



CITY OF NEW ORLEANS

DEPARTMENT OF CITY CIVIL SERVICE
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CITY CIVIL SERVICE I
BRITTNEY RICHAF
CLIFTON J. MOOR
JOHN KORN
MARK SURPRENA
RUTH WHITE DAVI

Monday, February 8, 2021

Ms. Bridget Manuel

Re: **Bridget Manuel VS.
Sewerage & Water Board
Docket Number: 8817**

Dear Ms. Manuel. Thomas:

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 - 2/8/2021 - 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
Ashley Ian Smith
Jay Ginsberg
file

CIVIL SERVICE COMMISSION
CITY OF NEW ORLEANS

BRIDGET MANUEL,
Appellant

vs.

DOCKET NO. 8817

SEWERAGE & WATER BOARD,
Appointing Authority

I. INTRODUCTION

Appellant, Bridget Manuel (hereinafter “Appellant”), brings the instant appeal pursuant to Article X, §8(A) of the Louisiana Constitution and this Commission's Rule II, §4.1, asking this Commission to find that the Sewerage & Water Board (hereinafter "Appointing Authority") did not have sufficient cause to discipline her. At all times relevant to the instant appeal, Appellant served as an Office Assistant Trainee and has permanent status as a classified employee.

By letter dated June 27, 2018, the Appointing Authority notified the Appellant of its decision to issue a letter of reprimand after determining that she violated Sewerage & Water Board Policy Memorandum No. 6 – Professional Conduct.

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

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from this hearing, as well as the Hearing Examiner's report. Based upon our review, we DENY the appeal and render the following judgment.

II. FACTUAL BACKGROUND

A. Undisputed Facts

The conduct for which the Appointing Authority disciplined the Appellant is found in the third paragraph of the June 27, 2018 disciplinary letter, which provides:

On June 12, 2018, you were witnessed by several of your co-workers displaying erratic and unprofessional behavior. You had a disagreement with Ms. Yolanda Taylor regarding a particular work task which resulted in your spewing profanity stating you were quitting, and you [*sic*] walked off the job.

The workplace where the above-described incident occurred is the Equipment Management Information Systems Department (EMIS). Those individuals employed in EMIS perform clerical duties primarily involving the Appointing Authority's fleet. They work together in a trailer located at the "Main Yard".

Alana Jones is employed as an Administrative Support Supervisor and she supervises EMIS. When she is absent from work Yolanda Taylor, an Office Support Specialist, acts in her place to direct the employment of the other EMIS employees.

On June 12, 2018, Ms. Jones was on a leave status and Ms. Taylor was the acting supervisor in her absence. The Appellant informed Ms. Taylor that she needed to leave the Main Yard and go to the Appointing Authority's central office on St. Joseph Street to submit workers' compensation documentation. Ms. Taylor arranged for another employee to drive the Appellant to the central office. However, when Ms. Taylor informed the Appellant that the driver had arrived, the Appellant was not ready to leave. She wanted to finish a task before leaving. After

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the passage of a few more minutes, Ms. Taylor reminded the Appellant that her ride was waiting for her. At this point, the argument occurred that resulted in the Appellant's reprimand.

B. Appointing Authority's Version of Events

Ms. Taylor testified that when she reminded the Appellant that her ride was waiting, the Appellant became angry and began using profanity towards everyone in the trailer. According to Ms. Taylor, the Appellant informed her that she quit, tried to punch out, and left for the remainder of the day. Ms. Taylor noticed that the Appellant had not successfully punched out so she punched out for her and made a note on the timecard regarding what had happened. She reported the incident and was instructed by John Wilson, the Director of Support Services, to prepare a written statement as to what had occurred and to gather written statements from all other witnesses to the event. Ms. Taylor stated that she gathered the written statements, as instructed, and forwarded them to Mr. Wilson. She had no further participation in the investigation.

Tia Tobias, an Office Assistant I assigned to EMIS, was also present during the exchange and also provided a written statement. Her testimony was consistent with Ms. Taylor's and supported her version of events.

Mr. Wilson testified that he reviewed the statements. He also spoke to the Appellant who had come to his office to discuss her absence from work on June 12th and the Appointing Authority's decision to carry her on a leave without pay (LWOP) status from the time she left the office until her return to work the next day. Mr. Wilson stated that the Appellant denied the behavior alleged by her co-workers and claimed that she left work because of illness. Mr. Wilson determined that Ms. Taylor's version of events was more credible and authorized the issuance of the letter of reprimand.

C. Appellant's Version of Events

The Appellant denies using profanity. She denies informing her co-workers that she quit. She testified that Ms. Taylor was yelling at her about her ride waiting for her and that she needed to hurry up and leave. The Appellant stated that she decided to leave for the rest of the day because Ms. Taylor's behavior made her upset and she could not continue working. According to the Appellant, her co-workers conspired against her because they did not like her. She also testified that Mr. Wilson had already made up his mind that she was in the wrong before hearing her version of events.

III. LEGAL STANDARD

An employee who has gained permanent status in the classified city civil service cannot be subjected to disciplinary action by his employer except for cause expressed in writing. LSA Const. Art. X, sect. 8(A); *Walters v. Department of Police of New Orleans*, 454 So. 2d 106 (La. 1984). The employee may appeal from such a disciplinary action to the city civil service commission. The burden on appeal, as to the factual basis for the disciplinary action, is on the appointing authority. *Id.*; *Goins v. Department of Police*, 570 So 2d 93 (La. App. 4th Cir. 1990).

The civil service commission has a duty to decide independently, from the facts presented, whether the appointing authority has good or lawful cause for taking disciplinary action and, if so, whether the punishment imposed is commensurate with the dereliction. *Walters, v. Department of Police of New Orleans, supra*. Legal cause exists whenever the employee's conduct impairs the efficiency of the public service in which the employee is engaged. *Cittadino v. Department of Police*, 558 So. 2d 1311 (La. App. 4th Cir. 1990). The appointing authority has the burden of proving by a preponderance of the evidence that the complained of activity occurred and that the conduct complained of impaired the efficiency of the public service. *Id.* The appointing authority

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must also prove the actions complained of bear a real and substantial relationship to the efficient operation of the public service. *Id.* While these facts must be clearly established, they need not be established beyond a reasonable doubt. *Id.*

IV. ANALYSIS

The Appointing Authority has established by a preponderance of evidence that the Appellant violated Sewerage & Water Board Memorandum No. 6 and that the penalty is commensurate with the violation. While both Ms. Taylor's and the Appellant's version of events were self-serving and, perhaps, both parties could have been more diplomatic, the Appellant reacted in an inappropriate manner. Even if the Appellant felt that Ms. Taylor was rude to her, it did not justify the use of profanity or the abrupt departure from work described by Ms. Taylor and Ms. Tobias.

V. CONCLUSION

As a result of the above findings of fact and law, the Commission hereby DENIES the Appellant's appeal.

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Judgement rendered this 8th day of February 2021.

CITY OF NEW ORLEANS CIVIL SERVICE COMMISSION

WRITER:


Brittney Richardson (Jan 12, 2021 16:34 CST)

BRITTNEY RICHARDSON, COMMISSIONER

CONCUR:


J H Korn (Feb 5, 2021 18:55 CST)

JOHN KORN, COMMISSIONER


CJ Moore (Jan 18, 2021 07:25 CST)

CLIFTON J. MOORE, JR., VICE-CHAIRMAN