



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

CITY CIVIL SERVICE COMMISSION

MICHELLE D. CRAIG, CHAIRPERSON
RONALD P. McCLAIN, VICE-
CHAIRPERSON

TANIA TETLOW
STEPHEN CAPUTO
CLIFTON MOORE, JR.

MITCHELL J. LANDRIEU
MAYOR

Friday, January 5, 2018

LISA M. HUDSON
DIRECTOR OF PERSONNEL

Mr. Roy Denson

Re: **Roy Denson VS.
New Orleans Aviation Board
Docket Number: 8658**

Dear Mr. Denson:

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 - 1/5/2018 - 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: Kevin Dolliole
Alexa L. R. Strong
Jay Ginsberg
file

CIVIL SERVICE COMMISSION

CITY OF NEW ORLEANS

ROY DENSON vs. NEW ORLEANS AVIATION BOARD	DOCKET No.: 8658
---	------------------

I. INTRODUCTION

Appellant, Roy Denson, brings the instant appeal pursuant to Article X, §8(A) of the Louisiana Constitution and this Commission’s Rule II, §4.1. The Appointing Authority, the Aviation Board for the City of New Orleans, (hereinafter “Appointing Authority”) does not allege that the instant appeal is procedurally deficient. Therefore, the Commission’s analysis will be limited to whether or not the Appointing Authority disciplined Appellant for sufficient cause. At all times relevant to the instant appeal, Appellant served as an Airport Technician I within the Appointing Authority and had permanent status as a classified employee.

On May 31, 2017, a hearing examiner appointed by the Commission presided over an appeal hearing. The undersigned Commissioners have reviewed the transcript and exhibits from this hearing as well as the hearing examiner’s report. Based upon our review, we render the following judgment.

II. FACTUAL BACKGROUND

A. Alleged Misconduct

The Appointing Authority issued Appellant one-day suspension after substantiating an allegation that Appellant had addressed a supervisor in an inappropriate and unprofessional manner. Specifically, the Appointing Authority alleged that Appellant told a supervisor to “fuck off” when she attempted to provide him with his duty assignments on November 21, 2016. (H.E. Exh. 1).

B. November 21, 2016

During all times relevant to the instant matter, Appellant served as an Airport Technician I. Appellant began working for the Appointing Authority on or about November 1996. (Tr. at 7:14-17). At the time of his alleged misconduct, Appellant’s supervisor was Ramone Reece. *Id.* at 8:5-6. Prior to Mr. Reece, Ms. Rachell Hampton served as Appellant’s direct supervisor. *Id.* at 8:15-18.

On November 21st, Appellant reported to work and received his assignments for the day from two co-workers. *Id.* at 8:21-9:3. Soon after speaking with his co-workers about the day’s assignments, Ms. Hampton approached Appellant and said “good morning” and began to try and inform Appellant what his assignment would be for the day. *Id.* at 9:7-9. To which Appellant claimed he responded, “you’re not supposed to be talking to me, so why are you talking to me?” and other words to that effect. *Id.* at 9-13. Appellant acknowledged that the tone of voice he used may “have been loud.” *Id.* at 9:14-18.

Appellant was upset that Ms. Hampton was providing him direction because he believed he did not have to report to her. *Id.* at 12:10-12. According to Appellant, the Appointing Authority

had altered the previous reporting relationship between himself and Ms. Hampton as a result of harassment complaints filed by Appellant against Ms. Hampton. *Id.* at 11:3-15.

Ms. Hampton presented the hearing examiner with a different version of events. As a preliminary matter, Ms. Hampton claimed that the Appointing Authority reassigned Appellant to a different supervisor as a result of harassment and threats Appellant directed toward Ms. Hampton. *Id.* at 16:17-22. Following Appellant's reassignment, Ms. Hampton's interactions with him were very limited and would only occur on the rare occasion when other supervisors were not available to issue technician work assignments. November 21, 2016 was such an occasion.

On the morning of November 21st, Ms. Hampton learned that several supervisors were either going to be late or absent. As a result, administrative personnel asked Ms. Hampton to provide the technicians with their daily assignments. *Id.* at 17:15-21. Appellant was the third technician Ms. Hampton encountered on the morning of November 21st. The first two, Mr. Simmons and Mr. Cade, received their assignments without incident. The third technician Ms. Hampton encountered was Appellant. She addressed Appellant by saying "Good Morning Roy," and Appellant responded with, "You (sic) not supposed to be telling me. I know my job so get the eff out of my face." *Id.* at 19:9-14.

Instead of pursuing any further conversation with Appellant, Ms. Hampton chose to return to the administrative offices and report Appellant's behavior to her co-workers and supervisor. (Tr. at 22:5-16; NOAB Exh. 1). Ms. Hampton followed her email with a "grievance information form" that sought to escalate the concerns she had raised regarding Appellant's behavior to her supervisors and the Appointing Authority's human resources department. (NOAB Exh. 2). Ms. Hampton's motivation for submitting the grievance form was her concern that Appellant's

supervisors had not taken appropriate corrective action to address Appellant's misconduct. *Id.* at 26:11-27:11.

In support of the disciplinary action issued to Appellant, the Appointing Authority called Frank Myles. At the time of the incident, Mr. Myles was an Airport Specialist 2. On the morning of November 21st, Mr. Myles accompanied Ms. Hampton when she circulated among employees to issue assignments. Mr. Myles understood that Ms. Hampton did not want to interact with Appellant by herself and had requested Mr. Myles accompany her. The version of the conversation Mr. Myles heard between Ms. Hampton and Appellant was consistent with Ms. Hampton's testimony. (Tr. at 29:20-30:12).

III. LEGAL STANDARD

An appointing authority may discipline an employee with permanent status in the classified service for sufficient cause. La. Con. Art. X, § 8(A). If an employee believes that an appointing authority issued discipline without sufficient cause, he/she may bring an appeal before this Commission. *Id.* It is well-settled that, in an appeal before the Commission pursuant to Article X, § 8(A) of the Louisiana Constitution, an 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 (La. Ct. App. 2014)(quoting *Cure v. Dep't of Police*, 2007-0166 (La. App. 4 Cir. 8/1/07), 964 So. 2d 1093, 1094 (La. Ct. App. 2007)). If the Commission finds that an appointing authority has met its initial burden and had sufficient cause to issue discipline, it must then determine if that discipline "was commensurate with the infraction." *Abbott v. New Orleans Police Dep't*, 2014-0993 (La. App. 4 Cir. 2/11/15, 7); 165 So.3d 191, 197 (citing *Walters v. Dep't of Police of City of*

New Orleans, 454 So.2d 106, 113 (La. 1984)). Thus, the analysis has three distinct steps with the appointing authority bearing the burden of proof at each step.

IV. ANALYSIS

A. Occurrence of the Complained of Activities

Appellant admitted to being upset that Ms. Hampton was addressing him and also acknowledged that the tone in which he addressed her was “loud.” Ms. Hampton was not aggressive or confrontational in her approach to Appellant. In fact, the record suggests that Ms. Hampton was cordial, or at the very least, professional, when addressing Appellant on the morning of November 21st. The only dispute between the Parties appears to be whether or not Appellant told Ms. Hampton to “get the fuck out of [his] face.” The Commission finds that Ms. Hampton and Mr. Myers were credible witnesses and adopt their version of events. In that version, Appellant directs an obscenity at a supervisor who is simply doing her job and covering for other supervisors who were absent.

As a result of the foregoing, the Commission finds that the Appointing Authority has established that Appellant engaged in misconduct when he addressed Ms. Hampton in an inappropriate and unprofessional manner.

B. Impact on the Appointing Authority’s Efficient Operations

It is clear that Ms. Hampton felt threatened by Mr. Denson’s conduct and there is no dispute that Mr. Denson’s actions were unprofessional and aggressive. Walter Krygowski, the Appointing Authority’s Deputy Director and Chief Operations Officer, stated that Appellant’s refusal to adhere to instructions issued by a supervisor compromised the chain of command and created a negative environment for other employees. His refusal to engage Ms. Hampton in a professional manner

R. Denson
No. 8658

was compounded by his use of profanity. This in turn had a negative impact on the efficient operations of Appellant's department/division.

Bearing the above in mind, the Commission finds that Appellant's use of profanity in addressing a supervisor had a negative impact on the efficient operations of the Appointing Authority.

C. Was the Discipline Commensurate with Appellant's Offense

The Commission must independently decide, based upon the facts presented in each appeal, whether the punishment imposed by an appointing authority was commensurate with the offense. *Cornelius v. Dep't of Police*, 2007-1257 (La.App. 4 Cir. 3/19/08, 6), 981 So.2d 720, 724. In the matter now before the Commission, the question is whether or not a one-day suspension is "commensurate" with Appellant's unprofessional interaction with Ms. Hampton, otherwise, the discipline would be "arbitrary and capricious." See *Waguespack v. Dep't of Police*, 2012-1691 (La. App. 4 Cir. 6/26/13, 5); 119 So.3d 976, 978 (citing *Staehle v. Dept. of Police*, 98-0216 (La. App. 4 Cir. 11/18/98), 723 So.2d 1031, 1033).

A one-day suspension is a relatively minor form of discipline. Appellant contested the issuance of the suspension on the grounds that the Appointing Authority had altered the reporting relationships within the maintenance division so as to remove Appellant from Ms. Hampton's supervision. As a result, Appellant argues that he need not adhere to any instructions or directive issued to him by Ms. Hampton. Appellant is mistaken. In any organization, supervisors must be in a position to respond to day-to-day staffing and personnel challenges. The Appointing Authority had redundancy built into its reporting structure when some supervisors were unable to report to work. However, even if Appellant was correct in his understanding of his obligations, he would not have been appropriate to tell Ms. Hampton to "get the fuck out of [his] face." Such conduct is

R. Denson
No. 8658

wildly unprofessional and the Appointing Authority has an interest and responsibility to create strong deterrents against such actions.

Based upon the foregoing, the Commission finds that a one-day suspension was commensurate with Appellant's misconduct.

V. CONCLUSION

As a result of the above findings of fact and law, the Commission hereby DENIES the appeal.

THE REMAINDER OF THIS PAGE IS INTENTIONALLY BLANK.

SIGNATURES APPEAR ON THE FOLLOWING PAGE.

R. Denson
No. 8658

Judgment rendered this 5th day of January, 2018.

CITY OF NEW ORLEANS CIVIL SERVICE COMMISSION

WRITER


MICHELLE D. CRAIG, CHAIRPERSON

1/3/2018
DATE

CONCUR


RONALD P. McCLAIN, VICE-CHAIRMAN

1/2/18
DATE


TANIA TETLOW, COMMISSIONER

1/3/18
DATE