

NV ENERGY, INC.

And

ARTHUR GOODSPEED, an Individual

I will present facts in regard to this appeal only and will not waste your time with defending my past work history or my disability as this would be irrelevant to this appeal.

I will, however, state facts and the law that was broken by Michael Lenear-Liston and Evelyn Hollins.

On March 17, 2009, Ms. Hollins called me into her office. I had no idea what the meeting was going to be about. At the meeting Union Steward Cynthia Wesson was there. When I sat down Ms. Hollins told me that I was going to be suspended for one day due to my calling in on March 2 and 3<sup>rd</sup>. I will not go into detail about what happened with Madelyn Anzinger. Just that she misled me into thinking that I no longer had employment with NV Energy if I didn't bring in my son's medical records. During this meeting, Ms. Hollins explained why I was going to be suspended. I was concerned. I had read the attendance policy as stated in the hearing and nowhere did it state that I would be suspended for one day if I called in for two days. It did state termination after three absences. I told Ms. Hollins that Ms. Anzinger had me bring in my son's medical records and that this issue had been taken care of. Union Steward Wesson replied about the medical records and asked what had happened. She started to take notes and also advised me that I didn't have to sign the document if I didn't want to and that I would be suspended for a day. She gave me the business cards from the Business Agents. After

the meeting she told me to start writing everything that had happened and anything from this point forward.

I do not know why at the hearing she denied what she had said. From what I understand in the hearing, she has been with the company for quite some time and as a union steward she should be well versed in this position as a steward. In the hearing her main response was “he was upset, he was upset” and “he was bringing up all these laws that I didn’t understand”. For an experienced steward, Ms. Wesson stated so strongly in the hearing that I had been upset, her job would have been to advise me of any misconduct and stop the meeting to consult with me. She didn’t because I conducted myself in an appropriate manner. As was mentioned in the hearing, she knew Ms. Anzinger and her husband. He used to work for the union. This is the only thing that comes to my mind.

Also her unwillingness to come with Elizabeth, Doris and me on the morning of April 9<sup>th</sup>. I would have chosen a different steward that day. Ms. Hollins and Mr. Lenear-Liston testified that their doors were always open to anyone. After all the issues with Susan Penrod (trainer) had been brought up to Ms. Hollins prior to this occurrence, I feel Union Steward Wesson should have agreed to sit in with Mr. Lenear-Liston, Doris, Elizabeth and myself.

On march 9<sup>th</sup>, Michael called me into the conference room to discuss my issues with Ms. Anzinger. Before starting the meeting, I asked for a union steward. Michael replied that there was no need for one. It was at this time that he handed me my son’s medical records which was confirmed in the hearing by his testimony. He began asking me questions about what I had brought up at the meeting with Ms. Hollins and Union Steward Wesson. I answered him; however, when I asked him questions about why

Ms. Anzinger had asked me for my son's medical records and if I was terminated at that time, he didn't answer. This led me to believe that I did need a union rep. At this point, I was worried about my employment.

On April 9<sup>th</sup>, I was brought into Ms. Hollins' office. I know that I stated that Michael was there and later stated that he was not; however, I did tell the judge that I was not 100% sure of that fact. I didn't feel it was that important, because it was irrelevant to the case and had no bearing (it didn't matter). The meeting started as not investigatory.

When I did sit down, Union Steward Wesson did look in and asked if she was needed. Ms. Hollins or Mr. Lenear-Liston stated no.

Again, I am not 100% certain that Mr. Lenear-Liston was or was not there or that it was him that stated no. At the time Mr. Lenear-Liston stated that it was not an investigatory meeting and that I was not to bring up issues that were brought up that morning by Doris and Elizabeth and me. Now when Mr. Lenear-Liston stated that I was a probationary employee and that I could be terminated at any time was when I asked for a steward and since Union Steward Wesson was reluctant to come with us early that morning, I would have asked for a different steward, if one had been granted.

Now at this time Mr. Lenear-Liston had three choices:

- The Employer must either: grant the request and delay questioning until the union representative arrives and has a chance to consult privately with the employee;
- deny the request and end the interview immediately;
- or give the employee a choice of having the interview without representation and ending the interview

Mr. Lenear-Liston gave no choice. If the employer continues to ask questions, it commits an unfair labor practice and the employee has the right to refuse to answer. The employer may not discipline the employee for such a refusal.

NV Energy stated its position on never denying a union steward in the hearing by Ms. Hollins, Union Steward Wesson and business agent. Mr. Lenear-Liston's employment was less than one year. I feel that Ms. Hollins, having the most work experience, should have intervened and offered a union steward.

Ms. Hollins could have exercised her strong belief as was stated in the hearing, that no union rep. had ever been denied in her work history of more than 20 years. From the moment I sat down in the meeting with Mr. Lenear-Liston and her she never said a word until we walked out of her office. Mr. Lenear-Liston stated that he did not know why he had said probationary employee which changed the meeting into investigatory. Because I felt at the time I was in danger of losing my job, those are my feelings and that is a fact. He also said that the only reason I went to HR was to bring attention to my issue with Ms. Anzinger. I asked for a union rep. again and again. Again, Mr. Lenear-Liston had three options: After the employee makes the request, the employer must choose from among three options. The Employer must either: grant the request and delay questioning until the union representative arrives and has a chance to consult privately with the employee; deny the request and end the interview immediately; or give the employee a choice of having the interview without representation or ending the interview.

The employee must make a clear request for union representation before or during the interview (which I did and has been attested to by Ms. Hollins and Mr. Lenear-Liston in

the hearing). The employee cannot be punished for making this request. I walked out of the building that day without a job.

If the employer denies the request for union representation and continues to ask questions, it commits an unfair labor practice and the employee has the right to refuse to answer. The employer may not discipline the employee for such a refusal--again I walked out of the building without a job. Fact.

I continued to ask for union representation and Mr. Lenear-Liston got very upset and became louder with each request for union representation. I tried to explain that I needed my job to qualify for a loan modification. Now at this time, he can see that I need my job. Why did he keep getting so upset and why did Ms. Hollins not step in and give a union rep., after all she stated her position on NV Energy that a union rep. had never been denied, and again they both did confirm that I asked for union representation three times, my account was six, all it should have taken was one. She never said a word, making it hard for me to defend myself after termination. I have no witness to testify about what transpired that day, again, the reason for the union rep.

I am a 48 year old male with a family. I consider myself responsible and I went to work for NV Energy with good intentions. I had been out of work for 2 months and knew what the job market was like at the time. It was tough. I would not have walked away. I was at my last job for 4 and half years and the whole department was laid off. In fact, one of my co-workers in my training class, Amanda, was also hired with NV Energy. She had been laid off along with me. On my first day of work she was the one to introduce me since I started one day later. I still to this day would have called in for my son to be with

him when he had that 12 inch bar removed from his chest. A father could not let their child go through that alone. Ms. Hollins spoke so highly of herself and her open door policy; however, I fail to believe her sincerity due to the fact that she never said anything in the meeting to exercise her strong belief. And that she never denied anyone a union steward.

### Conclusion

This case was not a jury trial, that is why I believe that my past work history and my disability are irrelevant as stated by the Administrative Law Judge in the hearing. It was about my Weingarten Rights. I feel they were violated by the fact that both party (six times by my account and three on their account (Ms. Hollins and Mr. Lenear-Liston) that I asked for a union rep. I find it hard to believe that they would go to all this trouble and spend so much money, just my pay alone for my training was \$4600.00, not counting the attorney's fees and time off for the employees that where brought to the hearing.

## CERTIFICATE OF SERVICE

I hereby certify that I have served the foregoing APPEAL TO THE ADMINISTRATIVE LAW JUDGE, in NV ENERGY, INC., Case 28-CA-22476 upon the following parties (or designated representatives) at the addresses indicated below. If service method is by e-mail or facsimile, I am in compliance with 50 C.F.R. § 221.12(c)(3) or (4). The parties are directed to promptly send a reply acknowledging receipt of this email.

The following parties have been served via e-mail with hard copy sent via overnight delivery U.S. Mail, postage pre-paid:

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Done and dated on this 1<sup>st</sup> day of December, 2009 at Las Vegas, Nevada.

