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Tuesday, November 22, 2016

J. Arthur Smith, III
830 North Street
Baton Rouge, LA 70802

Re: **Daisy Spriggens VS.
Department of Public Works
Docket Number: 8357**

Dear Mr. Smith:

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 - 11/22/2016 - 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 must conform to the deadlines established by the Commission's Rules and Article X, 12(B) of the Louisiana Constitution. Further, any such appeal shall be taken in accordance with Article 2121 et. seq. of the Louisiana Code of Civil Procedure.

For the Commission,

A handwritten signature in blue ink that reads "Doddie K. Smith".

Doddie K. Smith
Chief, Management Services Division

cc: Mark D. Jernigan, P.E.
Elizabeth S. Robins
Brendan M. Greene
Daisy Spriggens

file

CIVIL SERVICE COMMISSION

CITY OF NEW ORLEANS

DAISY SPRIGGENS vs. DEPARTMENT OF PUBLIC WORKS	DOCKET No.: 8357
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I. INTRODUCTION

Appellant, Daisy Spriggens, brings the instant appeal challenging a three-day suspension issued by the New Orleans Department of Public Works (hereinafter “DPW” or “Appointing Authority”). At all times relevant to the matter now before the Commission, Appellant was a classified employee with permanent status and worked as a Chief Accountant for the Appointing Authority. A hearing examiner appointed by the Commission conducted hearings on July 20, 2016 and September 21, 2016. Upon reviewing the transcripts from those hearings as well as the exhibits submitted by the Parties, the undersigned Commissioners render the following judgment.

II. FACTUAL BACKGROUND

A. Alleged Misconduct

On or about October 23, 2014, the DPW suspended Ms. Spriggens for three days. The reason provided to Ms. Spriggens for her suspension was her careless performance of her job duties. Specifically, DPW alleged that Ms. Spriggens:

- Failed to properly tag a project in MQB¹ or to assign an appropriation to the project, causing the project to have an overall negative balance.

¹ “MQB” is an acronym for “Master Quick Books” the database management program purchased by the DPW in order to monitor and manage contracts between various contractors and projects. It is a “real-time” reporting system created solely for the use of the Project Delivery Unit of the DPW.

- Entered a duplicate contract in MQB, causing a delay in processing the Task Order.
- Processed a requisition without seeking manager's approval, which resulted in the contract being returned by Purchasing and causing a delay in routing the contract.
- Failed to properly tag a project or do an appropriation in MQB, causing the project to have an overall negative balance.
- Failed to recognize that an incorrect contract amount was entered into MQB and Google documents.
- Processed a requisition, but failed to ensure that the contract item in MQB matched the contract value and/or the AFIN requisition.
- Processed a requisition without verifying that "date received by fiscal," "date AFIN requisition cleared," and "RXQ created by" were not entered in MQB, causing a delay in processing NTP.
- Allowed a requisition to be processed but did not ensure brief description in MQB matched the contract plan change/change order.

H.E. Exh. 1.

The alleged mistakes and oversights occurred between September 2, 2014 and September 26, 2014 according to the DPW.

B. Appellant's Role as Chief Accountant

Etta Sylve, the head of the requisition and invoice team, directly supervised Appellant at all times relevant to the instant appeal. (Tr. v. 1 at 16:1-7). Ms. Sylve herself served as a Chief Accountant for ten years and was familiar with the day-to-day responsibilities of those within the classification. *Id.* Both Ms. Sylve and Appellant were part of the Project Delivery Unit ("PDU") within the DPW, this is a group of employees that supports the administration of capital projects within the DPW. (DPW Exh. 1). Put simply, this unit is responsible for processing invoices related to public works projects within the City of New Orleans. Appellant was a member of the

“requisition and invoice processing team” within PDU.² And, although Appellant was a Chief Accountant, Ms. Sylve testified that Appellant did not supervise anyone within DPW. (Tr. v. 1 at 20:4-7).

Much of this case revolves around what Appellant’s job duties were as Chief Accountant. The DPW introduced the Civil Service job specification for Chief Accountant, and an example of work contained in the specification was “keeps current accounts of all bond funds and operating funds related to the capital budget.” (DPW Exh. 2). Mr. Sylve and Mr. Kim DeLarge, capital budget director, developed a list of additional duties that they allegedly shared with Appellant. (Tr. v. 1 at 25:5-23; DPW Exh. 3). These duties included ensuring that the date in MQB matched the City’s Advantage Financial Information System (hereinafter “AFIN”). AFIN is a database maintained by the City of New Orleans that stores all financial information relating to various capital projects throughout the City. It is the AFIN system upon which the City’s administration relies when monitoring contracts and reporting the status of those contracts to the public. (Tr. v. 1 at 35:20-36:4). According to DPW, the Chief Accountant was also responsible for the management of funds through AFIN and MQB. (DPW Exh. 3).

One of the primary ways that a Chief Accountant would manage the funding of various capital projects was through the processing of “requisitions.” Requisitions, when used in the context of the instant appeal hearing, are transactions through which the requisition and invoice team would release funding dedicated to a particular project for work performed on that contract. (Tr. v. 1 at 37:19-25). The project managers for the various capital projects would submit requests

² At any given time, the DPW has several substantial projects and there is a corresponding contract for each project. The PDU monitors the invoices and change orders related to those contracts and processes those invoices for payment. In order to do this in an efficient and effective manner, the unit employs numerous accountants as well as a database known as Master Quick Base (“MQB”) that houses all the financial information related to various contracts managed by or involving capital projects.

to the PDU after verifying that the work had been performed in accordance with the contract. Then, the Chief Accountant would verify that there were dedicated funds available and then properly access that funding to accomplish the payment. A vital step in this process was updating both AFIN and MQB to reflect the payment and the reason for the payment in order for the City administration and DPW leadership to track available funds and the actual work performed on the project.

According to both Ms. Sylve and Mr. DeLarge, Appellant had the authority to delegate a certain amount of her responsibilities to other team members. Mr. DeLarge testified that his decision to allow Appellant to delegate some of her responsibilities to others came after Appellant complained of being overwhelmed. (Tr. v. 1 at 207:1-210:2). However, DPW asserts that Appellant retained the responsibility to ensure that these team members processed delegated requisitions accurately. (Tr. v. 1 at 45:9-46:11, 209-210). While Appellant agrees that she had the authority to delegate the processing of requisitions, she disagrees that she retained any responsibility over delegated requisitions other than tracking the requisition's progress through the PDU. (Tr. v. 2 at 9-13). In fact, it was not until August 11, 2014 that Appellant claims Ms. Sylve added the responsibility of reviewing delegated requisitions. *Id.* at 9:23-10:2. The undersigned Commissioners note that the DPW did not promote or otherwise alter Appellant's classification on August 11, 2014. *Id.* at 10:11-16.

C. Appellant's Response to Allegations

Appellant acknowledged responsibility for four of the eight instances of misconduct DPW cited as the basis for Appellant's three-day suspension. (September 2, 2014; September 11, 2014, 1st September 18, 2014 allegation; September 23, 2014). With respect to three of the allegations, Appellant claims that she had delegated the underlying task to fellow team members and those

team members were responsible for the errors. (September 2, 2014; 2nd September 18, 2014; September 26, 2014). And, with respect to the September 9, 2014 allegation, Appellant asserts that she followed DPW protocol by releasing the requisition to a project manager without waiting for approval from her supervisor. Thus, there is no dispute that all of the errors cited in Appellant's disciplinary notice occurred. Nor is there any dispute that Appellant was responsible for half of the errors. The only remaining question is whether or not Appellant is responsible for the four remaining instances of misconduct that form the basis of her three-day suspension.

III. LEGAL STANDARD

Appointing Authorities may only discipline permanent employees in the classified service for sufficient cause. La. Con. Art. X, § 8(A). If an employee believes that an appointing authority did not have sufficient cause to issue discipline, 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.

IV. ANALYSIS

A. Occurrence of the Complained of Activities

While the Commission acknowledges that this is a gross over-simplification of the complex work performed by the PDU, the job of the staff within the PDU is to essentially monitor the funding dedicated to large public works projects within the City of New Orleans and ensure that, when certain payments became due, funding is available and procured from the appropriate source. The Appointing Authority alleged that Appellant committed multiple errors of varying degrees of seriousness that led to an overall slowdown in the processing of invoices by the DPW. This in turn compromised the accurate and timely generation of financial reports. Three of these errors stem from Appellant's failure to identify and address errors committed by employees to whom Appellant had delegated a specific duty. Appellant claims that she was not responsible for reviewing the work of others until sometime after these three errors occurred.

Prior to becoming a Chief Accountant in the PDU, Appellant served as an Accountant III and processed many of the same transactions that came across her desk later as a Chief Accountant. Then, as Chief Accountant, Appellant delegated the processing of requisitions to various members of the PDU team. Appellant herself testified that one of her duties was to "look at" the requisitions she delegated. (Tr. v. 2 at 22:15-18). If she identified an error, she would address that error prior to entering the data in MQB. *Id.* at 22:19-23. Yet, Appellant does not define this task as a "review."

One of the key functions of a Chief Accountant is the accurate and efficient processing of contracts and verification that staff process the requisitions properly. Yet, Appellant attempted to minimize her role within the PDU and claimed that her only duty regarding delegated requisitions was data entry. (Tr. v. 2 at 114:25-115:4). The Commission does not find Appellant's version of

her role as Chief Accountant credible given Ms. Sylve and Mr. DeLarge's testimony and that, as an Accountant III, Appellant apparently had more responsibilities regarding requisitions than she did as Chief Accountant. *Id.* at 115:5-16. Putting Appellant's novel definition of "review" aside, the Commission holds that the DPW has met its burden and established that Appellant was responsible for the errors and mistakes identified in the disciplinary letter allegedly committed by other members of the requisition and invoice team.

The Commission also finds that the DPW has met its burden in establishing that Appellant failed to secure the approval of a supervisor in connection with a requisition released to a project manager on September 3, 2014. Appellant's practice regarding completed requisitions was to release a copy to the project manager and then send the original to Ms. Sylve for approval. In the matter now before the Commission, Ms. Sylve was out of the office on the day Appellant released the requisition, September 3, 2014. Nevertheless, it was not until at least September 9, 2014 that Appellant send the requisition to Ms. Sylve for approval. Appellant's delay resulted in the purchasing department rejecting the requisition due to the lack of approval.

B. Impairment of Efficient Operation of Appointing Authority

The DPW cited to eight separate instances where Appellant either made errors herself or individuals in PDU who performed duties "monitored" by Appellant. While the Commission acknowledges that no one act or omission by Appellant amounted to serious misconduct, the cumulative impact on the DPW was an unnecessary delay in processing payments for vital infrastructure projects.

Mr. Homan testified that negative balances compromised the City's position when negotiating final change orders in connection with certain projects. (Tr. v. 1 at 124:1-15). Additionally, project managers in the field may not have access to the most up-to-date information

related to available funding on a project. *Id.* at 125:1-10. Each error caused a delay in the PDU processing and approving payments under various contracts. *Id.* at 139:8-12. The delays prompted contractors to reach out to the PDU and complain about a lack of payment. *Id.* at 198:17-23. Appellant herself acknowledged that her errors resulted in delayed processing of various contracts on the part of the PDU. (Tr. v. 2 at 58-59). Bearing this in mind, we find that the Appointing Authority has satisfied its burden of proof with respect to this part of our analysis.

C. Discipline Commensurate with Offense

In conducting its analysis at this stage, the Commission must determine if Appellant's three-day suspension was "commensurate with the dereliction;" otherwise, the discipline would be "arbitrary and capricious." *Waguespack v. Dep't of Police*, 2012-1691 (La. App. 4 Cir. 6/26/13, 5); 119 So.3d 976, 978 (citing *Staehle v. Dept. of Police*, 98-0216 (La. App. 4 Cir. 11/18/98), 723 So.2d 1031, 1033).

DPW disciplined Appellant for a series of relatively minor and careless errors in August of 2014. Mr. DeLarge testified that he had spoken with Appellant on numerous occasions regarding the importance of correctly processing requisitions and accurately recording data in AFIN and MQB. The errors perpetrated by Appellant in September 2014 are substantially similar in nature and scope to the August mistakes. Clearly the discipline and verbal counseling issued in 2014 did not have an impact on the way Appellant approached her work. Bearing this in mind, the three-day suspension was a reasonable escalation of the discipline issued by DPW.

V. CONCLUSION

Based upon the foregoing, the Commission DENIES the appeal.

D. Spriggs
Nos. 8357

Judgment rendered this 21st day of November, 2016.

CITY OF NEW ORLEANS CIVIL SERVICE COMMISSION



MICHELLE D. CRAIG, CHAIRPERSON

11/15/2016

DATE



RONALD McCLAIN, VICE-CHAIRPERSON

11/15/16

DATE



TANIA TETLOW, COMMISSIONER

11/16/16

DATE