THEFT AND LYING ABOUT

An employee found to have committed theft and lied about it during the initial investigation was reinstated on a last-chance suspension. The employee was videotaped taking money from the coffee fund cup. He denied taking the money and claimed to have used the cup which held the funds for coffee, thus requiring him to transfer the money to another cup. The employer terminated him, citing the contract's prohibition on theft. The arbitrator found the grievant had committed theft and had lied about it during the initial investigation. However, the arbitrator also found that the employer failed to prove that the offense warranted an automatic termination as the decision was based on the deception, not just the theft; the work rules regarding which offenses would warrant termination were unclear; the amount stolen was small; the grievant had a good record; the coffee fund rules were relaxed; and the grievant was suffering from personal issues. The grievant was ordered to provide the company with (1) reasonable documentation that he attended EAP for at least four consecutive months and (2) the counselor's unqualified written recommendation that he is sufficiently rehabilitated to return to full duty at the company. If the grievant failed to meet the requirements by December 31, 2010, the company would not need to reinstate him. (TRW Automotive and International Chemical Workers Local 192-C, 10-1 ARB ¶4898, Perry Zirkel, January 29, 2009.)