



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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RONALD P. MCCLAIN

LISA M. HUDSON
DIRECTOR OF PERSONNEL

MITCHELL J. LANDRIEU
MAYOR

Wednesday, April 23, 2014

Ms. Debra Calderon

Re: **Debra Calderon VS.
Department of Property Management
Docket Number: 8083**

Dear Ms. Calderon:

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: George Patterson
Shawn Lindsay
Jay Ginsberg
file

DEBRA CALDERON

CIVIL SERVICE COMMISSION

VS.

CITY OF NEW ORLEANS

DEPARTMENT OF PROPERTY
MANAGEMENT

NO. 8083

The Department of Property Management (“Appointing Authority”) employs Debra Calderon (“Appellant”) as an Office Assistant III with permanent status. The Appointing Authority suspended the Appellant for two days by letter dated September 20, 2012, following a determination that she failed to follow a directive from her supervisor to complete emergency payroll forms and deliver them to the Finance Department for processing.

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 18, 2013. 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.

George Patterson, the Director of Property Management, testified that he suspended the Appellant because she failed to follow an important directive from her immediate supervisor, Rhonda Sidney, the personnel manager. Mr. Patterson explained that emergency payroll forms were required to pay approximately seven to ten employees for additional hours worked during Hurricane Isaac. Ms. Sidney informed him that the forms were found in the Appellant’s office. Because of the Appellant’s failure to complete the task, the affected employees’ emergency pay was delayed by two weeks.

Mr. Patterson testified that, when he confronted the Appellant, she said she was impacted by storm damage and that she may have forgotten.

The Appellant testified that she suffered severe damage from the storm and could not remember what she did or did not do. She acknowledged that the forms were completed, but not delivered for processing. She does not remember the specific directions given to her from her supervisor.

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 that it disciplined the Appellant for legal cause. The Appellant was clearly instructed to complete the forms and deliver them to the appropriate person for processing. The Appellant admits that she completed the forms, but does not remember whether she was instructed to do anything with them. It stands to reason that once completed they were to be delivered for processing. It would clearly serve no purpose to complete forms and do nothing with them; particularly considering that the Appellant had performed this task on previous occasions and testified that she knew what to do. Accordingly, 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:


MICHELLE D. CRAIG, COMMISSIONER


JOSEPH S. CLARK, COMMISSIONER