

ARBITRATION OF ALCOHOL CASES

DONALD J. PETERSEN

Loyola University Chicago, Chicago, Illinois

ABSTRACT

An ongoing problem facing many employers involves the situation when employees drink alcohol on the job, or when they consume alcohol off-the-job which impairs on-the-job performance. Arbitrators have not required employers to furnish medical evidence to establish reasonable suspicion that employees are under the influence of alcohol. However, once such reasonable suspicion has been established, a breathalyser or blood alcohol test will confirm or negate such suspicions. This article based on 101 published arbitration awards, reviews the key issues involved in alcohol abuse matters.

By definition, an alcoholic is a person who lacks the ability to control his/her consumption of alcohol after taking the first drink. A recovering alcoholic is a person who can control the impulse to drink by choosing total abstinence, one day at a time [1, at 626].

There can be no doubt that an employer has a reasonable expectation that employees will attend work regularly, be on time, and that their work, at least will meet established standards. An employee under the influence of alcohol not only may not meet these reasonable expectations, but may also pose a danger to himself/herself and co-workers. While an employer may view alcoholism as a disease, express sympathy for the alcoholic employee, and even develop an employee assistance plan (EAP), it nevertheless may be required to resort to discipline or discharge when an employee fails to respond to less harsh measures to correct objectionable work behavior or performance.

Arbitrator Volz identified five factors unique to alcoholism that must be considered by employers:

First, until the employee recognizes that he has the disease, the use of progressive discipline alone generally proves to be ineffective in bringing about his reformation and a significant improvement in his reliability as an employee. Second, alcoholism is unusual in that often the alcoholic doesn't know that the illness has overtaken him or he refuses to admit that it has. Third, for this reason [i.e., because curing alcoholism requires successful completion of a rehabilitation program] post-discharge evidence is admissible in alcoholism cases and constitutes an exception to the usual rule that such evidence is not admissible. Fourth, on this point an arbitrator needs more than the employee's own assurances. Such assurances must be measured against his actions. A fifth unique quality of alcoholism is that a return to employment is thought to be part of the total treatment to effect a lasting cure [2, at 1019].

This article researches the major issues in arbitration dealing with alcoholism, such as when an employee is under the influence, the requirement to take an alcohol test, drinking on the job, and an employer's obligation regarding rehabilitation, to name some. Conclusions were based on 101 published arbitration cases, covering the period 1984 to 1998, in both the Bureau of National Affairs' (BNA) *Labor Arbitration Reports*, and the Commerce Clearing House's (CCH) *Labor Arbitration Awards*.

COMING TO WORK UNDER THE INFLUENCE OF ALCOHOL

Employees who appear to be "under the influence" of alcohol when they report to work present a recurring problem for employers. For this reason, many employers have adopted rules prohibiting coming to work in this condition, and stipulating substantial penalties, including discharge, for violations. Arbitrator Sergent explained the rationale:

In the interest of protecting the lives and safety of its employees, the preservation of its property, and the efficient conduct of its business, the Company had clear and valid right to adopt the rule against employees reporting for work under the influence of intoxicating liquor. It had the right to make the penalty for violation thereof the summary discharge of anyone breaking the rule where such punishment would fit the gravity of the offense [3, at 5443].

What does it mean that an employee is "under the influence?" Arbitrator Strasshofer provided this definition:

The determination of whether an employee is under the influence can involve a combination of factors, such as traditional personal observations, blood and urine test results, performance tests, and the actual work performance testing. In addition to these factors, consideration can quite properly be given to the type of activity that is involved in the employee's normal job duties [4, at 5611].

Arbitrator Volz suggested this definition of being “under the influence of alcohol”:

An employee may be said to be under the influence of alcohol consumption when, through the intentional use of alcohol, regardless of when consumed or in what form, he impairs his ability to perform satisfactorily his duties throughout the work day, including a reasonable period of overtime, with safety to himself, to his fellow employees, and to the equipment and product [5, at 5475].

The Strasshofer and Volz definitions are not competing, but rather are supplementary to one another. They both emphasize that an employee under the influence can cause harm to himself, his coworkers, not to mention diminished work performance [6].

One way management can detect an employee under the influence is through, what arbitrator Strasshofer referred to, as “traditional personal observation.” Arbitrators do not generally require objective evidence of intoxication or impairment, absent a contract provision or substance-abuse policy (SPA) requirement to the contrary [7, 8]. Many indices reveal an employee may be under the influence, including:

- odor of alcohol on the breath
- talking loudly
- slurred speech
- behaving erratically
- staggering walk
- rushed behavior
- eyes glassy or puffy and watering
- face red
- belligerence
- handwriting affected
- inappropriate answers to questions
- employee admits to drinking

Of course, not all of the above factors need be present for there to exist “reasonable suspicion” that an employee is under the influence. However, there is a significant difference between “being under the influence of alcohol” and the mere “consumption of alcohol” [9, at 11;10]. For example, in *United States Steel Corp.*, when the employee was not found to be working in an unsafe manner, his speed was not slowed, he did not stagger and had no accidents, the arbitrator found the employer had failed to prove the employee was under the influence [9]. Moreover, in another case, a grievant smelled of alcohol, but there was no evidence that she was under the influence [11]. The company refused to give her a breathalyzer of blood alcohol test, as was her contractual right, in order for her to vindicate herself [11, at 776; 12, at 844].

A breathalyzer, blood, or alcohol test, if provided for in the SAP, is probably the best way to confirm whether an employee is under the influence. However, if an employer tests, “. . . it cannot escape its responsibility to understand and be bound by the results of its own tests.” [12, at 844]. Arbitrator Marcus claimed the “objective definitions” of under the influence of alcohol range from .02 to .04 to more than .10 [10, at 544]. Discharge was not, however, warranted for a flight attendant who was ordered to take a test because of a manager’s suspicion that she was intoxicated [13]. Her eyes appeared glazed and were a little red, and her speech was slurred. She also walked in a slow and precise manner. The testing laboratory returned a report of “positive for ethanol,” with no further explanation [13; 14]. An employee-driver was also spared discharge when an employer failed to advise drivers that it intended to rely on the state’s .04 standard for intoxication [15]. The employer also failed to advise that termination would be the consequence for violating the rule. Another employee came to work solely to pick up his paycheck [16]. Although there was reasonable suspicion to test him, the arbitrator found he had not “reported to work” [16].

EMPLOYEE REFUSAL TO SUBMIT TO AN ALCOHOL TEST

Employers concerned with substance abuse will often seek to negotiate a substance-abuse policy with the union. Failing in that effort, or if the employer does not wish to negotiate such a policy, arbitrators do not always agree whether the employer has the unilateral power to adopt a SAP. Arbitrator Nielsen has observed in this regard:

The range of arbitral opinion on the employer’s right to use substance testing programs for this purpose extends from those who hold that it is an inherent right of management, needing no specific basis in the contract [cite omitted] to those who have held that no such program can be valid unless agreed [to] by the Union [cites omitted]. In general, however, arbitrators have held substance testing programs to be a valid exercise of management’s right to make rules and/or direct the work force, so long as submission to the tests is tied to a showing of some reasonable cause [cites omitted] [17, at 4070].

An arbitrator’s concern with employee testing (assuming that the employer has such a right) is that there are rational grounds for requiring the test, such as the type of job, history of drug or alcohol problems in the workplace, observations of symptoms of alcohol abuse, and behaviors generally associated with impairment, etc. [17, at 4071].

Most arbitrators agree that if reasonable suspicion exists to test an employee, the employee’s refusal to take a test is an implied admission that s/he reported to work under the influence [18]. As arbitrator Roumell observed:

Whether one refers to probable cause or even reasonable suspicion, it would seem that the arbitrators have recognized that if there is something more than slight suspicion or conjecture, then alcohol testing may be in order to confirm one way or the other as to whether the employee is ‘under the influence’” [18, at 615].

In one case, two supervisors noticed an employee with red eyes, an odor of alcohol on her breath, and an inability to communicate or focus [19]. She declined to be tested. In upholding the discharge, arbitrator Dworkin stated: “When an employee refuses to be tested, an employer is entitled to rely upon believable observations [19, at 896; 1].

However, an employee’s refusal to take a blood alcohol test does not always result in discharge. For example, in one case, the company rules stated it had the right to assume that an employee who refused to submit to a fitness-for-work evaluation is impaired [20]. When the employee refused to take the test, there was a presumption of impairment, not insubordination, as the latter was the reason the company had discharged him. The company’s order to take the test also did not inform the employee that he had a right to refuse such testing. Other employees have escaped discharge after refusing to take the test, when they were denied union representation during investigatory interviews [21, 22, 23].

DRINKING OR POSSESSION OF LIQUOR ON THE JOB

Drinking on the job is a serious offense for which arbitrators have sustained discharge for a first offense [24]. Sometimes discharge has been reduced for a first offense for a number of reasons: mitigating circumstances, an employer practice of progressive discipline in dealing with such an offense, a lack of proof that the employee was actually drinking, and various technicalities. For example, there was no just cause to discharge an employee who had brought three cans of beer onto company premises in a cooler [25]. He claimed he had drunk the beer off premises and saved the cans for their aluminum. The employer made its discharge decision in eight minutes and failed to prove the cans contained beer [25].

In another case, an arbitrator found discharge to be too severe for possession of alcohol on company premises [26]. The company rule permitted discipline or discharge. However, the arbitrator was unable to find any prior cases in which arbitrators had sustained termination for a first offense of alcohol possession on company premises. Arbitrator Marcus observed:

The arbitration jurisprudence teaches that arbitrators are reluctant to sustain the discharge penalty against a relatively senior employee for a first offense of bringing alcoholic beverages into a plant and/or consuming them while on duty, in the absence of either or both (i) a timely[,] specific and pointed warning by management that the rule against those activities which calls for discharge is going to be rigidly enforced, or (ii) a poor employment record [26, at 4133].

In one case, progressive discipline was required for all misconduct except “drunkenness,” dishonesty,” or “willful misconduct” [27]. The grievant was found in the break room with a glass of vodka and orange juice. He was not drunk or impaired. The employer did not claim the grievant was drunk; therefore, the grievant was given a seven-month suspension instead of discharge. Two employees were reinstated after drinking on company premises and with blood alcohol levels of .10 and .12, respectively. Employer rules defined “under the influence” as .07 or above. Nevertheless, other employees had received lesser punishments for the same offense, and the company had provided no notice that it was going to strictly enforce its rule. The two grievants were reinstated without back pay.

In another case, an employee was videotaped taking a drink from another employee’s bottle of alcohol and pouring some into a soda can and then bringing the can into the plant [28]. The arbitrator considered the offense as “unauthorized possession of alcohol” instead of drinking on the job. Because the employee had seven years of good service and the company had waited two months before disciplining the employee, he was reinstated.

In addition, it has been held that no just cause exists to discipline an employee for merely bringing beer in his car to the company’s parking lot [29].

A two-day suspension was improperly imposed on two employees for absences following alcohol-induced misbehavior [30]. The absences occurred after a three-day business trip during which the employer spent \$360 on bar and liquor expenses for five employees and two supervisors. Employee absences and misbehavior were held to be attributable to the alcohol furnished by the employer. Arbitrator Kessler observed:

One should not directly contribute to getting a man drunk and then complain he has drunk too much. Such conduct resembles entrapment. The Company here contributed directly and substantially to the intoxicated condition of the grievants. The Company gave them beer and liquor from breakfast through the evening for three days [30, at 4594].

DISCIPLINE FOR DRINKING OFF DUTY

Arbitral thought is clear regarding off-duty, off-premises behavior. Unless there is a nexus between the off-duty behavior and the legitimate interests of the employer, the employer may not properly discipline its employees. Arbitrator Heekin noted in this regard:

Essentially, the axiomatic guiding principle here is that an employer acting in its proper role of maintaining and furthering the interest of work place safety and productivity, has a right to an alcohol-free and drug-free work force, either when the employees are on duty or when there is close nexus to the on-duty circumstance; while, at the same time, such a right does not exist with respect to employees who are off duty without a reasonably close nexus to their on-duty status [31, at 416].

In addition to the nexus between the off-duty drinking and the job, the exact wording of the employer's rule or policy regarding possession or use of alcohol will be critical. Two employees were improperly discharged for consuming alcoholic beverages on their truck [32]. The employer's rule forbade drinking, possessing, or using alcoholic beverages on the commission's time or reporting to work under the influence of alcoholic beverages. The arbitrator pointed out that as the lunch period was unpaid, the employees were on their own time, not the commission's. Moreover, arbitrator Lewis maintained that no one in management noticed any signs of impairment by the employees [32].

In another case, an undercover investigator observed an employee on two separate occasions (June 17 and June 19) drinking beer during lunch [33]. Company rules required discharge for a second offense. However, management did not notify the employee after the first offense (on June 17th), and the company waited until September 24 to terminate him. Arbitrator Richman concluded:

If an employee is denied prompt notification of wrongdoing, he is denied the opportunity to correct that misbehavior and may be improperly penalized for repetitions, although deprived of notice that the original conduct was unacceptable and subject to punishment [33, at 199].

However, a truck driver was properly discharged for off-duty drinking while on lunch [34]. Company rules prohibited drinking whether driving, making a delivery, at break, or on lunch. Moreover, the grievant was under a last-chance agreement after he had been previously terminated for alcohol use [34]. A police officer was also terminated when he fired his gun into his dining room table eight to ten times while intoxicated [35].

DISCIPLINE FOR ALCOHOL AND LAST-CHANCE AGREEMENTS

A last-chance agreement removes the just-cause requirement in a collective agreement for a given employee in order to save his/her job. It substitutes a set of conditions by which the employee is to comply. Last-chance agreements are valid even if they contain no time limits [36]. Arbitrator Hart noted:

The LCA [last-chance agreement] is not a reprimand nor is it part of the progressive disciplinary process. It is a customized action unaffected by, but not establishing, precedent or past practice. For this reason, the LCA must be considered special treatment, not disparate treatment, of the Grievant [37].

In arbitrator Hart's case, a twenty-eight-year employee was properly discharged even though his last-chance agreement was five years old, and the parties' collective bargaining agreement provided that no disciplinary action could extend beyond two years. However, arbitrator Hart emphasized that a last-chance

agreement is not a form of discipline, but a negotiated agreement of the conditions of continued employment [37].

Similarly, an employee previously had received two suspensions for bringing liquor into the plant and being unfit for work. He signed a last-chance agreement that provided that he must totally abstain from alcohol. A supervisor sent him to the plant hospital because he smelled liquor on the employee's breath. The grievant told the doctor he had had three drinks of bourbon the previous afternoon and admitted he had begun drinking again. However, in *Mead Products, St. Joseph Division*, another employee, also subject to a last-chance agreement, was arrested for off-duty drunken driving before the last-chance agreement had expired [38]. The grievant escaped discharge because the company had failed to follow its SAP, which provided that employees who become repeat offenders after rehabilitation should be individually evaluated with regard to continued employment. It was noted by the arbitrator that nearly half (44 percent) of those treated for alcoholism suffer a relapse within six months of completion of rehabilitation. The employee was reinstated on condition that he totally abstain from alcohol [38, 39].

However, the fact that a seventeen-year employee was off-duty did not save him from discharge when he was found in his car in the parking lot [8]. The employee had been previously reinstated pursuant to a last-chance agreement that conditioned employment on staying alcohol-free and that the employee complete an alcohol treatment program. When security officers found him in his car, they shone a light on him, shook his legs, and called to him loudly. They noticed a strong odor of alcohol on the grievant and observed beer cans on the ground near the vehicle and in the car on the floorboard. The grievant's head was resting on the steering wheel [8].

A last-chance agreement is valid even though the union does not sign it [40, 41]. A twenty-two-year employee was arrested for driving under the influence (DUI) during his commute to work. He was legally intoxicated (.153) and would have reported to work after his release from the police station had the human resource manager not prevented it. The last-chance agreement required him to be sober while on company grounds.

WAS IT ALCOHOL OR MEDICINE?

Sometimes an employee who has been accused of imbibing alcohol will claim some other prescription or over-the-counter medicine is the real culprit. In one such case, an employee under conditional reinstatement was subject to random testing for one year [42]. On the day such a test was scheduled, he told his supervisor he had taken Nyquil. He exhibited no signs of intoxication such as staggering, slurred speech, or odor of alcohol. However, his blood alcohol was at .27 (under the employer's SAP, a blood alcohol level of .1 was used to establish intoxication). Arbitrator Witney maintained: "In the absence of

signs of intoxication resulting from the consumption of alcoholic beverages, the .27 percent level had to be attributable to [A]’s drinking of Nyquil [42, at 4604]. Although the employer’s SAP did not differentiate between regular alcoholic beverages and medicines, arbitrator Witney asserted that: “To expect employees to interpret SAP [substance abuse policy] to include medicines containing alcohol places an unreasonable burden on them” [42, at 4605]. Similarly, a driver was discharged after a breathalyzer test showed she was under the influence of alcohol [43]. There was no evidence the employee had a problem with alcohol or that the problem affected her work performance. Before the test she had used “Ice Drops,” which contain alcohol, for dental pain [43].

However, in another case, an employee claimed that his breathalyzer readings of .02 and .01 were due to his use of “cough medicine” [44]. In upholding the discharge, the arbitrator viewed this explanation as “an afterthought” [44]. Similarly, arbitrator Goldstein found just cause to uphold the discharge of an employee under the influence of alcohol, after she was observed having an unsteady gait, slurred speech, and glassy eyes [45]. She became loud and belligerent when questioned, and had a blood alcohol level of .21. The grievant claimed she “had two good swallows of Nyquil” and was not drunk. However, a toxicologist testified in the arbitration hearing that to reach a blood level of .21, it would have been necessary to drink three six-ounce bottles of Nyquil, which would have caused her to fall asleep [45].

DISCIPLINE FOR REFUSING ALCOHOL TREATMENT OR FAILING TO COMPLETE IT

Employees, especially when the employer has an employee assistance plan [EAP], are expected to use available treatment facilities when available. There should also be a reasonable expectation that an employee can recover in the near future [46]. Arbitrator Ipavec noted: “Involuntary participation or compulsory attendance defeats the entire purpose of the program” [47]. Alternatively, employees may be disciplined or even discharged when ordered into rehabilitation by the employer and they either refuse to attend, or fail to attend, the program [48]. An employee was terminated who did not substantially complete a rehabilitation program prescribed by a union-management board of adjustment [49]. Instead of finishing a twenty-eight-day, certified live-in program, he entered a six-month outpatient program, completing the first phase, but then was dropped because of excessive absences. Arbitrator Oestreich did not believe the outpatient program was equivalent to the prescribed one [49, 50].

Nevertheless, close attention must be paid to the terms of the employer’s SAP before disciplining employees. For example, in *Northwest Airlines, Inc.*, a flight attendant was improperly discharged, although she admitted being an alcoholic, but had refused treatment for alcohol dependency [1]. The airline’s policy required an initial referral for a diagnosis and then employees were required to cooperate

by taking treatment. However, the attendant was discharged for failing to enter the treatment program although her manager never offered a referral for alcohol diagnosis [1, 51]. The arbitrator stated there were at least three compelling reasons for reserving the diagnosis of alcoholism to a qualified health care professional:

1. Only such a properly trained diagnostician can distinguish between situational abuse of chemicals and chronic dependency, thereby to determine not only the absence or presence of the disease but its severity.
2. Only a properly trained diagnostician working closely with treatment specialists, can best prescribe the appropriate treatment strategies as indicated by the severity of the illness.
3. The health care professional can usually maximize the therapeutic value of the diagnostic step to the victim far better than laypersons. Indeed, diagnosis by a non-professional can impede the efficacy of treatment by reinforcing the victim's denial mechanism—a major obstacle to effective treatment [52, at 3227-3228; 53].

One employee, however, checked into a hospital for alcoholism treatment and psychiatric counseling, but failed to seek advance approval for a leave of absence [54]. The employer believed he had abandoned his job. However, the arbitrator did not find just cause to sustain the dismissal after the facts in the situation became known [54].

THE DUTY TO ALLOW REHABILITATION AFTER AN EMPLOYEE'S DISMISSAL FOR ALCOHOLISM

Whether an employer has the obligation to offer an employee rehabilitation, once that employee has been discharged, depends, in part, on the terms of the parties' SAP, and/or the arbitrator's assessment of the circumstances. For example, in one case, a flight attendant was found to be extremely intoxicated just prior to a flight departure [55]. The employer had a rule prohibiting the use of alcohol at least twelve hours before duty. Because the employer and union had developed a EAP intended to help employees, the fact that the employer was aware of her problems but took no positive action to aid her, and it was her first discipline, the arbitrator reinstated her without back pay, provided that she attended AA meetings for one year [55]. He also said:

It is worthy of note to mention, however, that when dealing with an employee who suffers an addiction, consideration should be given to the fact that the employee does not act with complete free will and that employee culpability may be considered to be somewhat diminished in such cases [55, at 3909].

Arbitrator Eisler's observations notwithstanding, a majority of arbitrators might disagree with his conclusions. They believe permitting rehabilitation after

discharge would merely prompt employees to wait until termination before taking action regarding their drinking problems. For example, arbitrator Cohen stated:

However, when he first seeks help after discharge, the suspicion rightly arises that it is merely an attempt to save his job. If Grievant's actions after his discharge could be used to reverse the Company's decision, the Company would be placed in an impossible position, i.e., whenever employees are discharged for intoxication, they need only seek some sort of rehabilitation program to be able to then proclaim that they were changed persons and should be reinstated [56, at 5413].

Moreover, an employee's posttermination efforts on his/her own, to control his/her alcoholism, do not require an employer to extend "a last chance" [57]. Arbitrator Daniel remarked in this regard:

Oftentimes employees who are discharged finally see the light and begin the long process of attaining sobriety. It seems that as long as such individuals have employment, they are somehow able to rationalize their actions and to deny that they have any real problem. If this is what has happened to the grievant, he is now on the right path[,] then his future will be much improved over what it has been in the past years. However, such actions by the grievant [i.e., rehabilitation on his own] cannot influence the arbitrator's decision once it is found that the employer had clear-cut just cause for disciplinary action and that the penalty of discharge was not only progressive in the disciplinary sense, but merited in light of all the facts and circumstances [58, at 3546].

As an interesting postscript, one employee who had been warned of imminent discharge for being under the influence of alcohol enrolled in outpatient therapy pursuant to the employee benefits contract and attended one session [10]. Under the terms of the benefits contract, he was entitled to thirty days of treatment at the employer's expense before being discharged [59]. In a related case, a grievant entered an alcohol recovery program after he failed the employer's physical exam because he was under the influence of alcohol [60]. The employee resigned before the employer could fire him, although the employer did not threaten the employee with discharge to make him quit. However, later the employee claimed he lacked the mental capacity to make the decision to quit. In brushing aside that argument, arbitrator Runkel noted:

It is not appropriate for arbitrators to treat these quits as something other than quits unless there is clear evidence that the employee lacked the mental capacity to understand what he was doing. The presumption should always be that individuals operate with sufficient capacity (although they may be somewhat impaired) to understand what they are doing. It should not be enough for an employee to show merely that he was somewhat impaired or that he was unable to clearly think through every rational ramification of a decision [60, at 83; 61].

TRUCK DRIVERS AND OTHER SAFETY-SENSITIVE POSITIONS AND ALCOHOL CONSUMPTION

The transportation industry is, of course, a closely controlled one, with U.S. Department of Transportation [DOT] regulations even providing for random testing of drivers, and specific blood alcohol levels that will disqualify drivers when met or exceeded. For example, in one case, a driver reported to work three hours after his off-duty arrest for driving under the influence [62]. The police blood tests at the time of his arrest were at 0.15 percent and 0.17 percent. A toxicologist testified that alcohol is excreted from the body at a certain rate, and extrapolating from the time of his arrest at 3:50 a.m. to 7:00 a.m. or 8:30 a.m., his blood levels would have been .06 and .09, respectively. The driver escaped discharge because the collective agreement provided for a medical evaluation prior to discharge for alcohol or drugs [62]. In a similar case, arbitrator Knowlton upheld the discharge of a driver who was observed by an undercover investigator drinking at lunch on three occasions [63]. The arbitrator considered it irrelevant whether the driver was aware of the rule, as he should have known that alcohol cannot be consumed while on duty. Knowlton contended: "A driver who drinks and then gets in a massive truck is a menace to himself and the public. Because a truck driver's job required alertness at all times, one beer is one too many [63, at 4127; 64].

A city bus driver was also properly discharged when he struck a parked car [65]. The SAP required all safety sensitive employees involved in an accident to be tested, and immediate discharge would follow if the limit of .081 was met or exceeded. The driver tested at .098. Arbitrator Duda stated: "Public policy forbids safety-sensitive employees from operating public transit vehicles while under the influence of drugs and/or alcohol [65, at 4936].

An employee who worked in the waste water division was required to operate motor vehicles and hold a commercial driver's license [66]. His job was safety sensitive. He was properly terminated when tests showed blood alcohol levels of .118 and .115 almost six hours after he reported for work, while the negotiated limit was .04 [66].

Nevertheless, a bus driver was reinstated after he was discharged six months following his admission to his supervisor that he had been arrested and was drinking [67]. The parties' collective agreement required the employer to take action within five days. In other arbitration cases, drivers who had DUIs escaped discharge because of employer policy violations [68].

DISCUSSION

In recent years employers have made great strides in providing employees with alcohol problems a chance to recover from their illnesses. Nevertheless,

sometimes employees fail to be rehabilitated or have no inclination to be rehabilitated, even if given the opportunity. In those situations, disciplinary measures must be taken.

One of the most common problems is an employee who reports to work, apparently under the influence of alcohol. Arbitrators have not required medical evidence to establish reasonable suspicion of being under the influence, but have allowed supervisors to note outward signs such as the odor of alcohol on an employee's breath, slurred speech, staggering walk, etc. Once reasonable suspicion is established, a breathalyzer, or preferably a blood alcohol test, may establish conclusively that the employee is under the influence. Normally, an employee's refusal to take such a test is considered an implied admission that the employee is under the influence, or it may even represent insubordination. An employee does not have to be intoxicated to be under the influence. If the employee's work performance suffers, the employee is impaired. Arbitrators differ on whether one instance of reporting to work under the influence is cause for discharge. Often, the exact wording of the rule and the employer's disciplinary actions in the past will be determinative.

Drinking while on duty is considered a more serious offense than reporting for work under the influence. While discharge is usually the preferred employer penalty, employees have sometimes escaped termination when the employer has followed a practice of progressive discipline, there are other mitigating circumstances, or the employer lacks proof that the employee was drinking an alcoholic beverage. Termination for drinking while off duty is, of course, less likely to be sustained in arbitration. There must be a close nexus between the drinking and the employee's job. For example, some airlines have a twelve-hour or twenty-four-hour window before a flight in which flight attendants cannot drink; and trucking companies insist that truck drivers should avoid drinking at lunch as not to impair their judgment and driving ability.

Often, employees will ask for rehabilitation treatment after they have been discharged. While a few arbitrators have allowed this to occur, most arbitrators reason that to permit such an escape from discharge would discourage employees from seeking help earlier, knowing they will not be terminated. Of course, employees who seek treatment before discharge may nevertheless be subject to discipline if they refuse treatment or fail to complete.

Finally, discharge is more often the appropriate penalty for employees with drinking problems who hold safety-sensitive jobs.

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Donald J. Petersen is a Professor of Management at Loyola University Chicago. He is also a practicing labor arbitrator on the national panels of the American Arbitration Association and Federal Mediation and Conciliation Service. Petersen is also a member of the National Academy of Arbitrators.

REFERENCES

1. *Northwest Airlines, Inc.*, 89 LA 621 (Flagler, Arb.) (1987).
2. *Philip Morris U.S.A.*, 99 LA 1016 (Volz, arb.) (1992). In this case there was no just cause to discharge an alcoholic employee for being absent six days without notifying the company, when the grievant was in an out-of-town treatment center and had no opportunity to call. The grievant completed a one-month rehabilitation. He was reinstated without back pay.
3. *Equitable Gas Company, A Division of Equitable Resources, Inc.*, 93-2 Arb. ¶ 3488 (Sergent, arb.) (1993).
4. *Vivi Color, Inc.*, 91-2 Arb. ¶ 8531 (Strasshofer, arb.) (1991).
5. *Sonoco Products Company*, 93-2 Arb. ¶ 3495 (Volz, arb.) (1992).
6. One does not, of course, have to be drunk in order to be impaired. See *Amoco Oil Company*, 89-2 Arb. ¶ 8514 (VerPloeg, arb.) (1989) at 5510.
7. *Van Dyne Crotty, Inc.*, 89-1 Arb. 2 8232 (High, arb.) (1988).
8. *Container Products, Inc.*, 95 LA 1129, 1134 (Saurdi, arb.) (1990).
9. *United States Steel Corp., Lorain Works*, 95 LA 7 (Talarico, arb.) (1990). Arbitrator Talarico stated that when a company rule prohibits reporting to work “under the influence,” it does not prohibit the mere presence of alcohol.
10. Similarly, in *General Dynamics Corporation*, 91 LA 539 (Marcus, arb.) (1988), arbitrator Marcus was not impressed by the company’s definition of “under the influence” as it minimally included “any trace of alcohol in the bloodstream or in exhaled breath” [at 542].
11. *Goshen Rubber, Inc.*, 99 LA 770 (Briggs, arb.) (1992).
12. If there is no testing facility or blood/alcohol testing is *not* provided by the employer at its own expense, reasonable belief by management that an employee is in the workplace while under the influence of alcohol is probable cause to relieve him/her of duties without pay and send him/her home. See *Mercury Stainless Inc.*, 91 LA 841 (Richard, arb.) (1988).
13. *Eastern Air Lines, Inc.*, 89 LA 492 (Jedel, arb.) (1987).
14. See *Chase Bag Company*, 88 LA 441, 446-447 (Strasshofer, arb.) (1986) for a good discussion of blood and urine tests.
15. *United Parcel Service*, 101 LA 589 (Briggs, arb.) (1993).
16. *Acorn Building Components Inc.*, 95 LA 1135 (Daniel, arb.) (1990).
17. *Linde Gases of the Midwest, Inc.*, 90-1 Arb. ¶ 8219 (Nielsen, arb.) (1989).
18. *Fitzsimons Manufacturing Company, Big Rapids Tube Division*, 92 LA 609 (Roumell, arb.) (1989).
19. *Uniroyal Goodrich Tire Co.*, 93 LA 893 (Dworkin, arb.) (1989).
20. *Salt River Project Agricultural Improvement*, 92 LA 96 (Koven, arb.) (1988).
21. *Trailway’s, Inc.*, 88 LA 941 (Heinsz, arb.) (1987).
22. *City of Albuquerque, New Mexico, Albuquerque Biological Park*, 97-1 Arb. ¶ 3038 (G. Cohen, arb.) (1996).
23. *Public Service Company of New Mexico*, 97-1 Arb. ¶ 3040 (Goodman, arb.) (1996).
24. *Drackett, Inc.*, 87-2 Arb. ¶ 8332 (Ross, arb.) (1987) at 5153.
25. *Poly Tech, Inc.*, 91 LA 512 (Gundersen, arb.) (1988).
26. *Quaker Oats Company, Stokely-Van Camp Inc., Subsidiary* 91-1 Arb. ¶ 8224 (Marcus, arb.) (1991).
27. *Marrriott Host International*, 94 LA 862 (Rule, arb.) (1990).

28. *Philip Morris U.S.A.*, Louisville, Kentucky Plant, 93-2 Arb. ¶ 3428 (Duda, arb.) (1993).
29. *Boston Edison Company*, 89-2 Arb. ¶ 8348 (Zack, arb.) (1988) at 4733.
30. *The Menominee Paper Company, Inc.*, 90-2 Arb. ¶ 8325 (Kessler, arb.) (1990). Some of the misbehavior involved shouting obscenities from the back of a pick-up truck.
31. *Ideal Electric Co.*, 98 LA 410 (Heekin, arb.) (1991).
32. *Kalamazoo County Road Commission*, 88 LA 1049 (Lewis, arb.) (1987).
33. *GTE California, Inc.*, 99 LA 196 (Richman, arb.) (1992).
34. *McLaughlin & Moran*, 92-2 Arb. ¶ 8518 (Robinson, arb.) (1992).
35. *City of Conneaut, Ohio*, 95-1 Arb. ¶ 5140 (Stanton, arb.) (1994).
36. See, e.g., *Inland Container Corporation*, 19 LA 544, 548-549 (Howell, arb.) (1988), when an employee had relapsed into abuse of alcohol, but had signed a last-chance agreement in 1982, without time limits; and *Mac Millan Bloedel, Inc.*, 92-2 Arb. ¶ 8350 (Odom, arb.) (1991), when an eleven-year-old last-chance agreement, without an expiration date, still was applicable.
37. *Boise Cascade Corporation*, 98-1 Arb. ¶ 5155 (Hart, arb.) (1998) at 5932.
38. *Mead Products, St. Joseph Division*, 91-1 Arb. ¶ 8246 (Fowler, arb.) (1991).
39. See also *Vista Chemical Company*, 92-1 Arb. ¶ 8204 (Aronin, arb.) (1991) for a case involving another relapsed employee who was reinstated on the condition that he would not relapse again.
40. *Georgia-Pacific Corporation, Gypsum Division*, 90 LA 573 (Crane, arb.) (1988). The last-chance agreement came into being after the grievant reported three times to work under the influence.
41. See also *Exxon Company, U.S.A.*, 101 LA 997 (Sergent, arb.) (1993), when a last-chance agreement was valid even without union representation.
42. *Jefferson Smurfit Corporation*, 93-2 Arb. ¶ 3314 (Witney, arb.) (1993).
43. *The Hertz Corporation*, 97-2 Arb. ¶ 3278 (Weckstein, arb.) (1997).
44. *Midwest Steel Division of National Steel Corporation*, 88 LA 457 (Wolff, arb.) (1986).
45. *Chicago Transit Authority*, 94-1 Arb. ¶ 4266 (Goldstein, arb.) (1993).
46. *Goodyear Tire & Rubber Co.*, 92 LA 91, 95 (Dworkin, arb.) (1988).
47. *Carey Plastics Division, Toledo Molding & Die Corp.* 88 LA 937, 940 (Ipavec, arb.) (1987).
48. Arbitrator Dworkin stated that employees have a right to an EAP only when it can be demonstrated that: “. . . they have a bona fide reliance on alcohol and are ready to admit their problem and accept assistance;” [47, at 96].
49. *Associated Cemeteries (Woodlawn Memorial Park Association)*, 88-1 Arb. ¶ 8176 (Oestreich, arb.) (1988).
50. See also *Public Service Company of New Mexico*, 87-2 Arb. ¶ 8414 (Allen, arb.) (1987); *Westinghouse Hanford Company*, 101 LA 46 (Nelson, arb.) (1993); and *Amana Refrigeration Inc.*, 93 LA 447 (Cantor, arb.) (1989) for similar results.
51. Arbitrator Flagler did point out, however, that the grievant could be withheld from flight assignments [1]. See also *City of Granite Falls, Minnesota*, 90-1 Arb. ¶ 8049 (VerPloeg, arb.) (1989), for a case when a liquor store manager was held to be properly suspended for his refusal to attend an alcohol assessment evaluation.
52. *Northwest Airlines, Inc.*, 88-1 Arb. ¶ 8050 (Flagler, arb.) (1987) at 3227-3228. In an interesting turn of events, an employer improperly refused to rehire an employee after he completed an alcohol rehabilitation program.
53. *Ellis Park*, 92-2 Arb. ¶ 8469 (Duda, arb.) (1992).

54. *Growmark, Inc.*, 100 LA 785 (VerPloeg, arb.) (1993).
55. *Trans World Airlines*, 89-1 Arb. ¶ 8186 (Eisler, arb.) (1988).
56. *The Pittsburgh & Midway Coal Mining Company*, 88-2 Arb. ¶ 8480 (G. Cohen, arb.) (1988) at 5413. See also *Kimberly-Clark Corporation, Karolton Envelope Division*, 92-1 Arb. ¶ 8270 (Strozdas, arb.) (1991) at 4262-63; *Pyramid Plastics Company*, 93-1 Arb. ¶ 3255 (Hewitt, arb.) (1992) at 4333; and *McDonald Dairy Co.*, 91-1 Arb. ¶ 8107 (Dobry, arb.) (1990) [employer has sole discretion to grant clemency (at 3616)].
57. See e.g., *Michigan Paperboard Co., L.P.* 95-2 Arb. ¶ 5403 (Stallworth, arb.) (1995) and *Burns Aerospace Corp.*, 104 LA 1210, 1212 (Smith, arb.) (1995) when arbitrator Smith indicated rehabilitation is “not an automatic option at the choice of the employee.”
58. *E. B. Eddy Paper, Inc.*, 95-1 Arb. ¶ 5111 (Daniel, arb.) (1991).
59. *National Copper Products, Inc.*, 97-1 Arb. ¶ 3101 (Mackraz, arb.) (1996). See also *Vons Companies, Inc.*, 97-1 Arb. ¶ 3003 (Darrow, arb.) (1996).
60. *Cowlitz County [Washington] Public Utility District No. 1*, 99 LA 80 (Runkel, arb.) (1992).
61. Runkel reviewed other arbitration decisions where reinstatement had been ordered. He found that usually in those cases there was evidence from a health care professional that the employee was not able to make a sound decision.
62. *Georgia-Pacific Corporation, Building Materials Distribution Center*, 100 LA 713 (Hockenberry, arb.) (1993).
63. *Simmons Company*, 90-1 Arb. ¶ 8230 (Knowlton, arb.) (1989).
64. *Virgin Island Water and Power Authority*, 93-2 Arb. ¶ 3332 (Lubic, arb.) (1993), when a driver was arrested for a DUI, but was reinstated on condition he would complete an AA or similar program and attend meetings for one year.
65. *Greater Cleveland Regional Transit Authority*, 95-2 Arb. ¶ 5385 (Duda, arb.) (1995).
66. *Montgomery County, Ohio*, 96-2 Arb. ¶ 6346 (Bell, arb.) (1996).
67. *Montgomery Area Transit System, A Division of QMG, Inc.*, 100 LA 649 (Williams, arb.) (1993).
68. *ATC/Vancom, Inc., Livermore Division*, 96-2 Arb. ¶ 6277 (Silver, arb.) (1995) and *J.F. Cassidy Inc.*, 97 LA 801 (Oberdank, arb.) (1991).

CASE LIST BY ARBITRATOR

- L. Albrechta, *Kentucky-Tennessee Clay Company*, 91-1 ARB. ¶ 8204 (CCH) (1991).
- A. Allen, *Public Service Company of New Mexico*, 87-2 ARB. 2 8414 (CCH) (1987).
- L. Aronin, *Vista Chemical Company*, 92-1 ARB. ¶ 8204 (CCH) (1991).
- L. Bell, *Montgomery County, Ohio*, 96-2 ARB. ¶ 6346 (CCH) (1996).
- D. Borland, *Motor Products-Owosso Corporation*, 96-2 ARB. ¶ 6269 (CCH) (1995).
- S. Briggs, *Advance Transportation Company*, 105 Lab. Arb. 1089 (BNA) (1995).
- S. Briggs, *United Parcel Service*, 101 Lab. Arb. 589 (BNA) (1993).
- S. Briggs, *Goshen Rubber, Inc.*, 99 Lab. Arb. 770 (BNA) (1992). [Same case at 93-1 ARB. ¶ 3026 (CCH) (1992)].
- C. Brisco, *Arco Marine, inc.*, 96 Lab. Arb. 319 (BNA) (1990).
- B. Cantor, *Amana Refrigeration Inc.*, 93 Lab. Arb. 447 (BNA) (1989).
- T. Cipolla, *Laclede Gas Company*, 93-1 ARB. ¶ 3098 (CCH) (1993).
- G. Cohen, *The Pittsburgh & Midway Coal Mining Company*, 88-2 ARB. ¶ 8480 (CCH) (1988). [Same case at 91 Lab. Arb. 431 (BNA) (1988)].

- G. Cohen, *City of Albuquerque, New Mexico, Albuquerque Biological Park*, 97-1 ARB. ¶ 3038 (CCH) (1996).
- D. Crane, *Georgia-Pacific Corporation, Gypsum Division*, 90 Lab. Arb. 573 (BNA) (1988).
- W. Daniel, *Acorn Building Components Inc.*, 95 Lab. Arb. 1135 (BNA) (1990).
- W. Daniel, *E. B. Eddy Paper, Inc.*, 95-1 ARB. ¶ 5111 (CCH) (1991).
- M. Darrow, *Vons Companies, Inc.*, 97-1 ARB. ¶ 3003 (CCH) (1996).
- D. Dee, *Dresser Industries*, 99 Lab. Arb. 812 (BNA) (1992).
- B. Doering, *Stanley Door Systems*, 89-1 ARB ¶ 8141 (CCH) (1988).
- J. Draznin, *Southern California Edison Company*, 90 Lab. Arb. 960 (BNA) (1988).
- N. Duda, *Greater Cleveland Regional Transit Authority*, 95-2 ARB. ¶ 5385 (CCH) (1995).
- N. Duda, *Ellis Park*, 92-2 ARB. ¶ 8469 (CCH) (1992).
- N. Duda, *Philip Morris U.S.A., Louisville, Kentucky Plants*, 93-2 ARB. ¶ 3428 (CCH) (1993).
- J. Dunn, *L. F. Widmann, Inc.*, 99 Lab. Arb. 1173 (BNA) (1992).
- J. Dworkin, *Goodyear Tire & Rubber Co.*, 92 Lab. Arb. 91 (BNA) (1988).
- J. Dworkin, *Uniroyal Goodrich Tire Co.*, 93 Lab. Arb. 893 (BNA) (1989).
- W. Eisler, *Trans World Airlines, Inc.*, 89-1 ARB ¶ 8186 (CCH) (1988).
- J. Flagler, *Northwest Airlines, Inc.*, 89 Lab. Arb. 621 (BNA) (1987).
- J. Flagler, *Northwest Airlines, Inc.*, 88-1 ARB. ¶ 8050 (CCH) (1987).
- G. Fowler, *Mead Products, St. Joseph [Mo.] Division*, 91-1 Arb. ¶ 8246 (CCH) (1991).
[Same case at 96 Lab. Arb. 240 (BNA) (1991).
- S. Frockt, *Tecumseh Products Company, Somerset Compressor Division*, 105 Lab. Arb. 626 (BNA) (1995).
- E. Goldstein, *Chicago Transit Authority*, 94-1 ARB. ¶ 4266 (CCH) (1993).
- D. Goodman, *Public Service Company of New Mexico*, 97-1 ARB ¶ 3040 (CCH) (1996).
- R. Gunderson, *Poly Tech, Inc.*, 91 Lab. Arb. 512 (BNA) (1988). [Same case at 88-2 ARB. ¶ 8567 (CCH) (1988)].
- W. Hart, *Boise Cascade Corporation*, 98-1 ARB. ¶ 5155 (CCH) (1998).
- W. Heekin, *Ideal Electric Co.*, 98 Lab. Arb. 410 (BNA) (1991).
- T. Heinsz, *Trailway's, Inc.*, 88 Lab. Arb. 941 (BNA) (1987).
- T. Hewitt, *Pyramid Plastics Company*, 93-1 ARB ¶ 3255 (CCH) (1992).
- T. High, *Georgia-Pacific Corp.*, 89 Lab. Arb. 838 (BNA) (1987).
- T. High, *Van Dyne Crotty, Inc.*, 89-1 ARB ¶ 8232 (CCH) (1988).
- E. Hockenberry, *Georgia-Pacific Corporation, Building Material Distribution Center*, 100 Lab. Arb. 713 (BNA) (1993).
- D. Howell, *Inland Container Corporation*, 91 Lab. Arb. 544 (BNA) (1988).
- C. Ipavec, *Carey Plastics Division, Toledo Molding & Die Corp.*, 88 Lab. Arb. 937 (BNA) (1987).
- M. Jedel, *Eastern Airlines, Inc.*, 89 Lab. Arb. 492 (BNA) (1987).
- M. Kahn, *Delta Air Lines*, 89 Lab. Arb. 408 (BNA) (1987).
- J. Katz, *Jim Beam Brands Company*, 89-2 ARB. ¶ 8575 (CCH) (1989).
- F. Kessler, *The Menominee Paper Company, Inc.*, 90-2 ARB. ¶ 8325 (CCH) (1990).
- A. Knowlton, *Simmons Company*, 90-1 ARB. ¶ 8230 (CCH) (1989).
- A. Koven, *Salt River Project Agricultural Improvement*, 92 Lab. Arb. 96 (BNA) (1988).
- R. Kubie, *Defense Mapping Aerospace Agency Center*, 88-1 ARB. ¶ 8168 (CCH) (1987).
- D. Lewis, *Kalamazoo County Road Commission*, 88 Lab. Arb. 1049 (BNA) (1987).

- R. Lubic, *Virgin Islands Water and Power Authority*, 93-2 ARB. ¶ 3332 (CCH) (1993).
- J. Mackraz, *National Copper Products, Inc.*, 97-1 ARB. ¶ 3101 (CCH) (1996).
- B. Marcus, *Quaker Oats Co., Stokely-Van Camp Inc., Subsidiary*, 96 Lab. Arb. 419 (BNA) (1991). [Same case at 91-1 ARB. ¶ 8224 (CCH) (1991)].
- B. Marcus, *General Dynamics Corporation*, 91 Lab. Arb. 539 (BNA) (1988).
- E. Marlatt, *Marathon Petroleum Co.*, 93 Lab. Arb. 1082 (BNA) (1989).
- T. McMillen, *C. & A Wallcoverings, Inc.*, 93-1 ARB. ¶ 3174 (CCH) (1993).
- L. Nelson, *Westinghouse Hanford Company*, 101 Lab. Arb. 46 (BNA) (1993).
- K. Neyland, *USS, A Division of USX Corporation, Fairfield Works*, 96-1 Arb. ¶ 6181 (CCH) (1995).
- G. Nicolau, *New Jersey Bell Telephone Company*, 89-2 ARB. ¶ 8381 (CCH) (1988).
- D. Nielsen, *Linde Gases of the Midwest Inc.*, 94 Lab. Arb. 225 (BNA) (1989). [Same case at 90-1 ARB. ¶ 8219 (CCH) (1989)].
- D. Nolan, *Bowater, Inc., Southern Division*, 95-1 ARB. ¶ 5142 (CCH) (1994).
- L. Oberdank, *J. F. Cassidy Inc.*, 97 Lab. Arb. 801 (BNA) (1991).
- J. Odom, *Mac Millan Bloedel, Inc.*, 92-2 ARB. ¶ 8350 (CCH) (1991).
- H. Oestreich, *Associated Cemeteries (Woodlawn Memorial Park Association)*, 88-1 ARB. ¶ 8176 (CCH) (1988).
- E. O'Connell, *New Enterprise Stone & Lime Company*, 93-2 ARB. ¶ 3525 (CCH) (1993).
- W. Richard, *Mercury Stainless Inc.*, 91 Lab. Arb. 841 (BNA) (1988).
- L. Richman, *GTE California, Inc.*, 99 Lab. Arb. 196 (BNA) (1992).
- J. Robinson, *McLaughlin & Moran*, 92-2 ARB. ¶ 8518 (CCH) (1992).
- M. Ross, *Rohr Industries, Inc.*, 88 Lab. Arb. 703 (BNA) (1987).
- M. Ross, *Drackett, Inc.*, 89 Lab. Arb. 99 (BNA) (1987). [Same case at 87-2 ARB. ¶ 8332 (CCH) (1987)].
- G. Roumell, *Fitzsimons Manufacturing Company, Big Rapids Tube Division*, 92 Lab. Arb. 609 (BNA) (1989).
- W. Rule, *Marriott Host International*, 94 Lab. Arb. 862 (BNA) (1990).
- R. Runkel, *Cowlitz County [Wash.] Public Utility District No. 1*, 99 Lab. Arb. 80 (BNA) (1992).
- R. Rybolt, *Taylor Woodcraft*, 93-2 ARB. ¶ 3417 (CCH) (1993).
- S. Sergeant, *Equitable Gas Company, A Division of Equitable Resources, Inc.*, 93-2 ARB. ¶ 3488 (CCH) (1993).
- S. Sergeant, *Exxon Company, U.S.A.*, 101 Lab. Arb. 997 (BNA) (1993).
- F. Silver, *ATC/Vancom, Inc., Livermore Division*, 96-2 ARB. ¶ 6277 (CCH) (1995).
- J. Smith, *Burns Aerospace Corporation*, 95-2 ARB. ¶ 5334 (CCH) (1995). [Same case at 104 Lab. Arb. 1210 (BNA) (1995)].
- L. Stallworth, *Michigan Paperboard Co., L.P.*, 95-2 ARB. ¶ 5403 (CCH) (1995).
- D. Stanton, *City of Conneaut, Ohio*, 95-1 ARB. ¶ 5140 (CCH) (1994).
- C. Statham, *Keebler Company*, 95-2 ARB. ¶ 5356 (CCH) (1995).
- C. Statham, *Industrial Powder Coatings, Inc.*, 103 Lab. Arb. 519 (BNA) (1994).
- R. Strasshofer, *Vivi Color, Inc.*, 97 Lab. Arb. 850 (BNA) (1991). [Same case at 91-2 ARB. ¶ 8531 (CCH) (1991)].
- R. Strasshofer, *Loral Systems Group*, 94 Lab. Arb. 924 (BNA) (1990).
- R. Strasshofer, *Chase Bag Company*, 88 Lab. Arb. 441 (BNA) (1986).
- A. Strozdas, *Kimberly-Clark Corporation*, 92-1 ARB. ¶ 8270 (CCH) (1991).
- M. Suardi, *Container Products Inc.*, 95 Lab. Arb. 1129 (BNA) (1990).

- R. Talarico, *Kensington Manufacturing Company*, 92-1 ARB. ¶ 8044 (CCH) (1991).
- R. Talarico, *United States Steel Corp Lorain Works*, 95 Lab. Arb. 7 (BNA) (1990).
- G. VanPelt, *Cleveland Board of Education*, 90-1 ARB. ¶ 8070 (CCH) (1988).
- C. VerPloeg, *City of Granite Falls, Minnesota*, 90-1 ARB. ¶ 8049 (CCH) (1989).
- C. VerPloeg, *Amoco Oil Company*, 89-2 ARB. ¶ 8514 (CCH) (1989).
- C. VerPloeg, *Growmark, Inc.*, 100 Lab. Arb. 785 (BNA) (1993).
- M. Volz, *Sonoco Products Company*, 93-2 ARB. ¶ 3495 (CCH) (1992).
- D. Weckstein, *The Hertz Corporation*, 97-2 ARB. ¶ 3278 (CCH) (1997). S. Dobry, *McDonald Dairy Co.*, 91-1 ARB. ¶ 8107 (CCH) (1990).
- C. Williams, *Montgomery Area Transit System, A Division of QMG, Inc.*, 100 Lab. Arb. 649 (BNA) (1993).
- F. Witney, *Jefferson Smurfit Corporation*, 93-2 ARB. ¶ 3314 (CCH) (1993). [Same case at 100 Lab. Arb. 1033 (BNA) (1993)].
- A. Wolff, *Midwest Steel Division of National Steel Corporation*, 88 Lab. Arb. 457 (BNA) (1986).
- A. Wolff, *Commercial Warehouse Company*, 100 Lab. Arb. 247 (BNA) (1992).
- A. Zack, *Boston Edison Company*, 89-2 ARB. ¶ 8348 (CCH) (1988).

Direct reprint requests to:

Donald J. Petersen
 Professor of Management
 Loyola University Chicago
 820 N. Michigan Avenue
 Chicago, IL 60611