



# On The Move

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## Grievance Settlements and Arbitration Victories Pay Off for Local 234 Members, Advancing Union's Strategy for Enforcement of the Contract

The efforts of Local 234's staff and legal counsel are beginning to pay off with big victories in grievance and arbitration disputes. These successes, including two significant victories in arbitration cases SEPTA thought were *unwinnable*, may force the Authority to reconsider how it deals with employee discipline.

It stands to reason that so long as SEPTA kept winning in arbitration, the powers to be had no reason to change course. However, having been stung once, twice, and again, SEPTA now has to make some hard choices. The Authority can stick to its ways and keep paying large back pay awards in discharge cases, or it can have its supervisors stop abusing their managerial authority by disciplining our members as if it were a sport. It may take some time, and further losses for the Authority, but the handwriting is on the wall; SEPTA will have to get control over depot and maintenance managers who discharge our people first and think about the consequences later.

The chart below is a summary of *all discharge cases* resolved by this Administration since October, 2013---14 members reinstated, 2 cases lost in arbitration, and over \$260,000 in back pay.

### Resolution of Discharge Cases since October, 2013

<u>Location</u>	<u>Charge</u>	<u>Result</u>	<u>Back Pay</u>
Comly	Tampering with bus camera	Reinstated	Partial back pay
Buildings	Workplace violence, pedestrian	Reinstated	No back pay
Southern	Workplace violence, pedestrian	Reinstated	Full back pay
Midvale	Pedestrian knockdown	Reinstated	No back pay
Allegheny	Workplace violence, supervisor	Reinstated	No back pay
Southern	Pedestrian knockdown	Reinstated	Partial back pay
Frankford	Failure to obey a directive	Reinstated	Full back pay
Midvale	Violation of last chance agreement	Reinstated	Full back pay
Track	Workplace violence, supervisor	Reinstated	Back pay
Callowhill	Failure to obey a directive	Reinstated	Back pay
Midvale	Non-compliance Drug Program	Reinstated	Full back pay
Comly	Post Accident Drug Test	Reinstated	Full Back Pay
Callowhill	Assaulting a passenger	Reinstated	Full Back Pay
Subway	Reasonable Suspicion Test	Reinstated	No loss of Pay
Midvale	Violation of last chance agreement	Discharged	N/A
Midvale	Job abandonment	Discharged	N/A
		<b>TOTAL</b>	<b>\$260,274.99</b>

## **Cutting the Waiting Time to Get Discharge Cases to Arbitration**

Winning back pay awards in arbitration promotes grievance settlements on more favorable terms, rather than having to accept a “last chance agreement” as a precondition for getting a member’s job back, a common practice prior to October. Winning back pay awards also enables the Local 234 to reduce the time it takes to get discharge cases to arbitration.

In the past, discharged employees were hung out to dry for thirteen or fourteen months before the Union got their cases in front of an arbitrator. This waiting time has now been cut to four to five months. In fact, at the moment, there are only four discharge cases waiting for an arbitration date. In this way, the union is pursuing a two-part grievance and arbitration strategy. First, win cases to protect the jobs of our members and reduce the number of members subject to discipline. Second, shift the focus in arbitration from fighting unjust discipline, to stopping contract violations.

## **A Winning Strategy for Contract Enforcement**

Contract enforcement is one of the most important jobs the Union performs. While discharge cases can bring justice to members who are unfairly disciplined, contract enforcement affects the vast majority of union members without a write up on their record. Under our labor agreement, the Union is currently required to take three discharge cases to arbitration for every one contract case. This encourages SEPTA to maintain a long line of pending discharge cases, thereby allowing the number of unresolved contract cases to grow out of control.

As you can imagine, long lists of unresolved contract cases makes contract enforcement difficult and gives managers the false impression that they can violate the labor agreement with impunity. However, if the Union is able to reduce the number of discharge cases, more contract cases will get heard in arbitration. And if the same positive results are achieved with these cases, the bosses will be forced to respect the labor agreement as they did in the past.

The Local is also demanding a negotiated change in the formula for taking contract cases to arbitration. Rather than take one contract case for every three discharge cases, we want to take three contract cases for every three discharges. This will have the effect of getting contract cases resolved much sooner, while further deterring unjust discipline, because it will expose the Authority to the risk of much higher back pay awards.

Thus far, SEPTA has refused to budge on the Union’s demand for a change in the arbitration formula, but sooner or later the Authority will realize that this issue is on the top of the Union’s agenda (along with pension improvements, wages, and the preservation of medical benefits) for a peaceful resolution of the current round of contract negotiations.

**Rest assured, the riding public and the politicians will not take kindly to a disruption of transit service caused by SEPTA’s refusal to refer more contract enforcement cases to arbitration!**