



CITY OF NEW ORLEANS

DEPARTMENT OF CITY CIVIL SERVICE
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CITY CIVIL SERVICE COMMISSION

REV. KEVIN W. WILDES, S.J.,
CHAIRMAN
AMY L. GLOVINSKY
JOSEPH S. CLARK
COLEMAN D. RIDLEY, JR.

LISA M. HUDSON
DIRECTOR OF PERSONNEL

MITCHELL J. LANDRIEU
MAYOR

Friday, June 14, 2013

Mr. Charles Love

Re: **Charles Love VS.
Department of Police
Docket Number: 7972**

Dear Mr. Love:

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 - 6/14/2013 - 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 blue ink, reading "Germaine Bartholomew".

Germaine Bartholomew
Chief, Management Services Division

cc: Ronal Serpas
Elizabeth S. Robins
Jay Ginsberg
file

CHARLES LOVE

CIVIL SERVICE COMMISSION

VERSUS

CITY OF NEW ORLEANS

DEPARTMENT OF POLICE

NO. 7972

Charles Love (“Appellant”) is employed by the Department of Police (“Appointing Authority”) as a Police Officer with permanent status. The Appellant received a one day suspension for violation of the Appointing Authority’s internal rules concerning Instructions from an Authoritative Source. The factual basis for the violation is contained in the second paragraph of the August 8, 2011 disciplinary letter, which provides as follows:

The investigation determined that on February 7, 2011, at approximately 11:00am, Sergeant Joel Schmidt, assigned to the Office of Compliance observed you working a paid detail at the Liberty Bank, located at 3002 Gentilly Boulevard... A check of the Office of Compliance Detail Data Base confirmed that you did not have a current approved detail request Form 21 approving you to work the detail. As such you violated Rule 4: Performance of Duty, paragraph 2 – Instructions from an Authoritative Source to wit: Chapter 22.8 paragraph 26.

The matter was assigned by the Civil Service Commission to a Hearing Examiner pursuant to Article X, Section 12 of the Constitution of the State of Louisiana, 1974. The hearing was held on October 18, 2012. The testimony presented at the hearing was transcribed by a court reporter. The three undersigned members of the Civil Service Commission have reviewed a copy of the transcript and all documentary evidence.

Sgt. Michael Stalbert conducted the internal investigation. He confirmed that the Appellant failed to complete the annual detail approval form as required. He also confirmed that the Appellant admitted that he failed to complete the form.

The Appellant testified that the Liberty Bank detail was outside employment that he had held for several years. He stated that his failure to follow the internal rule was an

oversight. He contends that the Appointing Authority has disciplined him twice for the same violation by suspending his detail privileges for 30 days and also suspending his employment for one day.

LEGAL PRECEPTS

An employer cannot discipline an employee who has gained permanent status in the classified city civil service except for cause expressed in writing. LSA Const. Art. X, sect. 8(A); *Walters v. Department of Police of New Orleans*, 454 So. 2d 106 (La. 1984). The employee may appeal from such a disciplinary action to the city Civil Service Commission. The burden of proof on appeal, as to the factual basis for the disciplinary action, is on the appointing authority. *Id.*; *Goins v. Department of Police*, 570 So 2d 93 (La. App. 4th Cir. 1990).

The Civil Service Commission has a duty to decide independently, based on the facts presented, whether the appointing authority has good or lawful cause for taking disciplinary action and, if so, whether the punishment imposed is commensurate with the dereliction. *Walters, v. Department of Police of New Orleans, supra*. Legal cause exists whenever the employee's conduct impairs the efficiency of the public service in which the employee is engaged. *Cittadino v. Department of Police*, 558 So. 2d 1311 (La. App. 4th Cir. 1990). The appointing authority has the burden of proving the occurrence of the complained of activity by a preponderance of the evidence and that the conduct complained of impaired the efficiency of the public service. *Id.* The appointing authority must also prove the actions complained of bear a real and substantial relationship to the

efficient operation of the public service. *Id.* While these facts must be clearly established, they need not be established beyond a reasonable doubt. *Id.*

CONCLUSIONS

The Appointing Authority has established by a preponderance of evidence that it disciplined the Appellant for good cause. The Appellant's failure to renew his detail approval documentation violated internal rules. Further, the Appellant's contention that the Appointing Authority has disciplined him twice for the same violation is without merit. We have previously ruled that the revocation of detail privileges is not a disciplinary action as defined by Civil Service Rules and not appealable. Consequently, the Appointing Authority's decision to suspend the Appellant's employment for one day

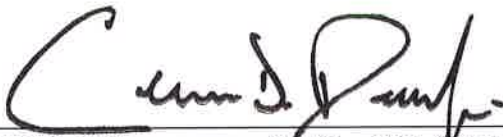
C. Love
#7972

was the only disciplinary action taken.

Considering the foregoing, the Appellant's appeal is DENIED.

RENDERED AT NEW ORLEANS, LOUISIANA THIS 14th DAY OF JUNE,
2013.

CITY OF NEW ORLEANS
CIVIL SERVICE COMMISSION



COLEMAN D. RIDLEY JR., COMMISSIONER

CONCUR:



JOSEPH S. CLARK, COMMISSIONER



REV. KEVIN W. WILDES, S.J., CHAIRMAN