



On The Move

March 22, 2016

Official Publication of TWU Local 234

www.twulocal234.net

Just Cause is essential for all union contracts

Many members of Local 234 have only been around for a few years and may not be aware of some of the most important provisions of the union contract under which we all work. This is the first in a series of articles to discuss some of these contract provisions, starting with “just cause.”

The “just cause” *standard* for disciplining an employee is the bedrock of *all labor agreements*, because it makes it much harder for employers to discharge union members, by *limiting* management’s *right to impose discipline*. Imagine what would happen if there were no limits placed on SEPTA’s right to discipline you? SEPTA could discharge you because of your appearance, or because you make the top rate and they can get a new hire to do the job for less. Workers who are not protected by “just cause” can be fired for any reason, or for *no reason* at all. Think about that...an at-will employee can be fired for no reason at all and there is nothing they could do to stop it.

In a discharge case, just cause means that SEPTA must prove that it had the right to *establish and enforce* the rule for which an employee is being fired. In addition, SEPTA must prove, in each case, that the discharge is warranted, taking into account mitigating factors, such as an employee’s seniority and employment record.

There are cases in which SEPTA is able to satisfy the just cause standard. Take, for example, an operator who tests positive for drugs following a chargeable accident in which a pedestrian is killed. The contract and federal law give SEPTA the right to conduct the drug test and to discipline the employee for testing positive. If SEPTA proves its case, the employee is getting fired for “just cause.” SEPTA also has the right to discharge employees for theft, workplace violence or refusing to follow a direct order, but, in these cases, the just cause standard can come into play.

Violating a direct order is a dischargeable offense. However, if an employee violates a direct order, because it would cause an imminent risk to their safety, the just cause standard would prevent them from being discharged. The same is true of discharges for fighting, sleeping, or involvement in a pedestrian knockdown. If the Authority can’t prove its case, or if the Union can show mitigating factors, the discharge may be overturned, because the just cause standard requires *proof of fault* and *a punishment that fits the crime*.

Just cause also means: (1) protecting your right to due process; (2) providing equal treatment for employees guilty of the same offense; and, (3) insuring that employees are not discharged for minor offenses, unless the employee commits the same offense over and over again.

It is impossible to explain the full meaning of just cause in a brief article. Many books have been written on the subject. Just remember this, if management can terminate you at any time for any reason, your seniority rights, other work place protections and your contract benefits become meaningless. If you do your job as required, just cause is what stands between your job and the door.

2016 Contract Negotiations are a Critical Turning Point for TWU Members

The 2016 contract negotiations pose the most difficult and complex bargaining challenge Local 234 has ever faced. The issues already on the table include pension benefits and health care. Both are of fundamental importance. Both could be difficult to resolve, because the anti-union politicians who dominate the legislature and have influence with SEPTA may stand in our way.

On the pension front, Local 234 is fighting to establish equity between our pension benefits and the pension benefits of management. This means dealing with the outdated \$50,000 earnings CAP used to calculate our monthly benefits. There is no CAP in management's pension formula.

On the health care front, SEPTA wanted our members to pay more for their health insurance, due to the high cost of health care and the Cadillac Tax, originally scheduled to take effect in 2018. However, the Cadillac Tax has been put off until 2020, so there is no reason to pay a tax that may never take effect.

The pension and health care issues are tough, because they involve a lot of money. When you add decent wage increases into the mix, the magnitude of the challenge becomes clear. Still the Union is pushing hard, using all the tools at its disposal, to tackle these issues on behalf of our members.

We have seven months to prepare for the battle for economic justice. If a strike becomes necessary, every union member must be ready. The fight for fair and equal treatment will not be undermined by complaints from members who fail to take seriously their duty to prepare for a successful strike. We have to be strong to win. There is a lot at stake in these negotiations.

SEPTA's Spy Policies Show Class Bias, Just like the Pension Plan

SEPTA's use of video cameras, long opposed by the Union, is further exposing the Authority's bias against workers. While the cameras are focused on us, managers are getting a free pass. As we negotiate to limit the use of the cameras, we should also demand the following action:

- Record the conversations between operators and dispatchers to verify what's said. Dispatchers are notorious for saying one thing over the phone and another when you appear at the window. Control Center conversations are recorded, dispatchers deserve equal treatment.
- Place video cameras in the Control Center to put some fire under the controllers who are too slow on the job. Operators who try to make contact with control center in an emergency often have to wait far too long to get a response. We need to find out why and then fix the problem.
- Use video cameras and the VMIS system to improve productivity in SEPTA's Benefits Department. Benefits representatives and their supervisors are often "out to lunch" when you need them. When you call, all you get is a recording to leave a message, a message that rarely gets returned.
- Video cameras would be a good fit at 1234 Market Street as well. That way, the whereabouts of SEPTA's managers and administrators can be tracked and action taken if they get caught not doing their job *every minute of the work day*; so there is no double standard at SEPTA.

WE MUST AND WE WILL