CITY OF NEW ORLEANS

DEPARTMENT OF CITY CIVIL SERVICE
SUITE 900 - 1340 POYDRAS ST.
NEW ORLEANS, LA 70112
(504)658-3500 FAX NO. (504) 658-3598

Thursday, July 31, 2025

Mr. Louis Robein
2540 Severn Avenue, Suite 400
Metairie, LA 70002

Re: **Donald Adams VS.**
Department of Fire
Docket Number: 9608

Dear Mr. Robein:

Attached is the decision of the City Civil Service Commission in the above-referenced 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 - 7/31/2025 - 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,

Doddie K. Smith
Chief, Management Services Division

cc: Roman Nelson
William R. H. Goforth
Imtiaz A. Siddiqui
Donald Adams

file

CIVIL SERVICE COMMISSION
CITY OF NEW ORLEANS

DONALD ADAMS,
Appellant

Docket No. 9608

v.

DEPARTMENT OF FIRE,
Appointing Authority

DECISION

Appellant, Firefighter Donald Adams, 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 48-hour suspension communicated by letter dated April 22, 2024. (Exhibit HE-1). At all relevant times, Appellant had permanent status as a Firefighter. A Hearing Examiner, appointed by the Commission, presided over a hearing on August 23, 2024. 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 post-hearing briefs of the parties, the Hearing Examiner's report dated May 9, 2025, and controlling Louisiana law.

For the reasons set forth below, Firefighter Adams's appeal is GRANTED.

I. PERTINENT FACTUAL BACKGROUND

On March 20, 2024, Captain Randolph Edwards charged Firefighter Adams with violating NOFD's Rules and Regulations number 57, concerning "freelancing" on March 17, 2024, during an incident at the courthouse. (Tr. at 21; Ex. NOFD-2). Captain Edwards testified that he initiated the investigation on March 20. (Tr. at 27). The charging documents did not identify an investigator,

and Firefighter Adams and Captain Edwards both testified that no Firefighter Bill of Rights protections were provided to Firefighter Adams on March 20. (Ex NOFD-2; Tr. at 37, 193). Firefighter Adams submitted a special report to Superintendent Nelson on March 20 about this incident. (Ex. NOFD-7).

On April 13, 2024, Deputy Chief David Castle notified Firefighter Adams of the pre-disciplinary hearing scheduled for April 16, 2024. (Ex. NOFD-3). Chief Castle identified the persons who would be present at the hearing and identified himself as the person conducting the interrogation. (Ex. NOFD-3). Chief Castle stated in these documents that the investigation began on March 20, 2024. (Ex. NOFD-3).

Following the hearing on April 16, 2024, District Chief Thomas Ussin collected special reports from the other firefighters who were present on March 17, 2024, at the incident at the courthouse. (Tr. at 140). Dissatisfied with "grammar errors, syntax errors, and sentence structure" of the special reports, Chief Ussin corrected the special reports for signature by the two firefighters. (Tr. at 140). Firefighter Donseroaux testified that Chief Ussin informed him his original special report would be "kicked back," so Chief Ussin sent him another version. (Tr. at 60, 67). Operator Milton Smith also testified that his special report was "rewritten and sent to me." (Tr. at 95).

Superintendent Nelson informed Firefighter Adams of the 48-hour suspension on April 22, 2024. (Ex. HE-1).

II. ANALYSIS

As a threshold issue, New Orleans Fire Department's discipline of Firefighter Adams must comply with the Firefighter Bill of Rights, La. R.S. 33:2181 *et seq*. The Firefighter Bill of Rights applies to a "fire employee," defined as "any person employed in the fire department of any municipality . . . under investigation with a view to possible disciplinary action, demotion, or

dismissal." La. R.S. § 33:2181(A)(1). Any discipline imposed without strict compliance with the minimum standards is an absolute nullity. La. R.S. § 33:2181(C). The Firefighter Bill of Rights contains a notice provision: "Prior to commencing a formal investigation of a fire employee, the appointing authority shall notify the employee in writing of the nature of the investigation, of the *identity and authority of the person conducting the investigation*, and of the specific charges or violations being investigated." La. R.S. 33:2181(B)(1) (emphasis added).

Firefighter Adams has taken the position that the discipline is an absolute nullity because NOFD commenced a formal investigation without complying with the notice provisions of the Firefighter Bill of Rights on March 20, 2024, specifically the requirement of the identification of the investigator. (Appellant's Post-Hearing Memorandum). Firefighter Adams also argues that NOFD failed to identify an investigator, District Chief Thomas Ussin. (Appellant's Post-Hearing Memorandum).

NOFD has taken the position that at the time Captain Edwards charged Firefighter Adams on March 20, Captain Edwards or Superintendent Nelson would have been the investigator. (Post-Hearing Memorandum of Appointing Authority at 2). Captain Edwards is identified as the "initiating officer" on the charge document. (Ex. NOFD-2).

The Firefighter Bill of Rights required NOFD to identify the investigator "[p]rior to commencing a formal investigation." La. R.S. 33:2181(B)(1). Therefore, the first issue is when NOFD commenced a formal investigation, triggering the identification of the investigator under La. R.S. 33:2181(B)(1). The undersigned Commissioners find that NOFD informed Firefighter Adams he was under investigation on March 20, 2024, through the charging documents. (Ex. NOFD-2). Although an "initial inquiry" by a direct supervisor is excepted from the definition of "interrogation" under La. R.S. 33:2181(A)(2), charging a firefighter with a violation of NOFD

policy exceeds an initial inquiry. *Clair v. Dep't of Fire,* No. 9354 (Civil Service Comm'n 6/5/23)[1]. In addition, the April 13 Notice of Pre-Disciplinary Hearing, prepared by Deputy Chief David Castle, reiterates that the investigation began on March 20, 2024. (Ex. NOFD-3). The Fourth Circuit has relied on the date of NOFD's Notification of Formal Investigation, notably absent in this appeal, when determining the date an investigation began. *Pitre v. Dep't of Fire,* 2021-0632 (La. App. 4 Cir. 4/20/22), 338 So. 3d 70, 78, *writ denied,* 347 So.3d 152 (La. 9/27/22) (quoting *Bergeron v. City of Kenner*, 10-229 (La. App. 5 Cir. 10/26/10), 51 So.3d 143, 147)).

The second issue is whether NOFD complied with the Firefighter Bill of Rights on March 20, 2024. Captain Edwards and Firefighter Adams both testified that no Firefighter Bill of Rights protections were provided to Firefighter Adams on March 20. (Tr. at 37, 193). The March 20, 2024, charging document fails to identify the investigator, as required by La. R.S. 33:2181(B)(1). (Ex. NOFD-2). Therefore, NOFD failed to comply with the Firefighter Bill of Rights.

The applicable statute requires strict compliance: "Any discipline, demotion, dismissal or adverse action of any sort taken against a fire employee without complete compliance with the provisions of this Subpart is an absolute nullity." La. R.S. 33:2181(C). NOFD's own documents and testimony by its own witnesses establish that the investigation began on March 20. Therefore, NOFD's failure to identify the investigator renders the discipline an "absolute nullity" under La. R.S. La. R.S. § 33:2181(C).

District Chief Thomas Ussin's correction and rewriting of the special reports of the firefighters at the scene also rises to the level of investigation, and NOFD failed to identify Chief Ussin as an investigator, failing to comply with the Firefighter Bill of Rights.

[1] This decision is publicly available at nola.gov/getattachment/176b6311-ae9c-4773-8fdf-e60b25796bb7/Clair,-Corey-9354/.

Therefore, the Commission GRANTS Firefighter Adams's appeal. NOFD shall reimburse Firefighter Adams for the 48-hour suspension, along with all emoluments of employment, and shall remove the April 22, 2024, discipline from his record.

WRITER:

Mark C. Surprenant

Mark C. Surprenant (Jul 30, 2025 14:07:32 CDT)

MARK SURPRENANT, COMMISSIONER

CONCUR:

John Korn, Vice-Chairperson (Jul 30, 2025 14:58:18 EDT)

JOHN KORN, VICE-CHAIRPERSON

Ruth White Davis

Ruth Davis (Jul 31, 2025 16:18:38 CDT)

RUTH DAVIS, COMMISSIONER