



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, December 11, 2025

Mr. Percy Johnson

Re: **Percy Johnson VS.
Department of Public Works
Docket Number: 9702**

Dear Mr. Johnson:

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 - 12/11/2025 - 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 purple ink that reads "Stacie Joseph".

Stacie Joseph
Management Services Division

cc: Clinton R. Hathaway
Jalen Harris
Bryce Murray
file

**CIVIL SERVICE COMMISSION
CITY OF NEW ORLEANS**

PERCY JOHNSON
Appellant

Docket No. 9702

v.

DEPARTMENT OF PUBLIC WORKS,
Appointing Authority

DECISION

Percy Johnson appeals a one-day suspension imposed on March 17, 2025, by the Department of Public Works (DPW) and his ineligibility for overtime hours on March 17 and March 20-23. Mr. Johnson brings the appeal pursuant to Article X, Section 8 of the Louisiana Constitution and Civil Service Rule II, Section 4.1. At all relevant times, Appellant was a permanent employee as a Traffic Signal Technician.

A Hearing Examiner, appointed by the Commission, presided over a hearing on May 8, 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 Hearing Examiner's report dated October 30, 2025, and controlling Louisiana law.

For the reasons set forth below, Mr. Johnson's appeal is GRANTED.

I. FACTUAL BACKGROUND

Mr. Johnson has worked in the Sign Shop of the Traffic Division of DPW since January 2, 2015. (Tr. at 8-9, 46). Mr. Johnson testified he has no prior discipline. (Tr. at 46). Mr. Johnson reports to Darren Walker, who is a supervisor in the Sign Shop. (Tr. at 8). Mr. Johnson's regular work schedule is 6:00 A.M. to 2:30 P.M. (Tr. at 12). Because of the workload, employees also

routinely work from 2:30 P.M. to 6:00 P.M., earning 3.5 hours of overtime per day. (Tr. at 12). Employees also work overtime on the weekends. (Tr. at 9-10).

On Saturday, March 15, Mr. Walker instructed Mr. Johnson not to report to work the following day. (Tr. at 63). The hours worked on Sunday, March 16 would have been overtime hours. Mr. Johnson responded to Mr. Walker, asking if he was the only employee who was instructed not to work overtime on this particular Sunday. (Tr. at 9). Mr. Johnson complained to Mr. Walker in this text exchange that Mr. Walker had denied him overtime opportunities the previous weekend, even though other employees worked overtime. (Tr. at 9, 64).

The parties disagree about the conversations between or among Mr. Johnson, Mr. Walker, and Donald Jones, Sign Shop Field Supervisor, on Monday, March 17. Mr. Walker testified that Mr. Johnson cursed him out about the overtime issue:

When he came towards the sign shop, I got out of my truck immediately, just to ask him, "Percy, well, what that text said about coming in? We all work." He went to cursing me out, you know.

....

And he cursed me out twice. The third time he cursed me out, before he went in the trailers, you know. And, I mean, he called me a horrible name. He even took his dentures out to say it, and I ain't never knew he had dentures until he took them out, you know. I never did follow him in the trailer because I didn't want it to escalate.

So I went to talk to Donald Jones, my Field Supervisor, and told him what had just transpired.

(Tr. at 10). As discipline for Mr. Johnson's behavior, Mr. Walker testified he decided to deny Mr. Johnson overtime. (Tr. at 11, 15). Mr. Walker testified he told Mr. Johnson he was going home after his regular eight-hour shift because of the vulgar language:

. . . and I told him, I said, "Well, Percy, you're going home at your regular 8-hour shift, 6:00 a.m. to 2:30. You're not working overtime." He told me, he ain't got to

ride with nobody. He's not leaving his regular with no overtime hours. It was a clear directive from his supervisor. So he left on his own.

. (Tr. at 11, 15). Mr. Johnson testified that Mr. Walker told him “from now on, I'm going to be working from 6:00 to 2:30, you know, and there will be no more overtime.” (Tr. at 47).

Mr. Johnson described this conversation differently. According to Mr. Johnson, Mr. Walker was waiting to speak to him when he arrived at work on March 17, and Mr. Jones¹ was a party to the conversation:

And at the time I came in there that morning, he were waiting on me, and he stood in the front of me and [Mr. Jones] stood in the back, and told me, from now on, I'm going to be working from 6:00 to 2:30, you know, and there will be no more overtime.

And I asked him, I said, "Well, what's the problem?" And he told me, "Look, when you go back now and when you come back, you're going to be working with Eric, and you ain't going to have no more overtime."

(Tr. at 46-47). Mr. Johnson testified Donald Jones then told him that he would not have a co-worker to check his signs so he “might as well leave:”

So John spoke up. He said, "Well, look, you out there by yourself. Eric do the checking in, because we're going to have everything, printouts and everything." He said, "Look, you might as well leave, because we can let you work and you won't have no way to show that you did work; you better leave."

(Tr. at 47-48).

Mr. Jones testified he was in his truck and had no knowledge of Mr. Johnson and Mr. Walker's conversation the morning of March 17. (Tr. at 73). Mr. Jones testified that he was in his truck. (Tr. at 73). He testified further that “all I know is that he left. I don't know what else took place.” (Tr. at 73).

¹ As the hearing examiner noted, based on the handwritten notes Mr. Johnson provided to Civil Service, the transcript is in error. Instead of “John,” Mr. Walker was referring to Donald Jones.

Mr. Johnson testified that Mr. Jones instructed him to leave the worksite on March 17. (Tr. at 47-48). Mr. Johnson went directly to the Civil Service Department to file an appeal of the suspension. (Tr. at 48). Then, he went to City Hall to the office of the human resources manager for DPW to obtain the letter of discipline. (Tr. at 38, 48).

Mr. Walker testified he realized Mr. Johnson had left the worksite at about 6:30 A.M. (Tr. at 11). According to Mr. Walker, Mr. Johnson left the worksite of his own accord. (Tr. at 13). Mr. Walker also testified that Mr. Johnson could not have been confused about the direction to leave the worksite. (Tr. at 16).

DPW placed Mr. Johnson on leave without pay for the eight regular hours he would have worked on March 17. (Tr. at 14, 33-34). Because Mr. Johnson did not work his regular shift, he was ineligible for overtime on March 17. (Tr. at 44). Mr. Johnson took leave on March 18-19 to care for his spouse, who had undergone a heart procedure. (Tr. at 67). Mr. Johnson began working overtime again on Monday, March 24. (Tr. at 67).

II. ANALYSIS

DPW's position is that Mr. Johnson suffered no discipline on March 17, 2025, or thereafter. (Tr. at 44). Based on the totality of the circumstances, the Commission credits the testimony of Mr. Johnson that Mr. Jones was present during Mr. Johnson's conversation with Mr. Walker and told him he "might as well leave." (Tr. at 47-48). It is undisputed that Mr. Walker viewed Mr. Johnson's conduct as insubordinate and that he informed Mr. Johnson he would be ineligible for overtime. (Tr. at 15). The tenor of this exchange, in addition to the ambiguous statement that Mr. Johnson "might as well leave," by Mr. Jones resulted in a direction from a supervisor to leave the worksite, even if Mr. Jones only intended to explain why Mr. Jones was ineligible for overtime. DPW supervisors have a duty to communicate clearly to their subordinates. Mr. Johnson's

immediate appeal of this suspension and his in-person visit to City Hall to obtain the disciplinary letter corroborate his understanding of the instruction to leave the worksite. Also, even though Mr. Johnson remained on City premises for a number of hours, and he had at least one conversation with the human resources manager at City Hall, no one informed him of a miscommunication with Mr. Walker and/or Mr. Jones. (Tr. at 37-38).

Because Mr. Johnson was ready, willing, and able to work on March 17, Mr. Jones' instruction to him to leave the worksite is discipline. Civil Service Rule IX, Section 1.1(c) provides that "involuntary time away from work without pay, no matter how brief (involuntary leave without pay)" is discipline. In addition to losing wages for eight hours on March 17, Mr. Johnson also failed to accrue annual leave and sick leave for this pay period. Civil Service Rule VIII, Sections 1.1(c), 2.1(d).


"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)). DPW failed to provide written notice to Mr. Johnson of the reason for the involuntary leave without pay. Civil Service Rule IX, Section 1.3 requires an Appointing Authority to provide written notice to a classified employee of the reason for discipline. *See also Jackson v. Sewerage & Water Bd. of New Orleans*, 2024-0801 (La. App. 4 Cir. 4/25/25), 414 So. 3d 984, 990 (explaining reasons for written notice). Because DPW failed to provide written notice of the suspension of Mr. Johnson, Mr. Johnson's appeal of the suspension is granted.

The Commission is not addressing whether DPW disciplined Mr. Johnson by denying him overtime opportunities. (Tr. at 15). Under the Fair Labor Standards Act, because Mr. Johnson took

annual leave on March 18-19, he would not have worked over 40 hours in the workweek at issue. 29 U.S.C. § 207(A). “If no more than the maximum number of hours prescribed in the Act are *actually worked* in the workweek, overtime compensation pursuant to section 7(a) need not be paid.” 29 C.F.R. § 778.102 (emphasis added). Therefore, even if Mr. Johnson had worked from 2:30-6:00 on March 17, 20, and 21, he would not have received an overtime premium.

Mr. Johnson’s appeal is GRANTED. DPW shall reimburse Mr. Johnson for the eight hours of involuntary time away from work on March 17, along with all emoluments of employment.

WRITER:


Ruth Davis, Commissioner (Dec 10, 2025 10:41:14 CST)
RUTH DAVIS, COMMISSIONER

CONCUR:


John Korn, Vice-Chairperson (Dec 10, 2025 18:58:45 CST)
JOHN KORN, VICE-CHAIRPERSON


Andrew Monteverde, Commissioner (Dec 10, 2025 10:14:01 CST)
ANDREW MONTEVERDE, COMMISSIONER