



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 H. KORN, VICE-CHAIRPERSON
MARK SURPRENANT
RUTH WHITE DAVIS
ANDREW MONTEVERDE

AMY TREPAGNIER
DIRECTOR OF PERSONNEL

Tuesday, April 9, 2024

Ms. Catina Braxton-Robertson

Re: **Catina Braxton-Robertson VS.
Sewerage & Water Board
Docket Number: 9483**

Dear Ms. Braxton-Robertson:

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 - 4/9/2024 - 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, Sec.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: Ghassan Korban
Ashley Ian Smith
Imtiaz A. Siddiqui
file



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 H. KORN, VICE-CHAIRPERSON
MARK SURPRENANT
RUTH WHITE DAVIS
ANDREW MONTEVERDE

AMY TREPAGNIER
DIRECTOR OF PERSONNEL

Tuesday, April 9, 2024

Ms. Catina Braxton-Robertson

Re: **Catina Braxton-Robertson VS.
Sewerage & Water Board
Docket Number: 9498**

Dear Ms. Braxton-Robertson:

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 - 4/9/2024 - 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, Sec.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: Ghassan Korban
Chanelle Collins
Imtiaz A. Siddiqui
file

**CIVIL SERVICE COMMISSION
CITY OF NEW ORLEANS**

**CATINA BRAXTON-ROBERTSON,
Appellant**

Docket Nos. 9483 & 9498

v.

**SEWERAGE & WATER BOARD,
Appointing Authority**

DECISION

Appellant, Catina Braxton-Robertson, brings this appeal pursuant to Article X, § 8(A) of the Louisiana Constitution and this Commission's Rule II, § 4.1 seeking relief from her July 6, 2023, emergency suspension and her July 21, 2023, termination of employment. (Exs. HE-1, HE-2). At all relevant times, Appellant had permanent status as a Water Service Inspector II at the Sewerage & Water Board. (Tr. at 16). A Hearing Examiner, appointed by the Commission, presided over a hearing on November 10, 2023. 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 February 19, 2024, and controlling Louisiana law.

Ms. Braxton-Robertson's appeal is GRANTED.

I. FACTUAL BACKGROUND

Catina Braxton-Robertson is an 18-year employee of the Sewerage and Water Board. (Tr. at 16). She has worked in the meter reading department for 15 years. (Tr. at 149). As a Water Service Inspector II, she connects and disconnects water and performs investigations. (Tr. at 16, 149). She testified that she has had problems with her leg and hip after a truck flipped over on her.

(Tr. at 19). She has received worker's compensation benefits for these injuries. (Tr. at 18-19). The Office of Worker's Compensation requires Ms. Braxon-Robertson to complete an employee's report of earnings (Form 1020). (Tr. at 20). Ms. Braxton-Robertson is involved in several family businesses, including Ice Cleaning Services, Ice Lawn Service, and a catering business. (Tr. at 29). She testified that she receives no income from these businesses. (Tr. at 29).

After it hired an investigator to surveil Ms. Braxon-Robertson, the Sewerage & Water Board learned of Ms. Braxton-Robertson's involvement in these businesses based on social media and other publicly available information. (Tr. at 54-57; Ex. S&WB-2). The Sewerage & Water Board determined that Ms. Braxton-Robertson had engaged in worker's compensation fraud by checking "no" on the Form 1020 in response to questions about volunteer work or involvement in any other business enterprise. (Tr. at 101-02). The Sewerage & Water Board offered five completed forms into evidence, (Ex. S&WB1A- Ex. S&WB 1E), but Ms. Braxton-Robertson denied that she had completed the top part of the forms. (Tr. at 21). Ms. Braxton-Robertson testified that the handwriting on the top part of the forms was not hers and the dates on the top part of the forms and the bottom part of the forms did not match. (Tr. at 21-22, 32). Ms. Braxton-Robertson testified that she had completed more than 100 of these forms, and she checked "yes" for the questions at issue. (Tr. at 150-51).

The Sewerage & Water Board offered the testimony of Brenton McCoy, a representative of Genesis Information Services, the company that the Sewerage & Water Board engaged to surveil Ms. Braxton-Robertson. (Tr. at 53-73). The Sewerage & Water Board engaged the company to investigate whether Ms. Braxton-Robertson's injuries were genuine and whether she was engaged in other businesses while receiving worker's compensation benefits. (Tr. at 63-64). He testified that Ms. Braxton-Robertson "got around as a normal person" and "did not appear

injured” in March and April of 2022. (Tr. at 56, 65). Mr. McCoy was unaware of the nature of Ms. Braxton-Robertson’s injury, and other than Ms. Braxton-Robertson’s testimony that she has had problems with her leg and her hip, no testimony was offered about the nature of her injury during the time she was surveilled. (Tr. at 64).

The Sewerage & Water Board also terminated Ms. Braxton-Robertson’s employment because a customer’s house experienced water damage on June 6, 2023, because she failed to follow departmental protocol when turning on the water. (Ex. HE-2). In particular, the Sewerage & Water Board determined that she failed to obtain the customer’s signature before turning on the water, and she failed to inspect the premises to ensure no taps/pipes were open. (Tr. at 70, 80). Monique Chatters, the manager of the meter reading department, testified that customers sometimes authorize a contractor to sign to have the water turned on. (Tr. at 71). Ms. Braxton-Robertson testified that a contractor at the residence signed the form: “They had people on the roof, people in the yard. I said come sign for the water. Somebody came from behind the house and came sign for the water.” (Tr. at 153). “So it's a normal thing for contractors when the homeowner is not there to sign for the water.” (Tr. at 155). Ms. Braxton-Robertson also testified that the Sewerage & Water Board does not require its employees to inspect a home for open taps/pipes before turning on the water. (Tr. at 18).

The customer informed the Sewerage & Water Board investigator that he was in his truck at the corner of Elmira and Majestic Place in Algiers the entire day studying for a promotional exam. (Tr. at 89, 91; Ex. S&WB-3 at 2). The water meter is located at this corner, and Ms. Braxton-Robertson testified she parked in front of the meter in a Sewerage & Water Board vehicle. (Tr. at 91).

The Employee Relations Manager, Kimberly Batiste, testified that Ms. Braxton-Robertson engaged in document fraud as to the worker's compensation forms and the form for the customer's signature. (Tr. at 108).

Three other Sewerage & Water Board Meter Reader Services Technicians testified that contractors often sign the form to authorize the Sewerage & Water Board to turn on the water, and Sewerage & Water Board policy does not require an employee to check the residence for open taps. (Tr. at 119, 126, 141). One of these technicians, Ronald Derek Williams, Sr., has 20 years of experience. (Tr. at 124).

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).

B. The Sewerage & Water Board has not carried its burden of showing cause for the suspension and termination of Ms. Braxton-Robertson

The Sewerage & Water Board has not carried its burden of showing the complained-of conduct occurred. The Sewerage & Water Board failed to carry its burden to show that Ms. Braxton-Robertson engaged in fraudulent conduct as to her worker's compensation claim or the authorization to turn on the water. The five Form 1020s entered into evidence have different handwriting at the top and bottom of the forms, and the dates are inconsistent. For example, S&WB-1A is for the month of January 2021, but the date of the signature is May. (Ex. S&WB-1A). S&WB-1B is for the month of February 2021, but the date of the signature is June. (Ex. S&WB-1B). S&WB-1C is for the month of April 2021, but the date of the signature is March. (Ex. S&WB-1C). S&WB-1D is for the month of March 2021, but the date of the signature is April. (Ex. S&WB-1D). S&WB-1E is for the month of May 2021, but the date of the signature is February. (Ex. S&WB-1E). The Sewerage & Water Board failed to show how Ms. Braxton-Robertson's activities, as observed by an investigator in March and April of 2022, were inconsistent with her claimed injury.

As for the water damage to the customer's home, the Sewerage & Water Board has failed to show that Ms. Braxton-Robertson violated policy by obtaining the signature of a contractor at the residence and failing to enter the residence to check for open taps/pipes. The supervisor of the meter reading department acknowledged that customers sometimes authorize a contractor to sign to turn on the water, and three co-workers testified that contractors regularly sign to authorize the

Sewerage & Water Board to turn on water. All three co-workers testified that the Sewerage & Water Board does not require employees to enter a residence to check for open taps/pipes.

Ms. Braxton-Robertson's appeal is GRANTED. The Sewerage & Water Board shall reinstate Ms. Braxton-Robertson and shall reimburse her for all lost wages and other emoluments of employment from July 6, 2023, to the date of her reinstatement.

WRITER: Ruth White Davis
Ruth Davis (Apr 9, 2024 12:39 CDT)
RUTH DAVIS, COMMISSIONER

CONCUR: J H KORN
J H KORN (Apr 8, 2024 13:09 CDT)
JOHN KORN, VICE-CHAIRPERSON

Mark C. Surprenant
Mark C. Surprenant (Apr 8, 2024 14:00 CDT)
MARK SURPRENANT, COMMISSIONER