

JOHN DESHOTEL

CIVIL SERVICE COMMISSION

VERSUS

CITY OF NEW ORLEANS

DEPARTMENT OF POLICE

DOCKET NO. 7729

John Deshotel ("Appellant") is employed by the Department of Police ("Appointing Authority") as a Police Officer. The Appointing Authority suspended him for one-day for violation of internal rules regarding instructions from an authoritative source.

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 January 6, 2011. The testimony presented at the hearing was transcribed by a court reporter. Appellant was represented by counsel. The three undersigned members of the Civil Service Commission have reviewed a copy of the transcript and all documentary evidence.

There is no dispute in this case that on August 20, 2009 at 9:00 p.m., Appellant (a Lieutenant, with supervisory responsibilities) allowed four officers working under him to leave work approximately four hours before their assigned shift ended. He did not report the time-off and the officers were paid for a full shift.

Appellant testified that he let the officers go off-shift early as a motivational technique to reward them for their good work. Though he did not identify any specific accomplishment which would justify the time off, he praised the officers as the "crème de la crème."

Lieutenant Bradley Tollefson investigated the situation and testified that "it was common for us [at the police department] to reward individuals by letting them go home a little early.... It is a way to motivate people". (TRP. 12)

Nevertheless, Lieutenant Tollefson further testified that when that type of procedure is utilized, the supervisor is responsible for turning in a separate record for entry in the TRIP

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payroll system which reflects that the officers were “detailed to 410” (Appellant’s call number) and exactly *why* they got the time off.

He further explained that this type of written information is required in order to comply with NOPD Operations Manual Chapter 41.1.5 ¶ 24 (Duties of Supervisory Personnel) which requires that all payroll information be accurately recorded by supervisory personnel.

Despite the facts that Appellant appears to have intended in good faith to reward his fellow officers for professional work and that authorizing time off was common in the Police Department, strict compliance with the informational requirements of the TRIP payroll system is certainly a valid requirement which must be enforced to prevent payroll misconduct in the Police Department.

LEGAL PRECEPTS

An employee who has gained permanent status in the classified city civil service cannot be subjected to disciplinary action by his employer 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 from 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

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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.

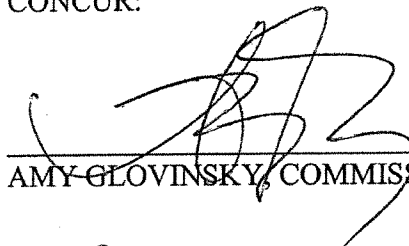
Accordingly, the Appeal is denied.

RENDERED AT NEW ORLEANS, LOUISIANA THIS 14TH DAY OF FEBRUARY,
2012.

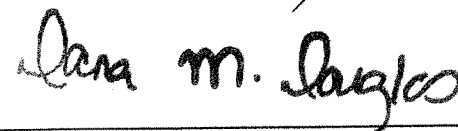
CIVIL SERVICE COMMISSION
CITY OF NEW ORLEANS


WILLIAM R. FORRESTER, JR.,
CHAIRMAN

CONCUR:



AMY GLOVINSKY, COMMISSIONER



DANA M. DOUGLAS, COMMISSIONER