

COOK COUNTY SHERIFF'S MERIT BOARD

In the Matter of:

**CORRECTIONAL OFFICER
TAMMYE C. LUCAS**

Employee # [REDACTED] Star #7831

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) Docket No. 1781
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DECISION

This matter coming on to be heard, by Board member Brian J. Riordan, pursuant to notice, the Cook County Sheriff's Merit Board finds as follows:

Jurisdiction

1. Officer Tammye Lucas (hereinafter "Respondent" or "Lucas"), was appointed a Cook County Correctional Officer on December 2, 2002;
2. On April 4, 2010, the Respondent was assigned to Division X of the Cook County Department of Corrections ("CCDOC") located at 2950 S. California, Chicago, Illinois 60608;
4. On October 28, 2012, the Respondent was assigned to Division IX of the CCDOC;
5. On June 2, 2013, the Respondent was assigned to Division XI of the CCDOC;
6. On August 25, 2013, the Respondent was assigned to Division IX of the CCDOC;
7. Respondent's position has a Correctional Officer involves duties and responsibilities to the public;
8. Each member of the Cook County Sheriff's Merit Board, hereinafter "Board", has been duly appointed to serve as a member of the Board pursuant to confirmation by the Cook County Board of Commissioners, State of Illinois, to sit for a stated term;
8. The Board has jurisdiction of the subject matter and of the parties in accordance with Chapter 55 of the Illinois Compiled Statutes;
9. Respondent was personally served with a copy of the Complaint against her and a Notice of Hearing and appeared before the Board to contest the charges contained in the Complaint; and
10. The Board has heard the evidence presented by the Sheriff and the Respondent and has evaluated the credibility of the witnesses and supporting evidence. After considering the evidence, the Board finds as follows:

Background

The Sheriff alleges that the Respondent was absent from work shifts and she was on unauthorized status for a total of 104 hours in excess of the 80 requirement between May 22, 2013 and January 28, 2014. Specifically, the Sheriff alleges that the Respondent was absent with no sick time on May 22, 23, 25 and 28, 2013; June 29, 2013; July 5, 13, 16, 17, 18, 19 and 20, 2013; and January 28, 2014 for a total of 104 hours.

In addition, the Sheriff alleges that the Respondent was absent from scheduled work shifts and the absences were unauthorized for a total 176 hours in excess of the 80 hour requirement between May 30, 2014 and July 26, 2014. Specifically, the Sheriff alleges that the Respondent was absent with no sick time on May 30, 2014; June 17, 18, 19, 20, 24, 25, 26 and 28, 2014; July 1, 2, 3, 5, 17, 18, 19, 22, 23, 24, 25 and 26, 2014; as well as absent no call on June 27, 2014.

The Sheriff further alleges that the Respondent was counseled by the Attendance Review Unit, Sgt. [REDACTED] regarding unauthorized absences on February 29, 2012, and was informed of her step level discipline and progressive disciplines as it relates to unauthorized absences. On June 2, 2012, she was issued and recommended a discipline action form with a reprimand for the unauthorized absences. She had subsequent DAFs on June 7, 2012, June 1, 2012, among several others.

After the June 20, 2013 arbitration by [REDACTED] pursuant to Respondent's grievance, her discipline was reduced to a second occurrence which is a written reprimand directing the Cook County Sheriff's Office to restore 24 hours to her rolling calendar.

Respondent continued to incur unauthorized absences and was issued additional unauthorized absence DAF's after receiving the arbitration award in June 2013. The Sheriff alleges then in February 2014, the Respondent was interviewed and provided a signed statement for investigators and the OPR in which she stated she was aware of the Cook County Sheriff's Order 11.4.1.1 on unauthorized absences and that someone had discussed her attendance with her. The Sheriff specifically alleges that the Respondent violated:

SHERIFF'S ORDER 11.4.1.1 (effective July 1, 2012)

UNAUTHORIZED ABSENCE, in its entirety, including but not limited to, the following subparts

II. POLICY

It is the policy of the Cook County Sheriff's Office (CCSO) to prohibit CCSOP employees from incurring Unauthorized Absences. Unauthorized Absences exacerbate absenteeism problems and strain the operations and employees of CCSO. CCSO employees receive benefit time and have a variety of leave options available to cover the need for short-term and long-term absences. Therefore, even if an employee is legitimately ill or has some

other reasonable excuse for being absent, the employee must obtain an appropriate Authorized Status(es) prior to or immediately after the need for the absence(s).

VII. Disciplinary Procedures for Employees with Unauthorized Absence(s)

C. Disciplinary process for employees with a Rolling Calendar clause in their applicable CBA:

The following shall apply to employees that incur an Unauthorized Absence(s) and have a CBA Rolling Calendar clause:

1. Rolling 365-day calendar:

- a. Any employee under a CBA with a Rolling Calendar clause who incurs ten (1) days or eighty (80) hours of Unauthorized Absences (not to be confused with Occurrences) in a rolling 365-day period will be recommended to the Merit Board for termination.**

SHERIFF'S ORDER 11.2.20.2 (effective January 25, 2013)

RULES OF CONDUCT, in its entirety, including but not limited to, the following subparts:

VI. RULES AND REGULATIONS FOR ALL SWORN AND CIVILIAN CCSO EMPLOYEES

E. Duty functions.

CCSO employees shall:

- 1. Maintain sufficient competence to properly perform the duties and responsibilities of their positions. Unsatisfactory performance shall not be allowed.**
- b. Unsatisfactory performance may be demonstrated by:**
 - vi. Absence without leave.**

Furthermore, the Respondent's actions violated the Rules and Regulations of the Sheriff's Merit Board, specifically:

COOK COUNTY SHERIFF'S DEPARTMENT MERIT BOARD RULES AND REGULATIONS, in its entirety, including but not limited to, the following subparts:

Article X, Paragraph B

No Police Officer of the Cook County Sheriff's Police Department, Correctional Officer of the Cook County Department of Corrections or any Deputy Sheriff of the Cook County Sheriff's Court Services Department shall:

- 3. violate any of the general orders, special orders, directives or rules and regulations of the Cook County Sheriff's Department.**

Prosecution Case

The prosecution called [REDACTED] the Deputy Director of Human Resources, who is responsible for overseeing labor practices, grievances and attendance. She has been with the Sheriff's Office for over 25 years and for the past several years she has been the Deputy Director of Human Resources.

Ms. [REDACTED] described the practice and policies of the Cook County Sheriff's Office and the various abbreviations for unauthorized time. She fully explained that the employee is completely responsible for knowing exacting how much available time they have off whether it is personal, vacation, sick time or any other type of "time on the books." She stated repeatedly that each officer is required to keep track of their own time and is informed of this throughout their employment. Ms. [REDACTED] also described the use of Family Medical Leave Act time as well as when unauthorized FMLA usage would be.

Ms. [REDACTED] generally testified regarding each of the dates contained in the Sheriff's Complaint and verified the time available as well as how each of the hours were calculated as unauthorized.

Ms. [REDACTED] fully explained the 80 hour rule, which was 80 hours of unauthorized absence over a rolling calendar year. She testified to the step discipline that occurs after the 80 hours are incurred. She stated that each of the employees has access to their timecards and all the various information provided in the Sheriff's personnel department.

Cross Examination

During cross examination, Ms. [REDACTED] testified regarding the fact that there are at times mistakes made by the timekeepers when the employees will call in to be off of work. However, she stated that there is an audit process that is in place to catch any of these mistakes. She also testified that it is not the responsibility of the Call In Center to respond to an employee whether they actually have "time on the books" and that is the employee's responsibility. So if an employee calls in asking for sick time and that is recorded it does not mean that the time then becomes authorized time off. She testified regarding the specifics of the Respondent's time card

and there was a time period she was off work and that she then returned to work and she identified the various abbreviations. She further testified that it does not necessarily make it an authorized absence just because someone may be in the hospital.

Ms. [REDACTED] testified regarding the arbitration procedure as far as the personnel department is concerned and that they would chart the information if time was "given back" to an employee after an arbitration. She testified they are not always informed of the arbitration awards however.

Sgt. [REDACTED]

Direct Examination

[REDACTED] is the Superintendent for Administration and prior to that he worked in the Attendance Review Unit. In his role in the Attendance Review Unit, he would work with the Sheriff's Office and the employees to clean up the attendance abuse that was going on in the Department. He testified that people were just not coming to work and were abusing sick time and taking random days off without notice causing massive amounts of overtime pay. It caused a great deal of moral issues with other employees. He was involved in the creation of the Attendance Review Unit and assisted in the Order 11.4.1.1 of the Sheriff's Rules and Regulations. He testified regarding the role of the Attendance Review Unit and its various parts as well as that the employees were all made specifically aware of the new policies and procedures regarding the 80 hour role way back in at least 2011. He testified regarding the process the Sheriff would employ once there were unauthorized absences, as well as the step discipline process before a case would go to the OPR for termination.

Sgt. [REDACTED] testified regarding his interactions with Respondent Lucas as well as her first counseling session that he was present for in June 2012. He testified regarding the specific progressive discipline for unauthorized absences during June 2012 as well as March of 2012 where she had no sick time. He testified further regarding additional days she was unauthorized as outlined in the complaint and on the Respondent's attendance cards.

All the meetings for these early March and May absences took place on June 1, 2012. He said this was typical in the Sheriff's Department because getting a hold of the employee and getting them to come in to discuss each of these absences was very difficult and they had to do more than one in the same day because of the employee's lack of compliance. He testified that Tammye Lucas signed each of these documents and did participate in the meetings and was provided all of her rights. At these meetings they were given all of their options regarding medical leave, long term leave, FMLA as well as contacting the Employee Assistance Program.

Sgt. [REDACTED] testified regarding the process of when an employee grieves the unauthorized absences. He testified that when grievances are granted, whatever days are included in the grievance in favor of the employee are then rolled back and the discipline then moves backwards to either just the counseling meeting or the first or second reprimand, depending on the case.

Sgt. [REDACTED] testified that by the time of the grievance the Respondent had 16 hours of unauthorized as of May 2012.

Sgt. [REDACTED] testified regarding additional occurrences of unauthorized absence one being July 17, 2012 and a disciplinary action reform created for the Respondent. They had another counseling meeting on July 19, 2012 and documentation was signed by the Respondent regarding this meeting and her understanding (?) of her situation. He further testified regarding additional absences in September of 2012. There were a number of disciplinary action forms regarding those dates. They had a meeting on September 26, 2012 regarding all of these absences. He testified that Respondent Lucas was present and she signed off on each of the pages.

Cross Examination

On cross examination, Sgt. [REDACTED] testified that at times even though the Collective Bargaining Agreement says that counseling must occur within 20 days, at times they have their counseling sessions after 20 days. However, he again testified that is based most often on the inability to get the employee to come in for the session. He also testified that they would schedule the meetings and they would discuss more than one unauthorized absence at a time. He admitted that it does not appear that it is a "progressive discipline" in the sense that all were discussed at one time however the actual discipline issued for each one is a step discipline program. He testified the employee is informed of the process.

He testified further what the Respondent may be able to bring in to one of their counseling sessions would clarify that it does not necessarily convert an unauthorized absence into an authorized absence just because they bring medical documentation. He testified that he would pull up the virtual timecards when he would make his decisions about moving an employee to the next step. He checks with personnel to make sure that the information contained in the virtual timecards are accurate. He believes that all arbitration decisions are given to the actual respondents but he does not know for sure whether they receive them.

Sgt. [REDACTED] never saw an employee without a union representative present.

Re-Direct Examination

Sgt. [REDACTED] testified that after he would receive information regarding an arbitration award he would go back and move the respondent back up the disciplinary chain.

Sgt. [REDACTED]

[REDACTED] testified that has been employed for 24-1/2 years with the Sheriff's Office and has been a sergeant for the past 4 years. In 2013, he was in the Attendance Review Unit. He generally testified regarding the process for unauthorized absences and administrative steps taken by his Department. He uses the Sheriff's Order which was previously admitted into evidence to set the table for his administrative counseling and disciplinary action for his unit.

Sgt. [REDACTED] clarified that a legitimate medical excuse does not make an unauthorized absence authorized. He testified regarding the various options the employee has such as entering into disability, duty injury and with options such as FMLA or to apply for leave, i.e., maternity, paternity, military or leave of absence. There is also compassionate leave and this always depends upon the situation.

Sgt. [REDACTED] testified regarding having more than one meeting with Respondent regarding her unauthorized absences. He testified he counseled the Respondent on May 29, 2013 regarding her unauthorized absences and at that point she was at the time Step 5 of progressive discipline. He had the Respondent sign the document as well as his own signature and the union steward [REDACTED]. The exhibit referencing that meeting was admitted into evidence without objection. That meeting was specifically regarding the fact that the Respondent had no sick time from May 22 and 23, 2013 and at that point they had notified the Respondent that she had used 72 hours on the rolling calendar. He stated that the Respondent was well aware of how the process worked and even though they explained it to her once again. He testified that he went over all the options with the Respondent at that time and further explained that there are options to change your schedule if her life was impacted based on her not being able to get to work at certain times. He does believe that she attempted to take advantage of this option in changing shifts but does not recall specifically what she did.

Sgt. [REDACTED] testified regarding an additional disciplinary action form with Respondent. This documentation references no sick time for the dates of May 25 and 28, 2013. This meeting took place on June 13, 2013. The record regarding these meetings was admitted into evidence and was without objection. He again testified that at the time of the meeting in June 13, 2013, even after her grievances, she stood at 72 hours of unauthorized absences. She was explained this and told that any additional unauthorized absences would result in further disciplinary action. All of the Respondent's grievances were admitted into evidence.

Sgt. [REDACTED] testified regarding an additional meeting taking place on July 24, 2013 to which he testified regarding the documentation thereof. He testified regarding the grievances that Respondent filed and that on the June 13, 2013 arbitration award, all previous step disciplines were reduced to Step 1 and there was 24 hours restored to the employee rolling calendar.

Sgt. [REDACTED] testified that when he met with Respondent on July 24, 2013, he registered that she was at 24 hours of unauthorized absences based on the arbitration award and the reductions that it entailed. He testified regarding her infraction on July 5, 2013 which was for no sick time and that jumped her up 8 hours to 40 hours. Her sixth occurrence was on July 13 – 19, 2013, which identified July 13 and 19 for no sick time placing her at 72 hours on the rolling calendar. July 17 – July 19 absences then added 32 hours to the calendar.

He stated during the meeting Respondent had no questions for him and did not raise any concerns with the times she was being accused of being off work. This last incident put her over the hours and therefore the matter was submitted and forwarded to OPR for a formal complaint to be filed.

He testified there were actually additional unauthorized absences that would put her up to 96 hours but occurred after the point where he submitted the complaint request when she hit 80 hours. He testified she violated Sheriff Order 11.4.1.1 by exceeding the 80 hours within a one year rolling calendar.

Cross Examination

Sgt. [REDACTED] stated that once she reached the 80 hour limit he does not necessarily include them in the paperwork but that there was documented evidence of additional absences totaling 96 hours.

Respondent's attorney attempted to elicit testimony regarding a potential typo on one of the grievance numbers on the arbitration award. This witness was not able to testify regarding what the arbitrator was saying and the Respondent did not put on any additional evidence regarding the fact that there may have been a different grievance that was not considered. It was clear from the documentation and evidence that it was a small typo but that all of the grievances were considered by the Attendance Review Unit and the arbitration award was followed to the letter by the Attendance Review Unit. The Respondent did not make any objections at the time of the arbitration award nor did Respondent testify or bring any witnesses forward at the hearing to contradict the Attendance Review Unit and the Sheriff's Department for the way they interpreted the arbitration award.

After Respondent was given time and the opportunity to bring in any other witnesses or documentation, they decided not to and decided to move on per page 127 of the transcript.

[REDACTED]

[REDACTED] is with the OPR at the Sheriff's Office and has been with them for approximately 20 years. She was in the Attendance Review Unit and responsible for reviewing documentation on unauthorized absences. She was specifically assigned to Respondent's case and during the course of her investigation gathered documents, reviewed them, added up various unauthorized discipline, reviewed grievances and arbitration and attendance records. Ms. [REDACTED] interviewed the Respondent and went through the process by which they interview each of the respondents when there is an allegation of unauthorized absences.

Ms. [REDACTED] testified that she types up the interview notes and gives a summary of the statement but there is not a verbatim or recorded statement taken. She generally shows the statement to the respondent and they have the opportunity to make changes or corrections if they desire. They signify their acceptance of the summary by agreeing and signing the statement. She testified that the interview took place on February 18, 2014 and that Respondent signed off on the OPR investigative report. She does not recall the Respondent having any questions regarding the statement or any of the form documentation. During the interview she was asked regarding her attendance and unauthorized absences and she stated that she did understand the Sheriff's Order and that she did have several discussions regarding her attendance with the Sheriff's Department. She basically stated that during her interview the Respondent testified that she was unaware where she was at on her time and whether she had accrued enough benefits to cover her absences in July 2013 and January 2014. She did not provide any documentation stating that she had benefit time. Additionally, during the interview, the Respondent admitted that she had not been feeling well and suffers from a condition that prevented her from reporting to work. She also stated during the interview that she did not have enough time on the books to qualify for FMLA and she was not sure if she was going to seek compassionate leave or any other type of leave. She stated that Respondent had no questions or objections regarding the

interview or the summary of her investigation. She testified that even though someone may actually be sick even a doctor's note would not change the status of unauthorized to authorized if they have no time available. The Sheriff's orders are specific that if time is exhausted it does not matter even if you have a legitimate medical excuse.

Ms. [REDACTED] next testified regarding the Sheriff's Orders Rules of Conduct 11.2.20.0 which was moved into evidence along with Article X of the Sheriff's Merit Board Rules and Regulations and how it applies to correctional officers. It was Ms. [REDACTED] belief that Respondent did violate the Sheriff's unauthorized absence order 11.4.1.1 and Article X of the Merit Board Rules and Regulations.

Cross Examination

Ms. [REDACTED] stated she did not ask the Respondent regarding additional dates after she reached the 80 hour mark and that she was also on unauthorized absence.

Respondent's Case

Respondent Tammye Lucas

Respondent Lucas testified regarding her employment with the Sheriff's Office for 13 years as well as 8 years as an armed security officer. She stated she has been working in Division II, IX and XI over the course of these years. She testified regarding personal issues as well as supervisor issues with Division IX staff and health issues regarding her family and herself.

Her basic defense was that she believed that after her grievance all of her previous absences should have been removed. She did not know why they were not and testified she was never given a copy of the actual award. She did testify regarding missing the days in question and not knowing exactly what benefit time she had available. She testified she was not properly instructed or represented at her arbitration and did not even know who the union person was that supposedly representing her. She stated that they were shuffled in and out of the arbitration process and they were not able to fully explore their case and grievances.

Respondent Lucas said the confusion regarding the arbitration award led her to not understand exactly where she was in the process. She testified regarding the hardship she had at home regarding her child being both a physical and disciplinary burden on her. She further testified regarding trouble at work with various supervisors that caused her stress and the physical conditions that made it difficult for her to continue her job. She testified that she attempted to get her supervisors to give her an accommodation and hardship accommodations but was refused. She stated that she attempted to make sure she was in an authorized status by doubling her dosage of medication, trying to come to work through the pain, staying and doing overtime and trying to be a good officer. She said she applied for FMLA. She stated she would call and check on her time with the division and she would personally check with the timekeepers as well as check with her lieutenant. She said she was given confusion information regarding that and she was not able to rely upon it. She stated she was at times specifically told that she had the time she would take off. It was Respondent's testimony that she would be told conflicting information from the timekeepers and then when she would go to meet with the

Attendance Review Unit they would have different information regarding her unauthorized status.

Respondent testified regarding other errors that had occurred in the past on her attendance card and that she did have documentation regarding grievances where she was allowed to recoup some unauthorized absences. Respondent and her attorney made the argument that these indications of past errors are evidence that errors could have occurred during this timeframe. She testified that she attempted to bring evidence of her authorized status at Attendance Review Unit meetings, specifically with Ms. [REDACTED]. She was told that she could not present any evidence during that meeting. She further testified regarding her use of the Employee Assistance Program and admitted into evidence a document indicating that she had utilized that program. She further testified regarding her steps to improve her attendance and her physical and mental well-being since 2004 and that she is now currently [REDACTED].

Cross Examination

Respondent Lucas testified that she is well aware of the process for filing for disability and FMLA and that she had done it on occasions prior to 2012. During cross examination, she admitted that she took off time that she knew she did not have in 2013 and 2014. She admitted to all the counseling sessions that she was subject to per the Respondent's case-in-chief. She stated that she was well aware of the disciplinary step procedure and what could happen if she continued to have unauthorized absences. She does admit she was denied FMLA because she had not previously worked a total of 1,250 in the previous calendar year. She testified regarding her statement where it clearly said she had more than 80 hours of unauthorized absences and that it was a violation of the Cook County Sheriff's Order 11.4.1.1. She tried to testify that thought everything was being recorded and that she would have a chance to review the tape however she did not have any rationale or reasonable belief as to that being the case. She testified that all the documents were previously filled out before she got there and she was told she had to sign them.

She testified that she did sign all the documentation and did have the opportunity to read them. She stated that when the union representative did show up, and there was no request to continue to hearing because he did not know what was going on. They proceeded with the interview with the understanding that this was her chance to provide her statement. She testified she was well aware of Sheriff's Order 11.4.1.1 that deals with unauthorized absences and was provided with that during the course of her employment.

Re-Direct

Respondent Lucas again testified that she thought the arbitration award covered all time prior to June 2013.

Findings of Fact

Based on the evidence presented, the testimony of the witnesses as well as all of the exhibits admitted into evidence, it is the Board's decision that Respondent Tammye Lucas did violate the Sheriffs Orders and the Cook County Sheriff Merit Board Rules and Regulations. It is this Board's decision that the facts support that the Respondent was absent in an unauthorized

status for well more than the 80 hours as outlined by the Sheriff's Orders. It was clear from the testimony that the Respondent was well aware of what her responsibilities were in terms of reporting to her employment and being aware of what her benefit time was at any given moment. Her testimony regarding the arbitration award or not knowing where she stood in terms of the 80 hour rule was not credible. It is unfortunate that Respondent had various issues and other responsibilities, however it is clear that the Sheriff needs people to show up for work consistently, regularly and on time. The detriment to the Department and the enormous cost involved is widely known and undisputed by Respondent.

CONCLUSIONS OF LAW

Based on the evidence presented and after assessing the credibility of the witnesses and the weight to be given the evidence and the record, the Board finds that the Respondent did violate the Rules and Regulations of the Cook County Sheriff's Office and the Merit Board.

Wherefore, based on the foregoing, it is hereby ordered that Respondent Tammye Lucas be separated from employment with the Cook County Sheriff's Office effective August 28, 2014.

Dated: May 29, 2015

[REDACTED]
James P. Nally, Chairman

[REDACTED]
Byron Braziff

[REDACTED]
Pat Brady

[REDACTED]
John D'Alicandro

[REDACTED]
Jennifer Eric

[REDACTED]
* Brian J. RJordan - Hearing Officer

[REDACTED]
Kim Widup

[REDACTED]
Vince Winters