



CITY OF NEW ORLEANS

DEPARTMENT OF CITY CIVIL SERVICE
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CITY CIVIL SERVICE COMMISSION
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ANDREW MONTEVERDE

AMY TREPAGNIER
DIRECTOR OF PERSONNEL

Monday, December 18, 2023

Ms. Qiana Anderson

Re: **Qiana Anderson VS.**
Department of Safety & Permits
Docket Number: 9491

Dear Ms. Anderson:

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 - 12/18/2023 - 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: Tammie Jackson
Max V. Camp
Christina Carroll
file

**CIVIL SERVICE COMMISSION
CITY OF NEW ORLEANS**

**QIANA ANDERSON,
Appellant**

Docket No. 9491

v.

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

DECISION

Appellant, Qiana Anderson, 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 letter of reprimand dated July 31, 2023. (Exhibit HE-1). At all relevant times, Appellant had permanent status as a Management Development Specialist I. Beginning in January of 2023, Ms. Anderson began working as an Adjudication Specialist. (Tr. at 51, 62, 64). A Hearing Examiner, appointed by the Commission, presided over a hearing on October 23, 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 November 20, 2023, and controlling Louisiana law.

For the reasons set forth below, Ms. Anderson's appeal is DENIED.

I. FACTUAL BACKGROUND

In her new role as an Adjudication Specialist, Ms. Anderson began supervising other employees. (Tr. at 51, 62, 64). These employees complained about Ms. Anderson discussing deficiencies in their work performance with their coworkers. (Tr. at 8-9, 26,27, 38). Ashley Becnel, Ms. Anderson's direct supervisor, instructed her not to discuss one subordinate's job performance

with other subordinates. (Tr. at 9, 12). A human resources manager assigned to Safety & Permits also instructed Ms. Anderson not to discuss one employee's job performance with other employees. (Tr. at 25). Despite these instructions, Ms. Anderson criticized one employee's job performance in a meeting with the human resources manager and another employee. (Tr. at 23-24). During the hearing of this matter, Ms. Anderson admitted she had received this instruction and that she had repeated the behavior despite the informal counseling. (Tr. at 65-66).

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

The Department of Safety & Permits has shown the occurrence of the complained-of conduct. Ms. Anderson admitted she engaged in a discussion of one employee’s job performance with another employee after being instructed to refrain from this behavior. (Tr. at 65-66).

The Department of Safety & Permits also carried its burden of showing that the conduct impaired the efficient operation of the department. Ms. Becnel testified that a supervisor’s discussion of a subordinate’s job performance with that employee’s co-workers is inconsiderate.

CAO Policy Memorandum 83(R) and Safety & Permits internal policy require considerate behavior. (Ex. S&P-1; Ex. S&P-2). The Director of Safety & Permits testified that Ms. Anderson's conduct leads to conflict among employees. (Tr. at 41-42). So, this behavior has a negative effect on employee morale. In addition, Ms. Anderson's failure to follow her supervisor's instruction impaired the efficient operation of the department.

1. The discipline is commensurate with the violation

After Ms. Anderson failed to respond to informal counseling, the Department of Safety & Permits imposed the least severe form of discipline, a written reprimand. This discipline is commensurate with the violation.

The appeal is DENIED.

This the 18th day of December, 2023.

WRITER:


Mark C. Surprenant
Mark C. Surprenant (Dec 18, 2023 16:09 CST)
MARK SURPRENANT, COMMISSIONER

CONCUR:

Ruth White Davis
Ruth Davis (Dec 18, 2023 16:40 CST)
RUTH DAVIS, COMMISSIONER

DISSENT BY COMMISSIONER MONTEVERDE

The July 31, 2023, letter of discipline states that “[n]o punitive action is being taken against you.” (Ex. HE-1 at 2). I would grant the appeal because of the misleading nature of the letter of discipline. A letter of reprimand is formal discipline, and the Appointing Authority may rely on the existence of this discipline to impose more severe discipline in the future.



Andrew Monteverde (Dec 18, 2023 16:23 CST)

ANDREW MONTEVERDE, COMMISSIONER