11, and that upon entering the building she was able to hear Mr. Lewis and Mr. Coleman talking. Ms. Talavera noted that as soon as the group walked in Mr. Coleman left, and that it was after Mr. Coleman left that Mr. Lewis said he was tired of the bullshxx.

Ms. Talavera testified that she, Mr. Lewis, Mr. Archuleta and Mr. Gonzalez went to Room 202, and that there were scuff marks and dust on the floor. Ms. Talavera testified in substance that Mr. Gonzalez stated to Mr. Lewis that the floors needed to be swept and mopped, and that Mr. Lewis became agitated, stated that Mr. Gonzalez was lying and that Mr. Archuleta was lying about Mr. Lewis being gone from his work station for an hour.

Additionally, Ms. Talavera testified in substance that Mr. Lewis began going towards Mr. Archuleta, and that Mr. Gonzalez stepped between the two, and told Mr. Lewis to stop three times. Ms. Talavera also stated in substance that the incident scared her.

Ms. Talavera also testified in substance that there was not any mention of Mr. Lewis moving towards Mr. Archuleta in the LOI set out after the incident because the LOI was sent out right away to Mr. Lewis. Ms. Lake noted that there was no effort made to send Mr. Lewis home and that security was not called, to which Ms. Talavera responded in substance that once Mr. Lewis stormed out of Room 202 the three supervisors did not feel the need to call someone else in. In response to questioning about whether she thought about filing a report with campus security, Ms. Talavera responded that she was going to report the incident through her chain of command.

Mr. Archuleta testified in substance that he had been a Custodial Supervisor II for ten and a half years, and that as part of his job he oversees custodial activities at CSN, including floor care. Mr. Archuleta testified in substance that he had received a work order on March 10, 2016 that said to please clean the floors in Room 202 of Building G, so he went over to inspect the floors. After inspecting the floors and taking pictures, Mr. Archuleta stated in substance that the floors just needed routine cleaning.

Mr. Archuleta testified in substance that the next day, March 11, he took Mr. Gonzalez and Ms. Talavera to look at Room 202's floors, and that upon entering Building G he could hear Mr. Lewis and Mr. Coleman, and that once Mr. Coleman saw them he left and went into the bathroom. Mr. Archuleta stated in substance that Mr. Lewis did say it was bullshxx.

Mr. Archuleta stated in substance that the three supervisors, along with Mr. Lewis, went to Room 202, and that Mr. Gonzalez began inspecting the floor. Mr. Archuleta also stated in substance that Mr. Lewis accused him of lying about Mr. Lewis taking an hour long break, and that Mr. Archuleta had responded by saying in substance that he could not find Mr. Lewis for twenty minutes. Mr. Archuleta testified in substance that Mr. Lewis said he was lying, and began making his way towards Mr. Archuleta, and then Mr. Gonzalez got in his way.

Mr. Archuleta also testified in substance that the event happened quickly, and that he never alerted security because no one had been hit or punched, but that he was concerned for his safety when Mr. Lewis moved towards him.

DECISION

The EMC discussed and deliberated on Mr. Lewis' grievance. Member Puglisi stated in substance that issuing the LOI and written reprimand about the same incident so close together in time almost seemed like double jeopardy. Member Ruybalid stated in substance that she was concerned with Mr. Archuleta's role in the matter, as he did not fall in Mr. Lewis' chain of command, and that she agreed with Member Puglisi as far as the written reprimand.

Member Thompson stated in substance that she did not know if the matter was handled in the right way, and it seemed as though the supervisors were ganging up on Mr. Lewis. Member Russell added in substance that she agreed with Member Thompson, and that she thought that she was picking up on a double standard.

Member Deleon commented in substance that the three supervisors being alone with Mr. Lewis in Room 202 really bothered her, and that Mr. Lewis had no one in the room to back him up. Chair Hagler stated in substance that she echoed a lot of what the Committee was saying, and that there were a lot of discrepancies in what was written right away after the incident on March 11 and what was stated in the written reprimand.

A motion was made that, after hearing the testimony, and after having reviewed the evidence, there appeared to be too many inconsistencies to warrant upholding the written reprimand. Based on this, the grievance is hereby GRANTED.²

MOTION: Moved to remove the written reprimand from Mr. Lewis' file.
BY: Member Co-Vice Chair Guy Puglisi
SECOND: Member Turessa Russell
VOTE: The vote was unanimous in favor of the motion.

5. Public Comment

There were no comments from the audience or Committee Members.

6. Adjournment

Chair Hagler adjourned the meeting at approximately 12:30 pm.

²Co-Vice Chair Puglisi's motion was seconded by Turessa Russell and carried by a unanimous vote.