



[Home](#) [News](#) [Opinion](#) [Multimedia](#) [Print Ads](#) [Services](#) [Subscribe](#) [Advertise With Us](#) [Public Notices](#)

Penalty Reduced for TEA Who Ducked Holiday Shift

Posted: Friday, July 23, 2010 12:00 am | Updated: 1:45 am, Thu Mar 3, 2011.

By MARK TOOR | [0 comments](#)

An arbitrator has overturned a decision to take 25 annual-leave days from a Traffic Enforcement Agent II who disobeyed an order to come to work on Martin Luther King Day 2008, saying the penalty was too harsh and improperly calculated by the NYPD.

The case involved Mohammad Haris, who the Police Department said did not show up although officials announced at roll calls held on three consecutive workdays before the holiday that the department expected 100 percent attendance. Peter Murillo, Mr. Haris's commanding officer, testified that he explained at one of the roll calls that the agents were needed to direct traffic and maintain safety, particularly at construction sites.

Offered Loss of 1 Day

Mr. Haris was one of a number of agents who did not show up on the holiday, and he was charged with insubordination for defying an order. He was offered a command discipline involving the loss of one day's leave, but he decided to go through the formal disciplinary process instead.

The department concluded that Mr. Haris was guilty of wrongdoing and levied the 25-day penalty because he had been disciplined on four previous occasions since 2001, receiving penalties of up to 20 days.

Mr. Haris argued that he hadn't understood the instructions on "100 percent attendance," believing they applied only to agents assigned to construction sites. He did not accept the one-day command-discipline penalty, he said, because some agents received a warning or a loss of only a few hours' pay.

Received Harshest Treatment

Mr. Murillo said he considered each employee's disciplinary record in determining command-discipline penalties and that only one employee received a punishment of more than one day.

The union, Communications Workers of America Local 1182, which was represented by Daniel Bright, argued that the 25-day penalty was disproportionate to the offense and to the penalties given to other agents who did not show up for work. It also said that of Mr. Haris's four previous disciplinary penalties, one was overturned in court and a second is under challenge.

The arbitrator, Jay Nadelbach, ruled that Mr. Haris was indeed guilty of wrongdoing but he reduced the penalty to one day's loss of leave as initially recommended by Mr. Murillo. "The real issue in this case is the degree of discipline imposed," he wrote. "Any disciplinary action that is administered must be reasonably related to the seriousness of an employee's proven offense. . . The penalty was too harsh. . . wholly disproportionate to the offense he committed or to the punishment meted out to all employees who disobeyed management's instructions."

Mr. Nadelbach criticized the Police Department for using Mr. Haris' overall disciplinary record-"to include matters unrelated to attendance issues"- to come up with the loss of 25 days. "I am also mindful of the vanity of the department's argument that its 25-day penalty was the next lawful step in its progressive disciplinary march against the grievant," Mr. Nadelbach wrote. "As the union pointed out, sufficient questions and ample doubts exist regarding the earlier penalties implemented."

"We're satisfied with the decision," said Local 1182 President James Huntley. "We shouldn't be subjected to maximum penalties for appealing to the highest levels."