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CITY CIVIL SERVICE COMMISSION

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CHAIRMAN
DEBRA S. NEVEU
AMY L. GLOVINSKY
JOSEPH S. CLARK

LISA M. HUDSON
DIRECTOR OF PERSONNEL

Tuesday, May 07, 2013

Ronald L. Wilson
701 Poydras Street Suite 4100
New Orleans, La. 70139

Re: **Shelita Boudreaux VS.
Office of Inspector General
Docket Number: 7961**

Dear Mr. Wilson:

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 - 5/7/2013 - 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: Edouard Quatrevaux
Michael Fantaci
Jay Ginsberg

SHELITA BOUDREAUX

CIVIL SERVICE COMMISSION

VS.

CITY OF NEW ORLEANS

OFFICE OF INSPECTOR GENERAL NO. 7961

The Office of Inspector General (“Appointing Authority”) employed Shelita Boudreaux (“Appellant”) as an Investigator II with permanent status. By letter dated December 29, 2011, the Appointing Authority terminated the Appellant for lying under oath. The circumstances that resulted in the Appellant’s termination concerned issues of candor relating to the alleged purchase of eight to ten pounds of shrimp for an office sponsored crawfish boil. The Appointing Authority determined that the Appellant accepted the shrimp from a seafood business without charge because of her position with the Appointing Authority and, when questioned regarding the shrimp, she falsely testified under oath that she purchased the shrimp at a Rouses Grocery Store. When confronted with evidence that the shrimp was not purchased at Rouses, she changed her story, which the Appointing Authority did not accept.

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 April 11, 2012. 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.

Howard Schwartz, the First Asst. Inspector General, testified that he supervises the Investigations Department of the Appointing Authority. The Appellant was employed as one of his investigators. Mr. Schwartz recommended the Appellant’s termination after investigating a complaint by one of the Appellant’s co-workers, Kristen Morales. The original complaint concerned the Appellant’s use of Ms. Morales’ personal credit card to purchase a fourth sack of

crawfish for an office party. Ms. Morales asked the Appellant to use her credit card to purchase a fourth sack of crawfish because she feared that three sacks were not enough. Long after the event, which occurred on May 13, 2011, Mr. Schwartz learned of potential acts of misconduct by the Appellant concerning the Appellant's use of Ms. Morales' credit card to buy crawfish. Ultimately, none of those potential acts of misconduct had merit. However, through the course of the investigation, Mr. Schwartz uncovered other issues that caused him concern.

Mr. Schwartz first spoke to the Appellant on August 30, 2011. He confirmed that the Appellant used Ms. Morales' credit card to order and purchase a sack of crawfish at Kjean's Seafood on May 12, 2011. Three sacks of crawfish were ordered and purchased the previous day by another employee. He also confirmed that the Appellant purchased other items for the event at Rouses later that evening. The Appellant informed Mr. Schwartz that she purchased certain items for the event, including shrimp, with Ms. Morales' authorization along with certain items for herself. She itemized the personal items and reimbursed Ms. Morales \$60.00. The Appellant also informed Mr. Schwartz that Derrick Wells, a friend that agreed to prepare the seafood, accompanied her to Rouses.

Mr. Schwartz also interviewed Mr. Wells who corroborated the Appellant's version of events, including the purchase of shrimp at Rouses. Mr. Wells confirmed that on May 13, 2011, he picked up the four sacks of crawfish at Kjean's and prepared them at City Park, along with the shrimp that they purchased at Rouses.

However, when Mr. Schwartz obtained a copy of the Rouses receipt on September 22, 2011, there was no purchase of shrimp reflected. Mr. Schwartz stated that the investigation would have concluded with no findings of misconduct if the purchase of the shrimp had been part of the purchase.

On October 11, 2011, Mr. Schwartz took the Appellant's sworn statement and confronted her with the Rouses receipt. According to Mr. Schwartz, the Appellant immediately changed her story stating that she actually purchased the shrimp earlier in the day at another establishment in New Orleans East called Castnet's. The Appellant informed Mr. Schwartz that she purchased the shrimp with cash and did not have a receipt.

The Appointing Authority has a strict policy forbidding any of its employees from accepting anything of value from third parties because of the nature of the office's mission. Because the office audits and investigates the City of New Orleans in efforts to discourage and uncover acts of fraud or dishonesty, its employees are mandated to maintain the very highest standards of conduct. On October 14, 2012, after the Appellant provided an alternative explanation as to how she obtained the shrimp, Investigator Fredrick Boyd interviewed Kjean's owner, Kenan Buchert. Mr. Buchert informed Mr. Boyd that on May 12, 2012, he received a call from his employee, Tiffine Lacaze, while the Appellant and another co-worker were purchasing the fourth sack of crawfish. He instructed Ms. Lacaze to give them as "lagniappe" eight to ten pounds of shrimp to thank them for their business. Ms. Lacaze did not remember whether or not she gave the Appellant free shrimp.

Mr. Schwartz concluded that the Appellant was untruthful when she initially informed him that she bought the shrimp at Rouses and that she compounded her dishonestly by concocting an explanation that she actually bought the shrimp at Castnet's. He stated that had the Appellant acknowledged that she received the shrimp as a gratuity from Kjean's, he would have instructed her to pay for the shrimp to remedy the indiscretion. Instead, because she was less than candid, he no longer could trust her to perform the duties of an investigator.

Ed Quatrevaux, the Inspector General, testified that he reviewed Mr. Schwartz' report and conducted the Appellant's pre-termination hearing. He accepted Mr. Schwartz' recommendation and terminated the Appellant. Mr. Quatrevaux stated that the Appellant's lack of candor was important because of the nature of the job she performed. He further stated that the Appellant had access to sensitive and confidential information, and that his office could not retain someone who lied because it affected the credibility of the entire office. Mr. Quatrevaux concluded that the Appellant was lying and not simply mistaken because Mr. Wells perpetuated the same lie and offered the same excuse. According to Mr. Quatrevaux, the Appellant and Mr. Wells concocted an account as to the origin of the shrimp to conceal that the shrimp was given to them by Kjean's. He acknowledged that he could not prove beyond a reasonable doubt that the shrimp came from Kjean's, but that the evidence was strong enough to satisfy his suspicions.

The Appellant testified that she was truthful at all times. She stated that because of the passage of so much time she forgot that she purchased the shrimp from Castnet's and not Rouses. She insisted that she did not coach Mr. Wells or tell him to falsely state that the shrimp came from Rouses. The Appellant stated that she tried to obtain evidence from Castnet's that she purchased shrimp from their store, but with the passage of so much time no one remembered her. She also stated that she paid for the shrimp with her own cash and that it was prepared and served at the gathering of her co-workers. She insisted that she would never accept free shrimp from a business because she knew it was against the policy of the Inspector General's Office.

Mr. Wells testified that he was asked by the Appellant to prepare the crawfish. He stated that he actually thought the shrimp came from Rouses when he was questioned by Mr. Schwartz. He denied conspiring with the Appellant to conceal the actual origins of the shrimp that were

consumed at the crawfish boil. Mr. Wells stated that, because of the passage of time and his limited involvement in the planning of the event, he made a mistake.

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 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.*

CONCLUSION

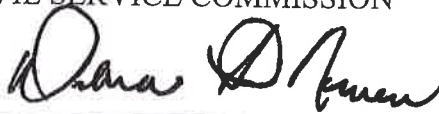
The Appointing Authority has established by a preponderance of evidence that the Appellant purposely obscured how she obtained shrimp for an office party to avoid admitting that she violated internal rules regarding the acceptance of gratuities from third parties. Because of the nature of the position held by the Appellant, we agree that complete candor is an essential requirement of the position.

While it may seem harsh to terminate an otherwise capable employee for a minor indiscretion, we cannot say that the Appointing Authority has abused its discretion.

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

RENDERED AT NEW ORLEANS, LOUISIANA THIS 7th DAY OF MAY, 2013.

CITY OF NEW ORLEANS
CIVIL SERVICE COMMISSION

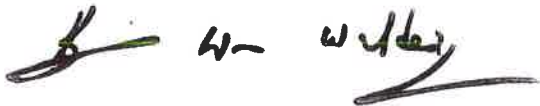


DEBRA S. NEVEU, COMMISSIONER

CONCUR:



JOSEPH S. CLARK, COMMISSIONER



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