



PART II
FRAMING THE
ISSUES



FRAMING THE ISSUE

* TWO TYPES OF
① RIGHTS
② INTEREST

What's it All About?

The Arbitration hearing normally begins with the framing of the issue. It is a formalized statement which in a very specific way identifies for the arbitrator the nature of the dispute which she or he is being asked to decide. It is the process by which the arbitrator is granted authority to conduct the hearing and to make an award.

- ◆ Since the framing of the issue calls for a joint stipulation by the advocates, the best practice is for the advocates to discuss and agree on the precise issue prior to the arbitration. When the arbitrator asks if the parties have agreed on an issue you will then be ready to present it.
- ◆ The issue is framed, stated, in the form of a question, and it also includes a phrase which grants the arbitrator authority to fashion a remedy.
- ◆ Advocates' determinations as to the specific issue to be framed, i.e. what is the core dispute in a case, is made in conjunction with the development of their theory of the case.
- ◆ Issues can be framed narrowly or broadly. Consider the nature of the grievance and whether you want the arbitrator to rule on a very limited and specific issue, or on a broader and more general dispute.
- ✓ **A narrow contract issue normally leads to a very focused presentation, easier case management, and reduced risk if the case is lost.**

Example

- Did the employer violate the agreement when they took some particular action in the workplace? If so, what should the remedy be?
- Did the Postal Service violate Article 8 of the Agreement when they failed to assign overtime to Liz Grievanti at the end of tour three on May 1, 2000? If so, what should the remedy be?

- ✓ **A broader contract issue increases the number of elements which the advocate must handle during the hearing, and tends to increase the impact of the award.**

Example

- Does the Postal Service violate the agreement in the manner in which they assign work? If so, what should the remedy be?

- ✓ **Discipline cases are framed in a standard manner:**

Example

- Was the grievant disciplined for just cause? If not, what shall be the remedy?
- Was the May 1, 2000 Letter of Warning charging insubordination issued to Liz Grievanti for just cause? If not, what shall be the remedy?
- ◆ If the advocates are unable to agree on how the issue should be framed, the arbitrator will usually:
 - Ask each side to frame it as they believe it should be framed, and then attempt to assist the advocates in reaching agreement by making suggestions.
 - Ask for permission from the parties to frame the issue him or herself after the evidence is presented.
 - Determine, ultimately, what the issue will be if there is no mutual agreement.

EXERCISE

FRAME THE ISSUES FOR THE FOLLOWING EXAMPLES:

1. The grievant was issued a 7 day suspension for failure to be regular in attendance.
2. The grievance was filed because the supervisor did not properly utilize the overtime Desired List. *AAT 8-5 CBA*
3. The dispute is about a procedurally correct \$325.00 Letter of Demand.
4. The USPS issued an indefinite suspension to the grievant because of an arrest (off-the-premises) for trespassing.
5. The grievant was declared AWOL for 2 days (16 hours) and charged with failure to provide administratively acceptable evidence.
6. An expeditor was given a letter of warning for not reporting an accident immediately when she waited until after the dispatches were made before reporting the accident to her supervisor.
7. When the official discussion that the supervisor was having with her in regards to a minor offense was overheard by several co-workers, the employee filed a grievance.
8. A window clerk accepted a check for two \$600.00 money orders. The check bounced. A Letter of Demand and an emergency suspension were issued.
9. A mail processor made a request for temporary light duty. The request was denied orally by the supervisor on the basis that no light duty was available for this individual.
10. A veteran-preference employee was issued a removal which was unilaterally reduced to a 14 day suspension at Step Two.

11. A qualified handicapped manual distribution clerk was denied a bid because management claimed that she could not perform all of the duties of the new job.
12. Management immediately put a maintenance employee off-the-clock for the remaining six hours of the tour when he refused to obey a direct order because he believed that it would be unsafe to comply. When he reported the next day, they gave him a 7 day suspension effective immediately.
13. The union grieved when the senior distribution clerk who performed timekeeper duties three hours a day was excessed from the installation. The excessing in this medium-sized office took place after the Postmaster began performing the timekeeping duties that had previously been performed by this senior clerk.
14. A flat sorter operator received a 7 day suspension for a "zero tolerance" violation. It was withdrawn by management at Step One, but a day later a 14 day suspension was issued based on additional information that management received regarding the incident.