

STATE OF MICHIGAN
COURT OF APPEALS

MICHIGAN ASSOCIATION OF POLICE,

Plaintiff-Appellee,

v

CITY OF PONTIAC,

Defendant-Appellant.

UNPUBLISHED
November 2, 2001

No. 225187
Oakland Circuit Court
LC No. 99-019712-CL

Before: Doctoroff, P.J., and Wilder and Chad C. Schmucker*, JJ.

PER CURIAM.

Defendant appeals as of right the circuit court's order finding in favor of plaintiff on its complaint to enforce an arbitration award. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

The Pontiac Police Department hired Dwight Green in April 1996 and discharged him on June 23, 1998, after he received three reprimands and four suspensions. Plaintiff filed a grievance on Green's behalf, and the grievance was submitted to arbitration. The arbitrator granted the grievance in part. He ordered Green reinstated to work, with a thirty-day suspension substituted for his discharge. The arbitrator also ordered back pay.

Green submitted an affidavit in which he revealed that defendant's labor relations director instructed him to report to work on December 13, 1999. Green was advised that he would be required to submit to a medical examination that included neither a drug screen nor a psychological fitness test. Green reported to work, but he was not given a gun, badge or paperwork that was required to reinstate payroll and benefits. He submitted to a medical examination on December 14, 1999, but this examination did not include a drug screen or psychological test. On December 15, 1999, acting Pontiac Police Chief Larry Miracle informed Green that he would not be reinstated unless he agreed to submit to the entire pre-employment screening process. A December 15, 1999 Pontiac Police Department professional conduct report states that Miracle ordered Green to submit to drug and psychological tests "as a condition of employment," and that Green refused. Defendant discharged Green for insubordination on December 15, 1999. Plaintiff filed a grievance regarding this discharge.

* Circuit judge, sitting on the Court of Appeals by assignment.

Plaintiff filed a complaint in circuit court to enforce the arbitrator's award. The circuit court ordered defendant to comply with the arbitrator's award requiring reinstatement without pre-employment medical testing.

Defendant appeals the circuit court's order. It argues that it fully complied with the arbitrator's award by reinstating Green and that this matter is to be determined pursuant to the collective bargaining agreement. We disagree.

In this Court's limited review of a question of the enforcement of an arbitration award, it considers whether the award was beyond the contractual authority of the arbitrator. *Lenawee Co Sheriff v Police Officers Labor Council*, 239 Mich App 111, 117, 199; 607 NW2d 742 (1999). We may decide only whether the arbitrator's award "draws its essence" from the contract between the parties. *Id.*, quoting *Lincoln Park v Lincoln Park Police Officers Ass'n*, 176 Mich App 1, 4; 438 NW2d 875 (1989). "If the arbitrator in granting the award did not disregard the terms of his employment and the scope of his authority as expressly circumscribed in the contract, judicial review effectively ceases." *Id.*

The arbitrator ordered Green's reinstatement with a thirty-day suspension substituted for his discharge. The arbitrator imposed no conditions on Green's return to work. Defendant does not argue that the arbitrator's award is not within his contractual authority. The facts show that defendant premised Green's return to work on drug and psychological testing requirements. It did not comply with the arbitrator's award. The circuit court therefore correctly found in plaintiff's favor on its complaint for enforcement of the arbitration award.

Affirmed.

/s/ Martin M. Doctoroff
/s/ Kurtis T. Wilder
/s/ Chad C. Schmucker