



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

Wednesday, July 14, 2021

Brett J. Prendergast
4603 S. Carrollton Avenue
New Orleans, La. 70119

Re: **Edward Stallworth VS.
Department of Finance
Docket Number: 9175**

Dear Mr. Prendergast:

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 - 7/14/2021 - 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, 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: Norman White
Michael J. Laughlin
Alexandra Mora
Edward Stallworth

file

**CIVIL SERVICE COMMISSION
CITY OF NEW ORLEANS**

EDWARD STALLWORTH
Appellant

v.

Docket No. 9175

DEPARTMENT OF FINANCE
Appointing Authority

DECISION

Appellant, Edward Stallworth, 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 one-day suspension beginning June 22, 2020. (See Exhibit HE-1). At all relevant times, Appellant was employed as a Revenue Collection Supervisor at the Department of Finance and had permanent status as a classified employee. A Hearing Examiner, appointed by the Commission, presided over a hearing held on August 27, 2020. 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 Hearing Examiner's report dated January 28, 2021, and controlling Louisiana law. For the reasons set forth below, we GRANT the appeal.

I. 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 Finance suspended Appellant for one day following an incident on June 18, 2020, during which the Appointing Authority determined Appellant was insubordinate and hostile. (Ex. HE-1). Appellant, who is a manager over revenue collection, testified that when he arrived at work on June 18, his subordinates complained to him that his superiors had instructed them to station two employees at a table in the lobby of City Hall, which was not socially distanced and had no barriers. (Tr. at 82). According to Appellant, the table was set up between an ATM machine and the security office, with no space between the table and the ATM machine. (Tr. at 80). Two chairs were at the table. (Tr. at 80). Appellant first went to Romy Samuel's office to discuss the lack of social distancing, complaining that the two employees would be "shoulder-to-shoulder" and that there was no plexiglass barrier between the employees and the taxpayer. (Tr. at 79-80). Appellant complained to Samuel that the table set-up did not comply with CDC guidelines. (Tr. at 81). Appellant told Samuel he would ask McCall to get a plexiglass barrier. (Tr. at 80). Samuel, the Collector of Revenue for the Department of Finance, supervises Appellant's supervisor, Wendell McCall. (Tr. at 7). Samuel's office, 1W34, is located across the main hallway of City Hall from Stallworth's office and directly across from the concession stand. (Tr. at 66, 77).

Appellant also had a conversation with his supervisor, Wendell McCall, about safety concerns for Appellant's subordinates. (Tr. at 82). Appellant had a conversation with McCall about plexiglass in the lobby of Room 1W15, during which McCall informed Appellant McCall had obtained plexiglass and was placing it on the table in the lobby. (Tr. at 83). Appellant made no threats and did not use profanity, although he admittedly told his superiors they did not care about their staff. (Tr. at 86, 88).

Samuel testified that on June 17, 2020, City Hall Security asked the Department of Finance to station an employee in the lobby because the security officers were spending a significant amount of their time addressing tax collection issues. (Tr. at 8-9). At that time, City Hall was open at 50% capacity. (Tr. at 8). Samuel directed McCall to set up the table in the lobby. (Tr. at 10). On June 18, 2020, Stallworth went to Samuel's office to express concerns. (Tr. at 11). According to Samuel, Stallworth was agitated and belligerent. (Tr. at 12). Samuel also testified that the only person who was within earshot of Stallworth's conversation with Samuel in her office was Detective Smith. (Tr. at 22). Samuel also testified she could hear Stallworth screaming in the hallway. (Tr. at 13).

Detective Demetrius Smith, who was present in Samuel's office, testified that Stallworth was irate, hostile, and unprofessional. (Tr. at 28, 32).

Wendell McCall, the Assistant Director of Revenue and Stallworth's supervisor, testified that he set up an area to handle customers in the lobby. (Tr. at 36). McCall testified he had a conversation with Stallworth in Room 1W15 about the setup of the tables. (Tr. at 42, 46). According to McCall, Stallworth was upset. (Tr. at 43).

The Director of the Department of Finance, Norman White, testified that the impact of Stallworth's behavior on the efficient operation department was the insubordinate and disruptive nature of Stallworth's conversations. (Tr. at 58-59).

Jimmy Brown, a Revenue Collection Supervisor, testified he heard McCall and Stallworth arguing in an "elevated conversation" outside Brown's office in Room 1W15. (Tr. at 50). Brown's office is located next to Stallworth's in Room 1W15 (Tr. at 50). Brown testified McCall was outside of Stallworth's office, and Stallworth was in his office. (Tr. at 53). Brown did not recall the words being exchanged. (Tr. at 53). Later, Brown heard Samuel yelling at Stallworth. (Tr. at 52).

Likewise, Toshana Williams, who works in a cubicle in Room 1W15, testified that she Samuel talking loudly. (Tr. at 66, 69). Samuel was in Stallworth's doorway. (Tr. at 70). Toshana Williams testified she is generally able to hear conversations in the lobby of Room 1W15, and that she did not hear Stallworth come into Room 1W15 yelling or screaming. (Tr. at 69). Toshana Williams also heard no loud conversation between McCall and Stallworth. (Tr. at 71).

Ja'veon Williams, who works in a cubicle in the back of Room 1W15, also testified that she heard Samuel talking loudly and ask Stallworth to leave, but she heard no other conversations. (Tr. at 75). Because Stallworth was in his office and speaking in a normal tone of voice, she did not hear what Stallworth said. (Tr. at 75).

Based on this testimony, the Appointing Authority failed to carry its burden of proving that Stallworth was insubordinate and disruptive to other employees. Stallworth, a manager who was not consulted about the decision to place his subordinates in the lobby of City Hall, was justifiably concerned about the safety of his subordinates because of the Covid-19 virus. Stallworth discussed CDC guidelines with his supervisor's supervisor and ensured that a plexiglass barrier was placed

at the table between the Department of Finance employees and the taxpayer. The testimony was contradictory, and some employees located in 1W15 testified that they did not even hear any conversations between McCall and Stallworth. The only witness to the conversation in Samuel's office was Detective Smith. Therefore, the Appointing Authority has failed to carry its burden of proof that the conduct adversely impacted the operations of the department or that the penalty was commensurate with the infraction.

For these reasons, the appeal is GRANTED. The one-day suspension shall be rescinded and Appellant shall be reimbursed back pay and all emoluments of employment for the time period of the suspension.

This the 14th day of July, 2021

WRITER:


CJ Moore (Apr 19, 2021 05:37 CDT)

CLIFTON J. MOORE, JR., VICE-CHAIRPERSON

CONCUR:


Brittney Richardson (Apr 12, 2021 06:22 CDT)

BRITTNEY RICHARDSON, CHAIRPERSON


J H Korn (Apr 23, 2021 11:11 CDT)

JOHN KORN, COMMISSIONER