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DEPARTMENT OF CITY CIVIL SERVICE
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CITY CIVIL SERVICE COMMISSION

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DIRECTOR OF PERSONNEL

Friday, October 26, 2012

Ms. Shannon Carr

Re: **Shannon Carr VS.
Department of Police
Docket Number: 7503**

Dear Ms. Carr:

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 - 10/26/2012 - filed in the Office of the Civil Service Commission in Room 7W03, City Hall, 1300 Perdido Street, 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 cursive script, reading "Germaine Bartholomew".

Germaine Bartholomew
Chief, Management Services Division

cc: Ronal Serpas
Isaka Williams
Jay Ginsberg
file

SHANNON CARR

CIVIL SERVICE COMMISSION

VERSUS

CITY OF NEW ORLEANS

DEPARTMENT OF POLICE

NO. 7503

Appellant is a Police Officer II with permanent status. She was first hired by the Appointing Authority on December 24, 2000, and was promoted to her current class on March 1, 2007. The Appellant received a letter of reprimand for violation of the Appointing Authority's internal regulation concerning Instructions from an Authoritative Source. As reflected in the disciplinary letter:

On Wednesday, October 17, 2007, at or about 3:20 p.m., Sergeant Salvant observed you seated in your vehicle, approached you and asked you to return to the trailer to perform your duties. You replied to him, "Your (sic) going to reap what you sow", and drove out the parking complex...

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 January 20, 2011. 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.

Lt. Grafton Salvant testified that he was the supervisor in charge of the Administrative Duties Division ("ADD"), which administers the time and duties of injured officers that are out of work or working in a temporary limited duty capacity. On October 17, 2007 the Appellant reported for duty at ADD. According to Lt. Salvant, he informed the Appellant that her hours were from 9:00 a.m. until 5:35 p.m. At approximately 3:20 a.m., Lt. Salvant returned to the trailer that housed ADD, and found the Appellant sitting in her car. He instructed her to return to the trailer to perform her

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duties. In response, the Appellant stated she had not taken her lunch and that she was leaving. He also stated that she told him that he was going to reap what he sowed.

The Appellant testified that it was her first day back to work, and that she received no instructions from anyone regarding when and where she was to report. She reported to her regular assignment at the Seventh Police District at 6:25 a.m. only to learn that she was required to report to ADD.¹ She met with Lt. Salvant at ADD. She testified that they never discussed her work hours. During the course of the day she reported to court to testify. When she returned to ADD, there was nothing for her to do. Lt. Salvant was not there and she asked the administrative assistant what duties she could perform. Because there was nothing for her to do, she informed the administrative assistant that she was going to organize some files that were in her car. Lt. Salvant drove up and confronted her. He wanted to know why she was in the car. She told him that there was nothing for her to do. He told her that she was supposed to answer the phones and that she was to return to the trailer to perform her duties. The Appellant asked if she could take her lunch break, and Lt. Salvant said no. The discussion escalated and the Appellant left. She testified that she had already worked more hours than her shift required, and that the discussion had become too intense for her to return to the trailer.

LEGAL PRECEPTS

An employee who has gained permanent status in the classified city civil service cannot be subjected to disciplinary action by his employer 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

¹ The Appellant later learned that because her return date was in the middle of a pay period she had to complete the days left in the pay period with ADD.

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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 from 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 by a preponderance of the evidence the occurrence of the complained of activity 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.

It is likely that the Appellant was not clear as to her working hours and that for some reason she and Lt. Salvant could not discuss the issue in a civil manner. Nevertheless, the Appellant violated internal rules regarding Instructions from an Authoritative Source when she failed to return to the trailer as instructed by her

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supervisor. Had she done so, the matter could have been resolved.

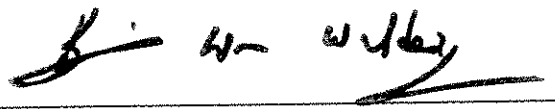
Considering the foregoing, the Appellant's appeal is DENIED.

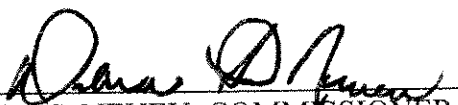
RENDERED AT NEW ORLEANS, LOUISIANA THIS 26th DAY OF
OCTOBER, 2012.

CITY OF NEW ORLEANS
CIVIL SERVICE COMMISSION


AMY L. GLOVINSKY, COMMISSIONER

CONCUR:


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


DEBRA S. NEVEU, COMMISSIONER