



CITY OF NEW ORLEANS

DEPARTMENT OF CITY CIVIL SERVICE
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CITY CIVIL SERVICE COMMISSION
BRITTNEY RICHARDSON, CHAIRPERSON
JOHN KORN, VICE-CHAIRPERSON
CLIFTON J. MOORE
MARK SURPRENANT
RUTH WHITE DAVIS

Monday, January 24, 2022

AMY TREPAGNIER
DIRECTOR OF PERSONNEL

Mr. Byron Joseph Jr.

Re: **Byron Joseph Jr. VS.
Sewerage & Water Board
Docket Number: 9191**

Dear Mr. Joseph:

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 - 1/24/2022 - 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 "Roddie K. Smith".

Doddie K. Smith
Chief, Management Services Division

cc: Ghassan Korban
Joseph Zanetti
Christina Carroll
file

**CIVIL SERVICE COMMISSION
CITY OF NEW ORLEANS**

**BYRON JOSEPH, JR.,
Appellant**

Docket No. 9191

v.

**SEWERAGE & WATER BOARD,
Appointing Authority**

DECISION

Appellant, Byron Joseph, Jr., brings this appeal pursuant to Article X, § 8(A) of the Louisiana Constitution and this Commission's Rule II, § 4.1 seeking relief from his 30-day suspension beginning July 25, 2020. (Exhibit HE-1). At all relevant times, Appellant had permanent status as a Maintenance Technician I. (Tr. at 24; HE-1). A Hearing Examiner, appointed by the Commission, presided over a hearing on November 6, 2020. 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 March 1, 2021, and controlling Louisiana law.

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

I. ANALYSIS

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). 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 suspending and terminating the classified employee and, if so, whether such discipline was commensurate with the dereliction. *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 carried its burden of proving that the complained-of conduct occurred. The video of the May 8, 2020, incident shows that Appellant was discourteous to his supervisor, failing to respond to his supervisor's direction to open the door to his vehicle. (Tr. at 14). Instead, Appellant began recording his supervisor with his phone. (Tr. at 14). Appellant also admitted the use of profanity to his supervisor, although Appellant said he used profanity because his supervisor "almost slammed [his] leg in the door." (Tr. at 27). The undersigned Commissioners note that Appellant's supervisor was also disciplined for this incident. (Tr. at 15, 22). Joseph's failure to respond to a directive of his supervisor and his discourtesy to his supervisor impair the efficient operation of the Sewerage & Water Board.

In this case, the undersigned Commissioners find that the discipline, a 30-day suspension, is commensurate with the dereliction. The Sewerage & Water Board imposed a 30-day suspension on Joseph for a sleeping incident which occurred on December 5, 2019. (Tr. at 5-6). The Sewerage & Water Board held this discipline in abeyance on the condition that Joseph not be subject to corrective action for a period of 12 months. (Tr. at 5-6).

The appeal is DENIED.

This the 24th day of January, 2022.

WRITER:

CJ Moore
CJ Moore (Jan 24, 2022 06:11 CST)

CLIFTON J. MOORE, JR., COMMISSIONER

CONCUR:

J H Korn
J H Korn (Jan 7, 2022 16:49 CST)

JOHN KORN, VICE-CHAIRPERSON

Ruth White Davis
Ruth Davis (Jan 7, 2022 15:49 CST)

RUTH DAVIS, COMMISSIONER