

**THE PUBLIC REVIEW BOARD  
INTERNATIONAL UNION, UAW**

APPEAL OF:

DaJUAN TOLBERT, Member  
LOCAL UNION 869, UAW  
(Warren, Michigan)  
Region 1, UAW,

Appellant

-vs-

CASE NO. 1707

UAW-CHRYSLER DEPARTMENT  
(THE UNITED AUTOMOBILE, AEROSPACE  
AND AGRICULTURAL IMPLEMENT  
WORKERS OF AMERICA),

Appellee.

---

**DECISION**

(Issued December 15, 2014)

PANEL SITTING: Prof. Janice R. Bellace, Chairperson,  
Prof. James J. Brudney, Prof. Harry C.  
Katz, and Prof. Maria L. Ontiveros.

DaJuan Tolbert argues that the UAW-Chrysler Department's handling of her grievance protesting a disciplinary layoff lacked a rational basis.

**FACTS**

DaJuan Tolbert works in the tool crib at Chrysler's Warren Stamping Plant in a bargaining unit represented by UAW Local Union 869. She has a seniority date of June 20, 1986.<sup>1</sup> On January 18, 2012, Tolbert complained to Chrysler's Labor Relations Supervisor Annette Smith-Worthy that the local union president, David Edgar, was creating a hostile work environment for her and that Chrysler had not taken adequate measures to address the problem. Her letter states:

"On Friday, July 1, 2011, I filed an EEOC claim with your office regarding David Edgar's verbal abuse, intimidation, threats, and harassment towards me. I was and continue to be truly afraid for my life. I believe Warren

---

<sup>1</sup> Record, p. 7.

Stamping is not taking enough proper measures to ensure my safety. Thus, the lack of enforceable measures are forcing me to work in an unsafe and hostile work environment. It seems that more concern, consideration and action is being taken for David and his position as UAW Local 869 President, rather than for my safety and well being. You stated to me on many occasions you were not sure what could be done because of his position as UAW Local 869 President. I am the victim, but I feel like Warren Stamping has treated me like the offender. I believe David has no limits and will hurt me if nothing is done. I am truly frightened and still feel my life is in danger.”<sup>2</sup>

Tolbert reported that she had obtained a Personal Protection Order (“PPO”) against Edgar that restricted him from approaching within 50 feet of Tolbert’s workspace, but that the Company refused to enforce the order and asserted that it was vague. As a result, according to Tolbert, Edgar continued to harass her. She wrote:

“David now continues his intimidations of stalking and staring and trying to prove he can do whatever he wants as long as he stays 50 feet away from me.”<sup>3</sup>

Tolbert also accused Edgar of encouraging other employees at the Stamping Plant to behave in a menacing way towards her. She described being alarmed while crossing the street to the plant from the employee parking lot as follows:

“...On Tuesday, October 18, 2011, before 6:00 a.m. as I was crossing both streets I noticed there were no other employees in sight or other people in the vicinity. I was the only person. As I got closer to the plant, I noticed a man standing at the bus stop staring at me. I became terribly frightened for my safety as I recalled what David’s attorney said to him on Friday, August 19, 2011, at the courthouse as we waited for the paperwork for the PPO. His attorney said, ‘It said you can’t kill her.’ With that statement and David’s threats, taunting and harassments, I felt he would employ someone to inflict bodily harm to me.”<sup>4</sup>

Tolbert stated that Edgar had caused his friend Timothy Kahanak to intimidate her in the workplace. She wrote:

“Now, I’m not only just frightened for my life in regards to David’s behavior towards me, I now have to worry about the possibility of others harming me such as David’s friend, Timothy Kahanak, who works in the tool stores. I also mentioned to you in the July 2011 meeting that I’ve been harassed

---

<sup>2</sup> Record, p. 1.

<sup>3</sup> Record, p. 1.

<sup>4</sup> Record, p. 2.

by a worker in the tool stores. Timothy Kahanak has harassed and intimidated me on many occasions. Timothy's last unacceptable and inappropriate incident occurred October 2011. My supervisor, James Martin, witnessed Timothy calling me a 'bitch' and a 'nigger.' Timothy later apologized to me for the last incident and said he is 'a racist and that David is his friend.' Because of incidents like the aforementioned with David's friend, David's behavior, and scares like I had from the man at the bus stop, I do not feel safe and am in constant fear of physical harm."<sup>5</sup>

In March 2012, Tolbert described a meeting she had with Smith-Worthy and her local committeeperson Thumel James regarding her accusations against Kahanak. Tolbert reported that Smith-Worthy asked her to put some of her complaints in writing. Tolbert described arguments she had had with Kahanak over a variety of issues and concluded:

"Mr. Kahanak's continuous harassment, intimidation, verbal abuse, threats of violence, racial and gender discrimination, and fear of retaliation has escalated. I am truly afraid for what he may do to me and I really don't know what to do at this point. Your assistance is requested in this matter."<sup>6</sup>

On July 10, 2012, Chrysler issued Tolbert a 30-day disciplinary layoff. The layoff notice indicates that the reason for the discipline is a violation of the Company's Standards of Conduct #8, which describes the following conduct: "Harassing any person, whether or not a Chrysler Group LLC employee based on that person's sex, race, religion, age, disability, national origin, sexual orientation, or membership in another protected status."<sup>7</sup>

Local Union 869 filed Grievance 12-082 protesting the discipline on July 10, 2012. The grievance states:

"The union is protesting management's decision to unjustly DLO employee DaJuan Tolbert. On 7/10/2012, D. Tolbert was issued a 30-day DLO by the Corporate Diversity Office for allegedly violating Corporate Policy #3-6 and Standards of Conduct #8. The employee states that she did not make or say the alleged statement and that she is being conspired against by other employees."<sup>8</sup>

Management denied Grievance 12-082 at a third step meeting on September 6, 2012.<sup>9</sup>

---

<sup>5</sup> Record, p. 2.

<sup>6</sup> Record, p. 4.

<sup>7</sup> Record, p. 6.

<sup>8</sup> Record, p. 7.

<sup>9</sup> Record, p. 8.

On September 18, 2012, Tolbert wrote to Region 1 Representative Greg Bauer about the discipline she had received. She stated she believed that the 30-day suspension she received was in direct retaliation for the complaints she filed about Timothy Kahanak's behavior. She reported that the complaints she filed in January and March 2012 were referred to Valencia DeLoach of Chrysler's EEO Compliance and Diversity Office. She gave the following description of an interview conducted by DeLoach:

"When Valencia DeLoach interviewed me in the presence of Local 869 Vice President Herbert Ramsey and Local 869 Committeeman Thumel James, June 2012, she said during her investigation of my charges that it was mentioned that I called Timothy Kahanak a faggot. I said I have friends and relatives that are gay and I would never call anyone something so derogatory and insulting. I further stated that my co-worker Lisa Dye told me she heard JoAnn Bowman tell Mr. Kahanak that if I (DaJuan Tolbert) go up front to management and report him that she would tell management that I called him a faggot. ..."<sup>10</sup>

Tolbert described a controversy in the tool crib concerning the rotation of jobs. She stated that her supervisor James Martin did not want to rotate jobs because he wanted to keep his favorite employee in the receiving office. Tolbert accused Martin and other employees in the tool crib of conspiring against her because she was insisting on job rotation. She wrote:

"...Plainly stated, Mr. Martin and the tool stores employees conspired against me to give false statements because they didn't want to go back to job rotation. I explained to Valencia DeLoach how Mr. Martin was pitting us against each other and that I believe Mr. Kahanak's inappropriate behavior wouldn't have gotten this bad and this far if Mr. Martin had resolved the problems three years ago instead of letting it continue and escalate."<sup>11</sup>

Tolbert complained to Representative Bauer that no one had interviewed her about these issues in connection with her grievance. Tolbert concluded her letter as follows:

"In closing, I find it very disturbing that no one has asked me for a statement on this very important matter. I feel I have been negatively targeted by Warren Stamping because I've been injured on the job and had to go to medical, for asking that the tool stores operate the way it is

---

<sup>10</sup> Record, p. 12.

<sup>11</sup> Record, pp. 12-13.

supposed to so that no one is harmed on the job (returning to rotation) and for having a PPO against the president of our local. ...”<sup>12</sup>

Tolbert provided Representative Bauer with her home telephone number and asked him to call her.

Grievance 12-082 was processed through the steps of the grievance procedure and referred to the UAW-Chrysler Department Appeal Board on December 20, 2012.<sup>13</sup> On March 27, 2013, Staff Advisor Valencia DeLoach provided notes from interviews she conducted in response to Tolbert’s complaints about Timothy Kahanak. DeLoach’s notes from her interview of Timothy Kahanak describe the purpose of the interview as follows:

“On Tuesday, June 5, 2012, this author met with Timothy Kahanak (Team Member – Stamping, WSP), in the presence of Thumel James (Committeeman, WSP) regarding DaJuan Tolbert’s (Team Member – Stamping WSP) claim that he called her a ‘nigger’ and a ‘bitch.’”<sup>14</sup>

According to DeLoach’s notes, Kahanak admitted using those terms in reference to Tolbert, but he stated that he never used those terms to her face. He said he made these references to Tolbert during an argument with Supervisor James Martin because he felt Martin was giving him extra work in order to placate Tolbert. The notes state:

“Kahanak stated that he and James Martin (Unit Leader) had a major disagreement.

Kahanak stated he felt that Martin was pushing extra work on him. Kahanak stated that the work assignments in his area were being changed. Kahanak stated he feels the changes were being made to placate Tolbert.

Kahanak stated that the work changes did not require Tolbert to have to lift any parts, etc.

Kahanak stated that during the disagreement with Martin, he referred to Tolbert using the ‘n’ word.”<sup>15</sup>

During this interview, Kahanak also informed DeLoach that he is openly gay and that Tolbert had called him a faggot. DaLoach described the following account by Kahanak:

---

<sup>12</sup> Record, p. 13.

<sup>13</sup> Record, pp. 19-20.

<sup>14</sup> Record, p. 21.

<sup>15</sup> Record, p. 21.

“Kahanak stated that Tolbert called him a ‘faggot’

Kahanak stated that he and Tolbert were in a disagreement about doing a job and Tolbert stated, ‘You can get your faggot ass over here and do it.’

Kahanak stated he did not escalate the issue to anyone at this time.

Kahanak stated that since the incident he talked to James and HR regarding Tolbert’s comments. Kahanak stated he did not file a formal complaint, but rather advised them of the incident.”<sup>16</sup>

DeLoach’s notes indicate that Kahanak identified two witnesses who heard Tolbert call him a faggot.<sup>17</sup>

DeLoach provided notes from her interview of the two witnesses identified by Kahanak. The first witness is reported to have given the following account:

“\_\_\_\_\_ stated that in September 2011, Kahanak was having a discussion regarding who he was going to vote for in the local election.

\_\_\_\_\_ stated she does not recall all of the details regarding the matter, but that Tolbert got upset and said, ‘I don’t know who his faggot ass thinks he is anyway.’”<sup>18</sup>

DeLoach reported that the second witness gave the following testimony:

“\_\_\_\_\_ stated that she has witnessed Tolbert refer to Kahanak as a ‘faggot’ on more than one occasion.

\_\_\_\_\_ stated that in one instance, Tolbert and Kahanak were having a disagreement over SWIs and job rotation.

According to \_\_\_\_\_, Tolbert made the comment, ‘Your faggot ass just needs to move the boxes.’

\_\_\_\_\_ stated she is not sure if Kahanak heard Tolbert’s comment.

\_\_\_\_\_ stated that in another instance, Tolbert was upset that Kahanak was discussing the local election. \_\_\_\_\_ stated that Tolbert made a comment to the effect, ‘I don’t know who his faggot ass thinks he is.’”<sup>19</sup>

---

<sup>16</sup> Record, p. 21.

<sup>17</sup> Record, p. 21.

<sup>18</sup> Record, p. 23. The witnesses’ names are blacked out in the notes.

DeLoach also interviewed Unit Leader James Martin regarding Tolbert's accusation that Kahanak called her a nigger and a bitch. Martin reported that he believed Kahanak used these terms because he was angry about what he perceived as favoritism. Martin reported that he immediately counseled Kahanak that he could not use that type of language about another employee. Martin stated that Tolbert became aware that Kahanak had referred to her with these terms during Martin's attempt to mediate an argument between the two of them. Martin stated that Kahanak had apologized to Tolbert and he assumed the matter was over. Martin stated that he had never heard Tolbert call Kahanak a faggot. According to DeLoach's notes, Martin reported that Tolbert told him she was afraid of Kahanak, but he told her she had nothing to worry about. He stated that Tolbert's and Kahanak's jobs are now separated and the two avoid each other.<sup>20</sup>

The union withdrew Grievance 12-082 on May 10, 2013.<sup>21</sup> International Representative Dave Stalnaker notified President Edgar of the union's disposition of Tolbert's grievance on June 28, 2013.<sup>22</sup> President Edgar informed Tolbert that her grievance had been withdrawn on July 2, 2013.<sup>23</sup> Tolbert appealed the decision to withdraw her grievance to the International Executive Board (IEB) on July 31, 2013.<sup>24</sup>

In support of her appeal, Tolbert argued that there was no evidence that she had actually engaged in the activity for which she received the 30-day disciplinary layoff. Tolbert reported that she was told by management that a coworker reported she said something inappropriate about Timothy Kahanak, but that Kahanak himself had never made this complaint. Tolbert argued that her grievance had been improperly handled because no one interviewed her to hear her side of the story. Tolbert maintained that there was no rational basis for the withdrawal of her grievance.<sup>25</sup>

Representative Stalnaker of the UAW-Chrysler Department responded to Tolbert's appeal on October 18, 2013, in a memorandum addressed to General Holiefield. Stalnaker reported that the Corporate Diversity Office conducted an investigation into claims of harassment based on race and sexual orientation. He stated that the local union reported this had been an ongoing issue in Tolbert's work area. He said the Company's investigation confirmed that the reported comments were made. Stalnaker reported the Chrysler Department considered Tolbert's grievance in the context of past discipline for using provocative language in the workplace when it made the decision to withdraw her grievance. He stated that other Chrysler employees had

---

<sup>19</sup> Record, p. 24.

<sup>20</sup> Record, p. 22.

<sup>21</sup> Record, p. 25.

<sup>22</sup> Record, p. 26.

<sup>23</sup> Record, p. 27.

<sup>24</sup> Record, p. 30.

<sup>25</sup> Record, p. 33.

been discharged for similar behavior.<sup>26</sup> Stalnaker also commented that he believed there were a lot of games and politics involved in the circumstances giving rise to the grievance.<sup>27</sup>

Acting as hearing officers for the International President, Bob Kinkade and John Rucker conducted a hearing on Tolbert's appeal on March 21, 2014. Sara Willis appeared as counsel for Tolbert and presented her case to the hearing officers.<sup>28</sup> Willis presented letters from five individuals attesting to DaJuan Tolbert's character and asserting that Tolbert would never have used a derogatory term to refer to someone's sexual orientation.<sup>29</sup> One of these letters is from Tolbert's brother Javier. Javier Tolbert wrote that as a "proud openly gay man" he is outraged at the thought that anyone would accuse DaJuan of using the derogatory term "fag" in any fashion.<sup>30</sup> Willis also presented a statement signed by DaJuan Tolbert. Tolbert argued that she was penalized for making a valid complaint against Kahanak. She insisted that she never used the expression described by her accusers in referring to Kahanak. She maintained that the union improperly withdrew her grievance without interviewing her about the facts. Tolbert wrote:

"I understand if there is a fight, both people are penalized. But when one person is verbally abused and tells someone they too are penalized? That is unfair. I believed the UAW stood for justice. I was retaliated against, lied on, and not given the courtesy to answer the false accusations or be heard."<sup>31</sup>

Finally, Tolbert's counsel argued that the union failed to interview Tolbert before withdrawing her grievance. Counselor Willis asserted that the union was required to interview Tolbert at every step of the grievance procedure.<sup>32</sup>

Hearing officers Kinkade and Rucker reported the local union's information that Timothy Kahanak had admitted to the charge against him and received a disciplinary layoff of 30 days. Kahanak did not protest the discipline.<sup>33</sup> According to the hearing officer's report, Representative Greg Bauer testified that he spoke with Tolbert on the telephone about her grievance. The hearing officers described Bauer's testimony about his handling of the grievance as follows:

---

<sup>26</sup> Record, p. 37.

<sup>27</sup> Record, p. 38.

<sup>28</sup> Record, p., 57.

<sup>29</sup> Record, pp. 45, 46, 47, 48, and 49.

<sup>30</sup> Record, p. 49.

<sup>31</sup> Record, p. 50.

<sup>32</sup> Record, p. 59.

<sup>33</sup> Record, p. 60.

“Bauer further stated this incident was considered a violation of the Company’s Zero Tolerance Policy and because there were words between the parties in the past, the Company issued both employees a thirty (30) day disciplinary layoff.

Bauer added that he argued for a lesser penalty, however, the Company was afraid the situation might escalate and refused to reduce the penalty or offer any back pay.”<sup>34</sup>

At this point, according to Bauer, the grievance was referred to the UAW-Chrysler Department for review.

Representative Stalnaker of the UAW-Chrysler Department told the hearing officers that he determined it was unnecessary for him to meet with Tolbert based on his review of the information Bauer provided to him. Stalnaker observed that there were statements in the record that supported the charge against Tolbert.<sup>35</sup> Stalnaker reported that the union attempted to have Tolbert’s penalty reduced but the company refused. When no settlement of the matter could be obtained through negotiations, Stalnaker stated that he made the decision to withdraw Tolbert’s grievance based on prior arbitration decisions upholding the employer’s right to address situations that might lead to workplace violence. Stalnaker reported that he did not believe the union would prevail if it pursued arbitration of Tolbert’s grievance.<sup>36</sup>

The hearing officers reported that they had reviewed the statements submitted by Tolbert, but noted that none of the individuals who submitted them had personally witnessed the situation that resulted in Tolbert’s penalty.<sup>37</sup> The hearing officers concluded that the record did not support Tolbert’s charge that the union’s investigation of her grievance was perfunctory or that its handling of the matter was arbitrary or capricious. They observed that the grievance was processed through each step of the grievance procedure. They noted that the union made several attempts to negotiate a reduction in the penalty assessed against Tolbert. The Region withdrew the grievance based on Representative Stalnaker’s review of the entire record and his conclusion that the union would not prevail before an arbitrator.<sup>38</sup>

The hearing officers denied Tolbert’s appeal. The IEB adopted the hearing officers’ report as its decision in a letter dated May 30, 2014. Tolbert has now appealed the IEB’s decision to the Public Review Board (PRB).

---

<sup>34</sup> Record, p. 60.

<sup>35</sup> Record, p. 61.

<sup>36</sup> Record, p. 61.

<sup>37</sup> Record, pp. 61-62.

<sup>38</sup> Record, pp. 62-63.

## ARGUMENT

### **A. DaJuan Tolbert:**

I was the recording secretary of local 869 and David Edgar was the president. Edgar and I ran for president during the 2011 local union election. After David Edgar was elected president, his friend Timothy Kahanak felt it was his responsibility to harass me and call me a nigger and a bitch to my supervisor.

I complained to Labor Relations about Timothy Kahanak's verbal abuse. I submitted convincing evidence of Kahanak's verbal abuse at a diversity hearing. As a result, Kahanak received 30 days off. Later, I received 30 days off for allegedly making improper comments about Kahanak. It was claimed that I called Kahanak a faggot. Nothing could be further from the truth. I have an openly gay brother whom I love and I would never make judgments about someone's sexual preference because I have seen first hand how words and names can hurt. That word has never and will never come out of my mouth.

I can understand the principle of equal penalty when there is a physical altercation, but in this case I did the right thing by reporting the abuse rather than taking matters into my own hands. I followed the procedures. As a result, I received a 30-day penalty for a naked and fabricated claim. At the very least, my International Representative should have demanded that management demonstrate a paper trail or something to substantiate their claim. I did nothing wrong and this situation has affected my mental health.

I am asking the PRB to return this case to the grievance procedure so that I can be made whole.

### **B. International Union, UAW:**

Representative Stalnaker of the UAW-Chrysler Department explained the basis for his decision to withdraw Tolbert's grievance. The Company had two witnesses who stated that they heard Tolbert use the offensive reference to Kahanak's sexual orientation. Representative Stalnaker believed the witnesses' statements were credible. Stalnaker also believed that there might be some problems with Tolbert's credibility as a witness. Finally, Stalnaker was aware of recent arbitration decisions taking a very hard line towards the use of offensive language in the workplace because the statements might be a precursor to workplace violence.

Tolbert complains that Stalnaker did not interview her before withdrawing her grievance, but that complaint is not sufficient to establish that the union acted in an arbitrary or irrational way. Representative Bauer testified at the hearing on Tolbert's appeal that he was in telephone contact with her and that he had received information about her grievance from the local union. Representative Stalnaker had access to all of the information collected during the processing of Tolbert's grievance. Tolbert denied

having made the statement attributed to her. Stalnaker was aware of that. A personal interview would not necessarily have contributed to the strength of Tolbert's case.

Discourse in the workplace is subject to greater restrictions in recent years, particularly when it comes to racial and sexual epithets. Stalnaker is aware of the trend in current arbitration decisions to uphold discipline designed to address verbal disputes that might lead to workplace violence. He believed it was unlikely that an arbitrator would overturn the suspension. There is no allegation that his decision was improperly motivated. The procedure followed by the UAW to evaluate the strength of Tolbert's grievance was appropriate.

**C. Rebuttal, by DaJuan Tolbert:**

Once again, I want to stress that the International Union failed to interview me. The union's decision to withdraw my grievance was based on one side of the story. I believe I would be vindicated if my grievance were remanded to the grievance procedure and thoroughly investigated.

DISCUSSION

The record shows that the company's diversity office thoroughly investigated Tolbert's complaint that she was the victim of racial and sexual abuse. Valencia DeLoach of the EEO Compliance and Diversity Office interviewed everyone connected with the charge, including Tolbert. Tolbert described DeLoach's interview in her correspondence with Representative Bauer. The company's investigation established that Timothy Kahanak referred to Tolbert as a nigger and a bitch in the context of a conversation with his supervisor James Martin. Kahanak did not address Tolbert using these terms. Tolbert learned of Kahanak's use of this language from Martin. No one disputes these facts. Kahanak acknowledged using the inappropriate language and accepted the 30-day disciplinary layoff assessed by management as a result. According to Supervisor Martin, the company subsequently addressed the ill will between Kahanak and Tolbert by assigning them to different departments.

During his interview, Kahanak also reported to DeLoach that Tolbert had called him a faggot. Two witnesses corroborated Kahanak's accusation. Management imposed a 30-day disciplinary layoff on Tolbert for this derogatory reference to Kahanak's sexual orientation. Tolbert vehemently denies having used this language in reference to Kahanak. She asserts, therefore, that the discipline was unjust. She seeks to have the discipline reversed and to be paid the income she lost as a result of the disciplinary layoff.

Our role in reviewing appeals regarding the handling of disciplinary grievances is to determine whether the handling of the matter was influenced by fraud, discrimination or collusion with management, or that the disposition of the matter was devoid of any

rational basis.<sup>39</sup> There is no indication of improper motivation on the part of the union in its handling of Tolbert's grievance. Although Tolbert and the local union president were political opponents, the record demonstrates that President Edgar immediately referred Tolbert's grievance to the third step where it was evaluated by the Regional Representative and UAW-Chrysler Appeal Board.

It is true that the witnesses' statements about Tolbert's use of the term faggot seem somewhat contrived. Tolbert has submitted a persuasive statement from her bother that she would not have used this term. In evaluating Tolbert's grievance, however, the union had to consider how this situation would appear to an arbitrator. The company's interviews with employees in Tolbert's department revealed that there was an ongoing dispute about the rotation of jobs within that department and that Tolbert was an active participant in this controversy. The dispute apparently disrupted operations in the tool crib to such a degree that Supervisor Martin was attempting to mediate some kind of truce between Tolbert and Kahanak. It was in the context of this attempt that Tolbert learned of Kahanak's references to her. Representative Bauer testified at the IEB's investigative hearing that there had been "words between the parties in the past." In addition, Bauer reported that management responded to his attempts to negotiate a lesser penalty for Tolbert by expressing concern that the situation in Tolbert's department was escalating.

When Bauer's efforts to have Tolbert's penalty reduced failed, he had to determine whether he could accomplish anything further for Tolbert through arbitration. There were witnesses willing to testify that Tolbert had referred to Kahanak as a faggot on several occasions. While the union might have challenged the credibility of the company's witnesses, Representative Bauer testified that he also had concerns about Tolbert's credibility as a witness before an arbitrator. We find the record justifies those concerns. Throughout this process, Tolbert has attempted to tie Kahanak's use of inappropriate language to her political differences with David Edgar. Tolbert has suggested without credible support that Kahanak was acting as Edgar's agent to intimidate and harass her. In fact, it has been clearly established that Kahanak was speaking to Supervisor Martin rather than Tolbert when he used the objectionable terms. Tolbert has not described any actual conduct that would justify the fears she described in her complaint to the company about David Edgar. Her conclusions about the intentions of an anonymous bus passenger seem entirely unpersuasive. Evidence of these statements could be used to impeach Tolbert's credibility if the union attempted to have her discipline reversed through arbitration.

Furthermore, in its effort to bring peace to the tool crib, Management acted even-handedly by applying the same penalty to both parties involved in the dispute. Even if an arbitrator were convinced that Tolbert had not used the term faggot, the record does not support a conclusion that she was the innocent victim of harassment. This record supports a conclusion that the problem in the tool crib had nothing to do with race or

---

<sup>39</sup> UAW, Constitution, Article 33, §4(i).

sex. The problem had to do with disputes about job assignments and Tolbert had asserted her position on the issue emphatically. Upon review of this history, an arbitrator would be unlikely to reverse a penalty designed to eliminate behavior that was disrupting the company's operations and appeared headed to some kind of a crisis. We conclude that the decision of the UAW-Chrysler Appeal Board not to arbitrate Tolbert's grievance was rational based on this record.

The decision of the IEB is affirmed.