



# CITY OF NEW ORLEANS

DEPARTMENT OF CITY CIVIL SERVICE  
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CITY CIVIL SERVICE COMMISSION  
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AMY TREPAGNIER  
DIRECTOR OF PERSONNEL

Thursday, August 14, 2025

Mr. Zachary Shepherd  
2540 Severn Ave., Suite 400  
Metairie, LA 70002

Re: **Roy Simmons Jr. VS.**  
**Department of Fire**  
**Docket Number: 9688**

Dear Mr. Shepherd:

Attached is the decision of the City Civil Service Commission in the above-referenced 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 - 8/14/2025 - 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,

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

Doddie K. Smith  
Chief, Management Services Division

cc: Roman Nelson  
De'Jonique Carter  
Jay Ginsberg  
Roy Simmons

file

**CIVIL SERVICE COMMISSION  
CITY OF NEW ORLEANS**

**ROY SIMMONS,  
Appellant**

**Docket No. 9688**

v.

**DEPARTMENT OF FIRE,  
Appointing Authority**

**DECISION**

Appellant, District Chief Roy Simmons, brings this appeal pursuant to Article X, § 8(A) of the Louisiana Constitution and this Commission's Rule II, § 4.1 seeking relief from a fine of \$2,560 imposed by the Department of Fire (NOFD) on November 21, 2024. (Exhibit HE-1). At all relevant times, Appellant had permanent status as a Fire District Chief. A Hearing Examiner, appointed by the Commission, presided over a hearing on February 24, 2025. At this hearing, both parties had an opportunity to call witnesses and present evidence.

The undersigned Commissioners have reviewed and analyzed the entire record in this matter, including the transcript from the hearing, all exhibits submitted at the hearing, the post-hearing briefs submitted by the parties, the Hearing Examiner's report dated May 19, 2025, and controlling Louisiana law.

For the reasons set forth below, Chief Simmons's appeal is DENIED.

**I. FACTUAL BACKGROUND**

On October 2, 2024, Chief Simmons used a Hallagan tool to open the door to the district chief's office at Station 27. (Tr. at 9). Chief Simmons had first tried to use the key on the ring for the district chief's car, Ladder 11's key, the captain's key at Station 27, and a weddle tool. (Tr. at

12-14, 69-70). Chief Simmons had been at a fire, and he needed to complete forms for an injured firefighter for worker's compensation purposes. (Tr. at 34, 83).

Deputy Chief Timothy Favaza, Chief Simmons' direct supervisor on October 2, 2024, testified that Chief Simmons could have waited to open the door, and that he could have asked Logistics for the extra key. (Tr. at 30-31). Chief Favaza testified that using a Hallagan tool necessarily damages the door. (Tr. at 43). Chief Simmons testified that he knew there was a risk the door would be damaged. (Tr. at 84).

Superintendent of Fire Roman Nelson testified that he imposed discipline on Chief Simmons because Chief Simmons failed to find another solution before damaging the door. (Tr. at 59). The presumptive penalty for a purposeful damage to property is a 96-hour suspension. (Tr. at 58). The cost to replace the door, \$2,560, was less than the financial impact to Chief Simmons of a 96-hour suspension. (Tr. at 46, 58). Superintendent Nelson also testified that use of a Hallagan tool is necessarily going to damage a door. (Tr. at 65).

## II. ANALYSIS

### A. Legal Standard for Commission's Review of Discipline

“Employees with the permanent status in the classified service may be disciplined only for cause expressed in writing. La. Const., Art. X, Sec. 8(A).” *Whitaker v. New Orleans Police Dep't*, 2003-0512 (La. App. 4 Cir. 9/17/03), 863 So. 2d 572 (quoting *Stevens v. Dep't of Police*, 2000-1682 (La. App. 4 Cir. 5/9/01)). “Legal cause exists whenever an employee's conduct impairs the efficiency of the public service in which the employee is engaged.” *Id.* “The Appointing Authority has the burden of proving the impairment.” *Id.* (citing La. Const., art. X, § 8(A)). “The appointing authority must prove its case by a preponderance of the evidence.” *Id.* “Disciplinary action against a civil service employee will be deemed arbitrary and capricious

unless there is a real and substantial relationship between the improper conduct and the “efficient operation” of the public service.” *Id.* “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).

**1. The Appointing Authority must show the discipline was commensurate with the infraction**

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 disciplining the classified employee and, if so, whether such discipline was commensurate with the dereliction. *Durning v. New Orleans Police Dep’t*, 2019-0987 (La. App. 4 Cir. 3/25/20), 294 So. 3d 536, 538, *writ denied*, 2020-00697 (La. 9/29/20), 301 So. 3d 1195; *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 appointing authority has the burden of showing that the discipline was reasonable and not arbitrary or capricious. *Neely v. Dep’t of Fire*, 2021-0454 (La. App. 4 Cir. 12/1/21), 332 So. 3d 194, 207 (“[NOFD] did not demonstrate . . . that termination was reasonable discipline”); *Durning*, 294 So. 3d at 540 (“the termination . . . deemed to be arbitrary and capricious”).

**B. NOFD has Shown Cause for the Discipline of Chief Simmons**

NOFD has shown that Chief Simmons purposely damaged the door to the district chief's office at Station 27, located at 2118 Elysian Fields. Department of Fire RR-33 provides that "No member shall purposely or maliciously destroy, damage, or render inoperable any . . . City of department property . . ." (Ex. NOFD-5). Chief Simmons knew that the Hallagan tool would likely damage the door to the district chief's office. There was no urgent reason to access the office, so Chief Simmons should waited for a locksmith or obtained a key from Logistics.

Damage to NOFD property impairs the efficient operation of NOFD. The property must be repaired or replaced at expense to taxpayers.

**1. The fine is commensurate with the violation**

Superintendent of Fire Roman Nelson testified that he imposed a fine instead of a 96-hour suspension because the financial impact to Chief Simmons would be less. The amount of the fine is commensurate with the violation.

Chief Simmons's appeal is DENIED.

WRITER:

*John Korn, Vice-Chairperson*

[John Korn, Vice-Chairperson \(Aug 6, 2025 17:24:51 CDT\)](#)

JOHN KORN, VICE-CHAIRPERSON

CONCUR:

*BR*

[Brittney Richardson, Chairperson \(Aug 14, 2025 15:14:52 EDT\)](#)

BRITTNEY RICHARDSON., CHAIRPERSON

*Mark Surprenant*

[Mark Surprenant \(Aug 6, 2025 16:06:11 CDT\)](#)

MARK SURPRENANT, COMMISSIONER