



CITY OF NEW ORLEANS

DEPARTMENT OF CITY CIVIL SERVICE
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CITY CIVIL SERVICE COMMISSION
BRITTNEY RICHARDSON, CHAIRPERSON
JOHN KORN, VICE-CHAIRPERSON
MARK SURPRENANT
RUTH WHITE DAVIS
ANDREW MONTEVERDE

AMY TREPAGNIER
DIRECTOR OF PERSONNEL

Monday, July 29, 2024

Mr. Bobby Dantzer

Re: **Bobby Dantzer VS.**
Department of Sanitation
Docket Number: 9514

Dear Mr. Dantzer:

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 - 7/29/2024 - filed in the Office of the Civil Service Commission at 1340 Poydras St. Suite 900, Orleans Tower, 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, Sec.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: Matt Torri
William R. H. Goforth
Imtiaz A. Siddiqui
file

**CIVIL SERVICE COMMISSION
CITY OF NEW ORLEANS**

**BOBBY DANTZLER
Appellant**

v.

Docket No. 9514

**DEPARTMENT OF SANITATION
Appointing Authority**

DECISION

Appellant, Bobby Dantzler, brings this appeal pursuant to Article X, § 8(A) of the Louisiana Constitution and this Commission's Rule II, § 4.1 seeking relief from his two-day suspension imposed by the Department of Sanitation on September 22, 2023. (See Exhibit HE-1). At the time he was suspended, Appellant was employed as a Maintenance Worker and had permanent status as a classified employee. A Hearing Examiner, appointed by the Commission, presided over a hearing held on January 26, 2024. At this hearing, both parties had an opportunity to call witnesses and present evidence. The Hearing Examiner provided the Commission with his advisory report dated June 18, 2024. On June 24, 2024, the Chairperson of the Commission issued an order extending the deadline in Civil Service Rule II, § 4.17 for a decision by the Commission based on exceptional circumstances, including the failure of counsel to appear at the hearing scheduled on November 30, 2023.

The undersigned Commissioners have reviewed and analyzed the entire record in this matter, including the transcript from the January 26, 2024, hearing, all exhibits submitted at the hearing, the Hearing Examiner's report, and controlling Louisiana law. For the reasons set forth below, the Commission DENIES the appeal.

I. FACTUAL BACKGROUND

On September 7, 2023, Mr. Dantzler was working as a sanitation worker as part of a ground crew picking up litter on Crowder Boulevard in New Orleans East on the public right of way. (Tr. at 9, 61). The Department of Sanitation has instructed the members of the ground crew to avoid entering private property. (Tr. at 10). Mr. Dantzler was wearing a reflective vest and was identifiable as a City of New Orleans employee. (Tr. at 11, 88). A supervisor, Troyel Ross, observed from his vehicle while traveling on Interstate-10 over Crowder Boulevard that Mr. Dantzler had left the public right-of-way and entered a private alley/driveway. (Tr. at 10; Ex. A to Ex. HE-1). Mr. Ross suspected Mr. Dantzler was filling up trash bags with trash from private property. (Tr. at 25). When Mr. Ross exited the interstate and entered the private drive, he noticed that “No Trespassing” signs were posted throughout the property. (Tr. at 14; Ex. B to HE-1). Mr. Ross asked another supervisor, Derrick Ridgley, to meet him at the location where he had observed Mr. Dantzler. (Tr. at 15). Mr. Ross observed Mr. Dantzler walking on the driveway toward the public roadway. (Tr. at 14). Mr. Dantzler had bags full of trash. (Tr. at 18-19). When Mr. Ross and Mr. Ridgley asked Mr. Dantzler about the reason he was walking on private property, Mr. Dantzler said he was urinating. (Tr. at 18, 39). Mr. Ross did not observe Mr. Dantzler urinating. (Tr. at 18-19). Mr. Dantzler denied he was taking trash from the private property. (Tr. at 44). When Mr. Ridgley opened the trash bags filled by Mr. Dantzler, he observed Smoothie King bags of trash inside the Department of Sanitation trash bags. (Tr. at 42).

The Director of the Department of Sanitation, Matt Torri, testified that Mr. Dantzler admitted he urinated outdoors during a meeting on September 13, 2023. (Tr. at 88).

At the hearing, Mr. Dantzler denied entering private property, taking any trash from private property, or urinating in public. (Tr. at 61-62, 64). However, in a statement prepared on Mr.

Dantzer's behalf by his union representative for the purpose of a grievance proceeding, Mr. Dantzer stated he urgently had to urinate and relieved himself behind a tree. (Tr. at 61; Ex. Sanitation-2).

Urination in public when the action is likely to be observed by a person is a violation of a City of New Orleans ordinance, Section 54-254. (Ex. Sanitation-1).

II. ANALYSIS

It is well-settled that, in an appeal before the Commission pursuant to Article X, § 8(A) of the Louisiana Constitution, the 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 (quoting *Cure v. Dep't of Police*, 2007-0166 (La. App. 4 Cir. 8/1/07), 964 So. 2d 1093, 1094). The Commission has a duty to decide independently from the facts presented in the record whether the appointing authority carried its legally imposed burden of proving by a preponderance of evidence that it had good or lawful cause for suspending the classified employee and, if so, whether such discipline was commensurate with the dereliction. *Abbott v. New Orleans Police Dep't*, 2014-0993 (La. App. 4 Cir. 2/11/15); 165 So.3d 191, 197; *Walters v. Dept. of Police of the City of New Orleans*, 454 So. 2d 106 (La. 1984).

The Department of Sanitation has carried its burden of proving that Mr. Dantzer entered private property and urinated in public. The Commission credits the testimony of Matt Torri, Troyel Ross, and Derrick Ridgley that Mr. Dantzer volunteered that he was urinating in public, especially since Mr. Dantzer submitted a statement in a grievance proceeding that stated he

urinated in public. This conduct impairs the efficient operation of the Department of Sanitation. As Mr. Torri testified, the ground crew is “public facing,” and Mr. Dantzler was identifiable as a City of New Orleans employee. (Tr. at 88). Further, Mr. Dantzler’s conduct was in violation of a City ordinance. The Commission further finds that a two-day suspension was commensurate with Mr. Dantzler’s violation.

Mr. Dantzler’s appeal is DENIED.

FOR THE CITY OF NEW ORELANS CIVIL SERVICE COMMISSION

WRITER:



Brittney Richardson (Jul 26, 2024 09:29 CDT)

BRITTNEY RICHARDSON, CHAIRPERSON

CONCUR:



J H Korn (Jul 23, 2024 14:24 CDT)

JOHN KORN, COMMISSIONER

DISSENT BY COMMISSIONER MONTEVERDE

I would deny the appeal in part and grant the appeal in part. I agree that the Department of Sanitation has carried its burden of proving the complained-of activity occurred, especially since Mr. Dantzler admitted the conduct in a written statement. I disagree that the penalty is commensurate with the violation. I would reduce the penalty to a one-day suspension because of Mr. Dantzler’s working conditions. Mr. Dantzler was working outdoors in the heat. For safety reasons, he was staying hydrated, as the Department of Sanitation encouraged. Because Mr. Dantzler did not have easy access to restroom facilities, he made a decision to relieve himself outdoors on private property. (Ex. Sanitation-2). Based on the record, no one witnessed this act. I

note that City ordinance 54-254 requires that the public urination occur where it is likely to be observed by another person. In this case, there was no evidence any member of the public or employee of the City of New Orleans observed Mr. Dantzler urinating. Nevertheless, Mr. Dantzler should not have engaged in this behavior. Therefore, I would reduce the penalty to a one-day suspension.


Andrew Monteverde (Jul 23, 2024 13:52 CDT)

ANDREW MONTEVERDE, COMMISSIONER