



CITY OF NEW ORLEANS

DEPARTMENT OF CITY CIVIL SERVICE
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CITY CIVIL SERVICE COMMISSION
BRITTNEY RICHARDSON, CHAIRPERSON
CLIFTON J. MOORE, VICE-CHAIRPERSON
JOHN KORN
MARK SURPRENANT
RUTH WHITE DAVIS

AMY TREPAGNIER
DIRECTOR OF PERSONNEL

Wednesday, March 3, 2021

Mr. Wilfred Davis

Re: **Wilfred Davis VS.
Sewerage & Water Board
Docket Number: 9069**

Dear Mr. Davis:

Attached is the decision of the City Civil Service Commission in the matter of your appeal.

This is to notify you that, in accordance with the rules of the Court of Appeal, Fourth Circuit, State of Louisiana, the decision for the above captioned matter is this date - 3/3/2021 - filed in the Office of the Civil Service Commission at 1340 Poydras St. Suite 900, Amoco Building, New Orleans, Louisiana.

If you choose to appeal this decision, such appeal shall be taken in accordance with Article 2121 et. seq. of the Louisiana Code of Civil Procedure.

For the Commission,
Stacie Joseph
Stacie Joseph
Management Services Division

cc: Ghassan Korban
Joseph Zanetti
Jim Mullaly
file

CIVIL SERVICE COMMISSION

CITY OF NEW ORLEANS

WILFRED DAVIS,
Appellant,

vs.

DOCKET No. 9069

SEWERAGE & WATER BOARD,
Appointing Authority

ORDER

Appellant, Wilfred Davis (hereinafter “Appellant”), brings the instant appeal pursuant to Article X, §8(A) of the Louisiana Constitution and this Commission's Rule II, §4.1 and asks the Commission to find that the Sewerage & Water Board (hereinafter “Appointing Authority”) did not have sufficient cause to discipline him. At all times relevant to the instant appeal, Appellant served as a Water Purification Operator I and had permanent status as a classified employee.

A Hearing Examiner, appointed by the Commission, presided over a hearing during which both Parties had an opportunity to call witnesses and present evidence. The Hearing Examiner prepared a report and recommendation based upon the testimony and evidence in the record. The undersigned Commissioners have reviewed the transcript and exhibits from this hearing as well as the Hearing Examiner's report. Based upon our review, we DENY the appeal and render the following judgment.

I. FACTUAL BACKGROUND

The Appointing Authority issued a letter of reprimand to Wilfred Davis on August 8, 2019, based on Appellant's discourteous treatment of his supervisor, Kerry Foret. (Ex. B-4). Foret, the Supervisor of the Algiers Water Plant, testified that he called Appellant over the intercom on July 24, 2019 about 9:00 AM. (Tr. at 30, 32). Appellant failed to respond. When Davis next saw Appellant in person and asked why Appellant failed to respond, Appellant responded with an aggressive tone and yelled at Foret. (Tr. at 35). Davis walked away from Foret only to yell at Foret again later about the same incident. (Tr. at 37). When Foret asked Appellant to move fans, Davis again became angry about the task and said, "You call your people; I'm gonna call my people," which Appellant took as a threat. (Tr. at 39-40). Donald Comeaux testified that he witnessed Appellant yelling at Foret. (Tr. at 56, 61). Witnesses called by Appellant confirmed that he yelled at his supervisor and was behaving in an aggressive manner toward his supervisor. (Tr. at 78, 83). Another witness called by Appellant testified that both Appellant and his supervisor were "upset." (Tr. at 91). Appellant testified that he had worked from 11:00 PM on July 23, 2019 until 6:30/7:00 AM on July 24, 2019. (Tr. at 96).

II. LEGAL STANDARD

An appointing authority may discipline an employee with permanent status in the classified service for sufficient cause. La. Con. Art. X, § 8(A). If an employee believes that an appointing authority issued discipline without sufficient cause, he/she may bring an appeal before this Commission. *Id.* It is well-settled that, in an appeal before the Commission pursuant to Article X, § 8(A) of the Louisiana Constitution, an appointing authority has the burden of proving, by a preponderance of the evidence: 1) the occurrence of the complained of activity and 2) that the conduct complained of impaired the efficiency of the public service in which the appointing

authority is engaged. *Gast v. Dep't of Police*, 2013-0781 (La. App. 4 Cir. 3/13/14), 137 So. 3d 731, 733 (La. Ct. App. 2014) (quoting *Cure v. Dep't of Police*, 2007-0166 (La. App. 4 Cir. 8/1/07), 964 So. 2d 1093, 1094 (La. Ct. App. 2007)). If the Commission finds that an appointing authority has met its initial burden and had sufficient cause to issue discipline, it must then determine if that discipline "was commensurate with the infraction." *Abbott v. New Orleans Police Dep't*, 2014-0993 (La. App. 4 Cir. 2/11/15, 7); 165 So.3d 191, 197 (citing *Walters v. Dep't of Police of City of New Orleans*, 454 So.2d 106, 113 (La. 1984)). Thus, the analysis has three distinct steps with the appointing authority bearing the burden of proof at each step.

III. ANALYSIS

The Appointing Authority has established by a preponderance of evidence that it disciplined the Appellant for cause. First, the Appointing Authority has carried its burden of showing that the complained-of conduct occurred. Several eyewitnesses testified that Appellant yelled at his supervisor and behaved in an aggressive manner toward him. Second, the Appointing Authority has also established that this violation of Board policy disrupted the effective and efficient operation of the Board. (Tr. at 72). Third, the Commission finds that a letter of reprimand is commensurate with the infraction.

IV. CONCLUSION

For the reasons stated above, Appellant's appeal is DENIED.

This the 3 day of March, 2021.

CITY OF NEW ORLEANS CIVIL SERVICE COMMISSION

WRITER:

J H Korn

J H Korn (Mar 3, 2021 10:13 CST)

JOHN KORN, COMMISSIONER

CONCUR:

BR

Brittney Richardson (Mar 1, 2021 19:13 CST)

BRITTNEY RICHARDSON, CHAIRPERSON

Mark C. Surprenant

Mark C. Surprenant (Mar 1, 2021 14:22 CST)

MARK SURPRENANT, COMMISSIONER