



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

Friday, April 25, 2025

Mr. Oliver Fletcher

Re: **Oliver Fletcher VS.
Department of Safety & Permits
Docket Number: 9653**

Dear Mr. Fletcher:

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 - 4/25/2025 - 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: Tammie Jackson
James M. Roquemore
Jay Ginsberg
file

**CIVIL SERVICE COMMISSION
CITY OF NEW ORLEANS**

**OLIVER FLETCHER,
Appellant**

Docket No. 9653

v.

**DEPARTMENT OF SAFETY &
PERMITS,
Appointing Authority**

DECISION

Appellant, Oliver Fletcher, brings this appeal pursuant to Article X, § 8(A) of the Louisiana Constitution and this Commission's Rule II, § 4.1 seeking relief from a five-day suspension imposed on September 6, 2024. (Exhibit HE-1). At all relevant times, Appellant had permanent status as a Code Enforcement Inspector I in the Department of Safety & Permits. (Tr. at 8). A Hearing Examiner, appointed by the Commission, presided over a hearing on November 7, 2024. 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 6, 2025, and controlling Louisiana law.

For the reasons set forth below, Mr. Fletcher's appeal is GRANTED IN PART and DENIED IN PART.

I. FACTUAL BACKGROUND

The Department of Safety & Permits suspended Mr. Fletcher for five days for engaging in political activity and for using sick leave when he was not sick. (Ex. HE-1). During the hearing, the Department of Safety & Permits withdrew the allegation that Mr. Fletcher engaged in political

activity, but argued that the use of sick leave, standing alone, justified a five-day suspension. (Tr. at 37).

Mr. Fletcher requested sick leave through Sharepoint, a file-sharing application, on August 12, 2024. (Tr. at 12). He requested to be off from work on August 13, 2024. (Tr. at 12). This request was approved, but the Department of Safety & Permits learned that he was at a cancer event at Tulane University with President Biden on August 13. (Tr. at 13-14).

Mr. Fletcher testified that he intended to request annual leave, and he illustrated how he could have made the mistake in Sharepoint. (Tr. at 67; Ex. Appellant-C). Mr. Fletcher also testified that he had annual leave available. (Tr. at 69). Two co-workers testified that they knew Mr. Fletcher intended to see President Biden on August 13, and that he never hid his plans for August 13. (Tr. at 59, 64).

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).

1. 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 disciplining 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”).

B. The Department of Safety & Permits has carried its burden of showing cause

Mr. Fletcher admitted he erroneously requested sick leave. Even though he requested the wrong type of leave, Mr. Fletcher was responsible for reviewing his time in ADP for accuracy,

including the application of leave. Mistakenly using sick leave instead of annual leave impairs the efficient operation of the Department of Safety & Permits. Under Civil Service Rules, sick leave is less valuable at separation from employment than annual leave. (*Compare* Civil Service Rule VIII, sections 1.6 and 2.6 (erroneously numbered 2.1)).

1. A five-day suspension is not commensurate with the violation.

The Department of Safety & Permits withdrew one of the bases for discipline but did not reduce the penalty. A five-day suspension is not commensurate with the mistaken use of sick leave. Even though he intended to request annual leave, Mr. Fletcher had an opportunity to review the type of leave applied to the absence in ADP, which he failed to do. Therefore, discipline is appropriate, but the least severe form of discipline, a letter of reprimand, is commensurate with the violation.

III. CONCLUSION

The Department of Safety & Permits shall reimburse Mr. Fletcher five days of backpay, along with all emoluments of employment. The discipline for the erroneous use of sick leave shall be reduced to a letter of reprimand.

WRITER:



JOHN KORN, VICE-CHAIRPERSON

CONCUR:



[Andrew Monteverde \(Apr 25, 2025 13:28 CDT\)](#)

ANDREW MONTEVERDE, COMMISSIONER



Ruth Davis (Apr 21, 2025 11:29 CDT)

RUTH DAVIS, COMMISSIONER