



# 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  
BRITTNEY RICHARDSON, CHAIRPERSON  
JOHN KORN, VICE-CHAIRPERSON  
CLIFTON J. MOORE  
MARK SURPRENANT  
RUTH WHITE DAVIS

Wednesday, January 12, 2022

AMY TREPAGNIER  
DIRECTOR OF PERSONNEL

Mr. Jack Bohannon  
1340 Poydras St, Ste. 600  
New Orleans, LA 70112

Re: **LaToya Winding VS.  
Sewerage & Water Board  
Docket Number: 9292**

Dear Mr. Bohannon:

Attached is the action of the Civil Service Commission at the Commission's meeting on Monday, 12/13/2021.

Yours very truly,

  
Doddie K. Smith  
Chief, Management Services Division

cc: Ghassan Korban  
Ashley Ian Smith  
LaToya Winding  
file



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Mr. Jack Bohannon  
1340 Poydras St, Ste. 600  
New Orleans, LA 70112

Re: **LaToya Winding VS.  
Sewerage & Water Board  
Docket Number: 9298**

Dear Mr. Bohannon:

Attached is the action of the Civil Service Commission at the Commission's meeting on Monday, 12/13/2021.

Yours very truly,

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

Doddie K. Smith  
Chief, Management Services Division

cc: Ghassan Korban  
Ashley Ian Smith  
LaToya Winding  
file

**CIVIL SERVICE COMMISSION  
CITY OF NEW ORLEANS**

**LATOYA WINDING,  
Appellant**

**Docket Nos. 9292/9298**

**v.**

**SEWERAGE & WATER BOARD,  
Appointing Authority**

**ORDER**

The Sewerage & Water Board moved for summary disposition of this appeal on the basis that Ms. Winding voluntarily resigned on July 2, 2021, in order to avoid discipline following an investigation into her adjustment of family members' fills, so that she has no right of appeal under Rule II, § 4.1. The Commission heard oral argument of this motion at its December 13, 2021, regular meeting. In particular, Ms. Winding and her counsel argued that her supervisor advised her to resign, and Ms. Winding felt that she did not have any other option.

The Commission addressed the issue of voluntary resignation/constructive discharge in *Hogues v. Dep't of Property Management*, No. 8807 (City of New Orleans Civil Service Commission 2/8/21):

The question of whether an employee has the right to appeal is analogous to the question of whether a plaintiff has a cause of action. *Banks v. New Orleans Police Dep't*, 2001-0859 (La. App. 4 Cir. 9/25/02), 829 So. 2d 511, 514, *writ denied*, 2002-2620 (La. 12/13/02), 831 So. 2d 990. "If an appellant voluntarily resigned, then [he] has no right of appeal." *Pugh v. Dep't of Culture, Recreation and Tourism*, 597 So. 2d 38, 41 (La. App. 1 Cir. 1992). "An employee has no right of appeal when the employee voluntarily resigns." *Stern v. New Orleans City Planning Comm'n*, 2003-0817 (La. App. 4 Cir. 9/17/03), 859 So. 2d 696. If the resignation is involuntary, then the employee has a right of appeal, so that an Appointing Authority may not subvert an employee's right of appeal:


However, an employee does have the right to an appeal when he is either forced to resign or involuntarily retires. The reason an appeal is permitted when an employee is forced to resign or retire is to

preclude characterization of disciplinary action as a “resignation” to subvert an employee's right to an appeal. *Russell v Mosquito Control Board*, 06-0346 (La. App. 4 Cir. 9/27/06), 941 So.2d 634, 640, citing *Peterson v. Department of Streets*, 369 So.2d 235, 237 (La. App. 4 Cir. 1979).

*Voltolina v. City of Kenner*, 20-151 (La. App. 5 Cir. 12/2/20).

Notably, in *Hogues*, the Appellant conceded that his retirement was voluntary. Because Winding alleges that her resignation was not voluntary, the Commission denies the motion for summary disposition, so that the parties may present evidence on this threshold issue as well as the substantive issues before a hearing officer.

This is the 12<sup>th</sup> day of January 2022.

  
Brittney Richardson (Dec 15, 2021 12:29 CST)

BRITTNEY RICHARDSON, CHAIRPERSON

  
J. H. Korn (Dec 16, 2021 11:37 CST)

JOHN KORN, VICE-CHAIRPERSON

  
Mark C. Surprenant (Dec 16, 2021 11:52 CST)

MARK SURPRENANT, COMMISSIONER

  
Ruth Davis (Dec 16, 2021 20:10 CST)

RUTH WHITE DAVIS, COMMISSIONER