



# CITY OF NEW ORLEANS

DEPARTMENT OF CITY CIVIL SERVICE  
SUITE 900 - 1340 POYDRAS ST.  
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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 31, 2022

AMY TREPAGNIER  
DIRECTOR OF PERSONNEL

Mr. Sheldon Howard

Re: **Sheldon Howard VS.  
Department of Parks & Parkways  
Docket Number: 9249**

Dear Mr. Howard:

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 - 1/31/2022 - 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 "Doddie K. Smith".

Doddie K. Smith  
Chief, Management Services Division

cc: Michael Karam  
Eraka Williams Delarge  
Alexandra Mora  
file

**CIVIL SERVICE COMMISSION  
CITY OF NEW ORLEANS**

**SHELDON HOWARD,  
Appellant**

**Docket No. 9249**

v.

**DEPARTMENT OF PARKS AND  
PARKWAYS,  
Appointing Authority**

**DECISION**

Appellant, Sheldon Howard, 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 emergency suspension on January 25, 2021, and his January 29, 2021, termination of employment. (Ex. HE-1, HE-2). At all relevant times, Appellant had permanent status as a Laborer. (Tr. at 9, 82). A Hearing Examiner, appointed by the Commission, presided over a hearing on April 20, 2021. 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 October 27, 2021, and controlling Louisiana law.

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

**I. FACTUAL BACKGROUND**

The Department of Parks and Parkways suspended and terminated Sheldon Howard for engaging in an altercation with another laborer on his crew, James Williams, on Friday, January 22, 2021. (Ex. HE-1, HE-2). Parks and Parkways maintains the public green spaces. (Tr. at 77). The laborers work in a crew. (Tr. at 12). On January 22, 2021, Sheldon Howard and James Williams, both laborers for the Department and Parkways were working in the same crew at

Conrad Park, located at Hollygrove Street and Olive Street. (Tr. at 12, 22). The crew was in uniform, and it was about 3:30. (Tr. at 49, 78). James Williams testified that Howard punched him in the mouth: “Well, we were picking up, getting ready to go and he just came up to me and hit me.” (Tr. at 23). Williams continued, “He didn’t say anything. He just hit me. Boom.” (Tr. at 23). Lisa Youngblood, another member of the crew, testified that Howard punched Williams and that Howard initiated the altercation. (Tr. at 33-34). Andrea Raymond, a groundskeeper, testified that “Sheldon came around and punched James in the mouth.” (Tr. at 40). Williams testified he was “bleeding bad at first,” so he sought the assistance of his mother, who is a nurse, and she advised him not to seek further medical attention because the injury would heal on its own. (Tr. at 27). Erdwin Fuentes, the Human Resources Manager, investigated the incident, and observed Williams’ bottom lip was split open when Fuentes met with Williams the following Monday. (Tr. at 51). Fuentes described Williams’ lip as “pretty bad,” as it had “swollen over the weekend.” (Tr. at 51).

Sheldon Howard sometimes denied the incident, and at other times, admitted the incident. (See, e.g. Tr. at 15, 84).

## II. 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 showing the occurrence of the complained-of activity. Based on the testimony of a number of eyewitnesses, including the victim, the undersigned Commissioners find that Howard hit his co-worker in the mouth, causing the co-worker injury. According to all the crew members present, Howard initiated this altercation. Fighting violates the policy of the Department. (Ex. 7). Fighting with a co-worker impairs the efficient operation of the Department and violates the policy of the Department. In addition to the injury to his co-worker, Howard disrupted the operations of the crew on January 22, 2021, preventing them from completing their route. (Tr. at 77). The undersigned Commissioners find that the penalty is commensurate with the violation.

Therefore, Howard's appeal is DENIED.

This the 31<sup>st</sup> day of January, 2022

WRITER:

Mark C. Surprenant  
Mark C. Surprenant (Jan 27, 2022 14:43 CST)

MARK SURPRENANT, COMMISSIONER

CONCUR:

*J. H. Korn*  
J. H. Korn (Jan 31, 2022 12:26 CST)

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JOHN KORN, VICE-CHAIRPERSON

*Ruth White Davis*  
Ruth Davis (Jan 27, 2022 13:52 CST)

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RUTH DAVIS, COMMISSIONER