



CITY OF NEW ORLEANS

DEPARTMENT OF CITY CIVIL SERVICE
SUITE 900 - 1340 POYDRAS ST.
NEW ORLEANS, LA 70112
(504)658-3500 FAX NO. (504) 658-3598

CITY CIVIL SERVICE COMMISSION
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AMY TREPAGNIER
DIRECTOR OF PERSONNEL

Tuesday, February 11, 2025

Ms. Rowena Jones
1340 Poydras St., Suite 600
New Orleans, LA 70112

Re: **Kenneth Landix VS.
Recreation Department
Docket Number: 9588/9593**

Dear Ms. Jones:

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 - 2/11/2025 - 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: Larry Barabino
Max V. Camp
Imtiaz A. Siddiqui
Kenneth Landix

file

**CIVIL SERVICE COMMISSION
CITY OF NEW ORLEANS**

**KENNETH LANDIX,
Appellant**

Docket Nos. 9588 & 9593

v.

**RECREATION DEPARTMENT,
Appointing Authority**

DECISION

Appellant Kenneth Landix brings this appeal pursuant to Article X, § 8(A) of the Louisiana Constitution and this Commission's Rule II, § 4.1 seeking relief from the Recreation Department's (NORD) suspension of him effective March 4, 2024, and termination of his employment on April 3, 2024. (Ex. HE-1; Ex. NORD-1). At all relevant times, Mr. Landix had permanent status as a Laborer at NORD. (Ex. HE-1). A Hearing Examiner, appointed by the Commission, presided over a hearing on June 3, 2024. At this hearing, both parties had an opportunity to call witnesses and present evidence. The parties submitted post-hearing briefs on August 12, 2024.

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 December 26, 2024, the parties' post-hearing briefs, and controlling Louisiana law.

For the reasons set forth below, Mr. Landix's appeal is DENIED.

I. FACTUAL BACKGROUND

Larry Barabino, Jr., the Director of NORD, testified that he attended a community meeting at the Desire Florida Community Center on March 4, 2024. (Tr. at 8; Ex. HE-1). When he noticed

that a balloon was in the air conditioner return vent, he asked Mr. Landix for a broom. (Tr. at 9).

Mr. Landix responded with the following statements:

- “You don’t tell me what to do.”
- “You ask me because I’m a man.”
- “Fuck this job. Fuck you and this job.”

(Tr. at 9-10). After Mr. Barabino instructed Mr. Landix to go home, Mr. Landix responded with the following statements:

- “I’m a 60 year old fucking man. You don’t fucking talk to me like I’m no kid.”
- “Come and take the ID.”

(Tr. at 10). Mr. Barabino viewed the instruction to “come and take the ID” as a threat, as Mr. Barabino believed Mr. Landix wished to have a physical altercation with him. (Tr. at 11). Mr. Barabino told Mr. Landix, “I’m not going to touch you.” (Tr. at 11).

Mr. Barabino suspended Mr. Landix for insubordination and a threat of physical violence. (Tr. at 15; Ex. NORD-1). Following a pre-termination hearing, Mr. Barabino terminated Mr. Landix’s employment. (Ex. HE-1).

George Haynes, NORD District Manager, testified that he met Mr. Landix when Mr. Haynes was the Manager of the St. Claude Recreation Center, and that Mr. Landix volunteered at that location in the summer of 2016. (Tr. at 36). Mr. Landix testified that he volunteered 40 hours/week for about a year. (Tr. at 50). The Mayor’s office called Mr. Haynes to inform him that Mr. Landix had the highest number of volunteer hours, and Mr. Landix received an award at Audubon Aquarium. (Tr. at 37-38). Mr. Haynes encouraged Mr. Landix to become a NORD employee, and Mr. Landix was hired to work at the Milne location as a Laborer. (Tr. at 37). Mr.

Haynes supervised Mr. Landix for about two years, and he testified he would re-hire him. (Tr. at 43, 46).

Mr. Landix testified that he has epilepsy, and the chemicals for cleaning trigger seizures. (Tr. at 51). Mr. Landix typically “take[s] a breather.” (Tr. at 52). Mr. Landix had just cleaned the bathroom, and he testified that when he’s “on a lot of chemicals, it drives my mindset a little bit.” (Tr. at 51). Mr. Landix also explained that he was upset about Mr. Barabino’s tone, and that he was not aware at the time that Mr. Barabino was the Director. (Tr. at 52-53).

II. ANALYSIS

A. Legal Standard for Commission’s Review of Discipline

1. The Appointing Authority must show cause for 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).

2. 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 suspending 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”).

a. Factors considered by Commission

“In determining whether discipline is commensurate with the infraction, the Civil Service Commission considers the nature of the offense as well as the employee’s work record and previous disciplinary record.” *Matusoff v. Dep't of Fire*, 2019-0932 (La. App. 4 Cir. 5/20/20), 2020 Westlaw 2562940, *writ denied*, 2020-00955 (La. 10/20/20), 303 So. 3d 313. The Commission considers the nature of the offense, the employee’s work ethic, prior disciplinary records, job

evaluations, and any grievances filed by the employee.” *Honore v. Dep’t of Pub. Works*, 14-0986, pp. 8-9 (La. App. 4 Cir. 10/29/15), 178 So. 3d 1120, 1131, *writ denied*, 2015-2161 (La. 1/25/16), 185 So. 3d 749.

B. The Recreation Department has shown cause for the suspension of Mr. Landix and the termination of Mr. Landix’s employment

Mr. Landix did not deny the insubordinate and threatening statements he made to Mr. Barabino. (Tr. at 52). Mr. Landix testified he said “something out the way” to Mr. Barabino. (Tr. at 52). As Mr. Barabino testified, the workplace should be safe, and it is not acceptable for Mr. Landix to talk to anyone in the manner he spoke to Mr. Barabino. (Tr. at 14). Mr. Landix’s conduct impaired the efficient operation of NORD by engaging in insubordinate conduct and using threatening language. (Tr. at 14).

C. The penalty is commensurate with the violation.

The suspension of Mr. Landix and the termination of his employment are commensurate with the behavior he exhibited. While the Commission is aware that Mr. Landix volunteered at NORD facilities and that he does not have a history of discipline (Tr. at 52), Mr. Landix’s conduct was severe.

Mr. Landix’s appeal is DENIED.

WRITER:



JOHN KORN, VICE-CHAIRPERSON

CONCUR:



Brittney Richardson (Feb 11, 2025 13:07 CST)

BRITTNEY RICHARDSON, CHAIRPERSON

Andrew Monteverde
[Andrew Monteverde \(Feb 5, 2025 11:24 CST\)](#)

ANDREW MONTEVERDE, COMMISSIONER