



CITY OF NEW ORLEANS

DEPARTMENT OF CITY CIVIL SERVICE
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CITY CIVIL SERVICE COMMISSION

REV. KEVIN W. WILDES, S.J.,
CHAIRMAN
JOSEPH S. CLARK
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EDWARD PAUL COHN
RONALD P. MCCLAIN

MITCHELL J. LANDRIEU
MAYOR

Wednesday, April 23, 2014

LISA M. HUDSON
DIRECTOR OF PERSONNEL

Ms. Trenika Honore

Re: **Trenika Honore VS.
Department of Public Works
Docket Number: 8101**

Dear Ms. Honore:

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 - 4/23/2014 - 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: Mark D. Jernigan, P.E.
Elizabeth S. Robins
Jay Ginsberg
file

TRENIKA HONORÉ

CIVIL SERVICE COMMISSION

VERSUS

CITY OF NEW ORLEANS

DEPARTMENT OF PUBLIC WORKS

NOS. 8101 & 8124

The Department of Public Works (“Appointing Authority”) employed Trenika Honoré (“Appellant”) as a Parking Control Officer with permanent status. The Appointing Authority terminated the Appellant by letter dated January 14, 2013. The disciplinary letter (Hearing Examiner #2) does not provide the written cause for the disciplinary action taken. Prior to her termination, the Appointing Authority placed the Appellant on emergency suspension and contends that the factual basis for the emergency suspension contained in the October 17, 2012 notice (Hearing Examiner #1) also reflects the reasons for the final disciplinary action.¹ The Emergency Suspension letter provides:

On Friday, October 12, 2012 at approximately, 7:50 pm Supervisor II, Carl Bridgewater gave you a directive which you refused to comply with. He gave you a directive to meet him at the auto pound so that he could pick you up. You refused his directive by telling him in a loud and hostile manner that “I do not want to work with you”. Right after your altercation with Mr. Bridgewater you got into your car and drove off while on duty. Your refusal to follow a directive from a Supervisor II is a clear violation of our departmental policy and a blatant violation of the Parking Division’s Code of Conduct...

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 March 21, 2013 and May 16, 2013. The testimony presented at the hearing was transcribed by a court reporter. The three undersigned members of the Civil

¹ The Emergency Suspension letter provided “examples” of previous violations of the Appointing Authority’s rules. However, with the exception of what was characterized as “cell phone suspension”, the other alleged violations did not result in disciplinary action as defined by Civil Service rules. The Appointing Authority acknowledged that the October 12, 2012 incident justified termination standing alone.

Service Commission have reviewed a copy of the transcript and all documentary evidence.

Carl Bridgewater, Supervisor II, testified that he was the Appellant's immediate supervisor on October 12, 2012. The Appellant was working the 3:00 pm to 11:00 pm shift with a partner, Danielle Johnson. Mr. Bridgewater stated that he received a call from Ms. Johnson at approximately 7:00 pm informing him that she was not feeling well and wanted to leave early because of illness. He instructed Ms. Johnson to park her City vehicle in front of the office building on Poydras Street and he would be there to transport the Appellant.

Mr. Bridgewater explained that departmental protocol required Ms. Johnson to return to the office and complete the required documentation before departing for the day. He also explained that during the evening hours parking control officers work in pairs as to better guard their safety while working on the streets. As a consequence, Mr. Bridgewater determined that he would complete Ms. Johnson's shift as the Appellant's partner.

When Mr. Bridgewater pulled up to the office building, Ms. Johnson had already signed out and was leaving the building. The Appellant was not with her. Mr. Bridgewater testified that he called the Appellant to determine her whereabouts and to complete the shift. According to Mr. Bridgewater, when he spoke to the Appellant and informed her that they would complete the shift as partners, she responded that she did not want to work with him. He told the Appellant to meet him at the auto pound where she parks her assigned vehicle. Mr. Bridgewater drove to the auto pound and picked up

the Appellant. According to Mr. Bridgewater, the Appellant again told him that she did not want to work with him. Mr. Bridgewater testified that after the Appellant entered his vehicle, she asked him if he was driving her to her personal vehicle. In response, Mr. Bridgewater told her that they were going to the office to complete paperwork regarding her refusal to continue her shift. At the intersection of Poydras Street and S. Claiborne Avenue, the Appellant jumped out of his vehicle, walked to her personal vehicle, and drove to the Poydras office, where both she and Mr. Bridgewater completed their statements and other paperwork.

Mr. Bridgewater testified that he did not know why the Appellant did not want to work with him. He also stated that the Appellant gave no other alternative explanation for leaving early including any claim that she was sick. He also stated that the Appellant did not appear to have any problem walking. Mr. Bridgewater stated that he recommended that the Appointing Authority suspend the Appellant for her insubordinate behavior.

The Appellant testified that she never told Mr. Bridgewater that she did not want to work with him. She stated that she informed Mr. Bridgewater that she was sick and wanted to go home. Otherwise, her version of events is factually similar to Mr. Bridgewater's. The only other variation was that the Appellant claimed that Mr. Bridgewater kept moving forward while she was trying to exit the vehicle causing her to twist her ankle.

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.*

CONCLUSION

The Appointing Authority has established by a preponderance of evidence that it disciplined the Appellant for cause. Mr. Bridgewater's version of events was more

credible. He stated that the Appellant refused to complete her shift without any reasonable justification including illness. While the Appellant had no significant disciplinary history, and a lesser penalty would have been appropriate, we cannot say that the Appointing Authority abused its discretion by terminating her employment.

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

RENDERED AT NEW ORLEANS, LOUISIANA THIS 23rd DAY OF
April, 2014.

CITY OF NEW ORLEANS
CIVIL SERVICE COMMISSION

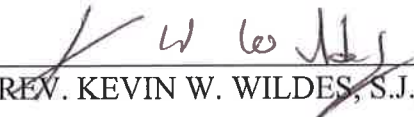


RONALD P. MCCLAIN, COMMISSIONER

CONCUR:



JOSEPH S. CLARK, COMMISSIONER



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