



MITCHELL J. LANDRIEU
MAYOR

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

REV. KEVIN W. WILDES, S.J.,
CHAIRMAN
DEBRA S. NEVEU
AMY L. GLOVINSKY
JOSEPH S. CLARK

LISA M. HUDSON
DIRECTOR OF PERSONNEL

Tuesday, May 07, 2013

Mr. Clarence Roby
3701 Canal Street, Suite U
New Orleans, LA 70119

Re: **Jean Morris-Anderson VS.
Chief Administrative Office
Docket Number: 7982**

Dear Mr. Roby:

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: Andy D. Kopplin
Victor Papai
Jay Ginsberg

JEAN MORRIS- ANDERSON

CIVIL SERVICE COMMISSION

VERSUS

CITY OF NEW ORLEANS

CHIEF ADMINISTRATIVE OFFICE DOCKET NO. 7982

The Chief Administrative Office (“Appointing Authority”) employs Jean Morris-Anderson (“Appellant”) as the Chief Operations Manager of the Benefits Administrator with permanent status. The Appointing Authority suspended the Appellant for three days by letter dated January 26, 2012. The facts resulting in the disciplinary action are not in dispute and the parties stipulated that the disciplinary letter accurately describes the conduct that caused the suspension. The Appellant contends that the disciplinary action taken is not commensurate with the violation.

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 October 4, 2012. 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.

The disciplinary letter placing the Appellant on notice of the reasons for disciplinary action provides as follows:

It has come to my attention that documents associated with the Request for Proposals related to the Employee Life Insurance coverage cannot be located. The affected documents involved are the original RFP responses that were received in early 2010. It was your responsibility to safeguard and maintain these original responses. You have stated that the records may have been unintentionally and inadvertently shredded or destroyed. To date, the original responses have not been found.

Andy Kopplin is the Chief Administrative Officer and the Appointing Authority. He testified that he suspended the Appellant for three days because she was the custodian of the

public records that were destroyed and thus responsible. According to Mr. Kopplin, the Office of Inspector General requested the documents and his office was unable to comply with the request because they were destroyed. He determined that a three day suspension was appropriate because of the seriousness of the infraction. The preservation of public records is required by state law and City policy.

The Appellant testified that a summer intern of high school age did not properly follow her instructions and inadvertently shredded the public records. She also stated that she was lead to believe by Mr. Kopplin that she would receive a lesser penalty.

LEGAL PRECEPTS

An employer cannot subject an employee who has gained permanent status in the classified city civil service to disciplinary action 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 make an independent judgment, 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

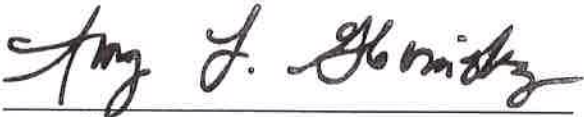
The Appointing Authority has established by a preponderance of evidence that it disciplined the Appellant for just cause. Further, we find that, given the seriousness of the infraction, the penalty was commensurate with the violation.

J. Morrison-Anderson
#7982

Considering all of the evidence provided, the Appellant's appeal is DENIED.

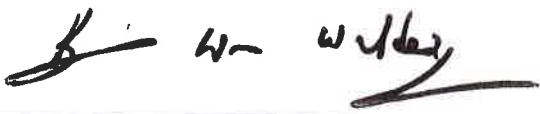
RENDERED AT NEW ORLEANS, LOUISIANA THIS 7th DAY OF MAY, 2013.

CITY OF NEW ORLEANS
CIVIL SERVICE COMMISSION



AMY L. GLOVINSKY, COMMISSIONER

CONCUR:



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



JOSEPH S. CLARK, COMMISSIONER