



CITY OF NEW ORLEANS

DEPARTMENT OF CITY CIVIL SERVICE
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CITY CIVIL SERVICE COMMISSION
BRITTNEY RICHARDSON, CHAIRPERSON
CLIFTON J. MOORE, VICE-CHAIRPERSON
JOHN KORN
MARK SURPRENANT
RUTH WHITE DAVIS

Thursday, June 17, 2021

AMY TREPAGNIER
DIRECTOR OF PERSONNEL

Mr. Ronald Cordier

Re: **Ronald Cordier VS.**
CAO\Equipment Maintenance Divisio
Docket Number: 9174

Dear Mr. Cordier:

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 - 6/17/2021 - 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: Gilbert Montaño
Elizabeth S. Robins
Jay Ginsberg
file

**CIVIL SERVICE COMMISSION
CITY OF NEW ORLEANS**

**RONALD CORDIER,
Appellant**

Docket No. 9174

v.

**CAO/EQUIPMENT MAINTENANCE
DIVISION,
Appointing Authority**

DECISION

Appellant, Ronald Cordier, 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 three-day suspension beginning June 15, 2020. (Exhibit HE-1). At all relevant times, Appellant had permanent status as an Automotive Maintenance Technician. (Tr. at 46-47; HE-1). A Hearing Examiner, appointed by the Commission, presided over a hearing on August 25, 2020. 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 December 28, 2020, and controlling Louisiana law.

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

I. 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 parties stipulated that the conduct at issue is a violation of CAO policy and would justify a three-day suspension. (Tr. at 6). Therefore, the only issue for these Commissioners is whether the conduct occurred.

The Appointing Authority disciplined Appellant by letter dated June 12, 2020, for urinating in a hand-washing station on June 4, 2020. (Ex. HE-1). The hand-washing sink is on the west side of the shop across from the intake desk, and there is a window above the sink. (Tr. at 9-10). Timothy Comeaux, who was serving as an interim supervisor in June of 2020, testified that while he was standing to the side of the sink with his back to the wall directing a truck backing into the shop, Appellant was standing at the hand-washing station. (Tr. at 7, 13). Another employee was on the outside of the shop, looking through the window to help with guiding the truck. (Tr. at 36). A tool cage is located next to the sink. (Tr. at 10-11). Comeaux was next to Appellant, although Comeaux was 6-7 feet away from Appellant. (Tr. at 11, 18).

Comeaux testified he saw urine going into the sink and witnessed Appellant “putting himself up.” (Tr. at 8). On cross-examination, Comeaux testified he saw Appellant pull his zipper “and that stuff.” (Tr. at 23). Comeaux said “that is nasty” out loud, and, according to Comeaux,

the employee driving the vehicle into the shop said, “man, it always smells like urine in there.” (Tr. at 9).

Darius Taylor, a Mechanic III who was driving the vehicle, testified he witnessed Appellant standing at the sink, but he could not see what Appellant was doing at the sink. (Tr. at 29-30). Taylor testified that Comeaux was “ground guiding” Taylor into the shop. (Tr. at 30). Taylor testified that it always smells like urine around the sink and that two weeks prior, he had seen Appellant walking away from the sink zipping up his pants. (Tr. at 33-34). Taylor has never seen anyone else urinate in the sink. (Tr. at 33-34).

Appellant testified that he was washing his hands and that he did not urinate in the sink. (Tr. at 48). Brian Gangole testified that a fan would have obstructed Comeaux’s view. (Tr. at 44). Appellant agreed that the sink smells like urine. (Tr. at 50).

Based on the testimony of the Timothy Comeaux and Darius Taylor, which the Commissioners find to be credible, the undersigned Commissioners find that the Appointing Authority has carried its burden of showing the complained-of activity.

The appeal is DENIED.

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This the 17th day of June, 2021

WRITER:

Bree

Brittney Richardson (Jun 2, 2021 12:36 CDT)

BRITTNEY RICHARDSON, CHAIRPERSON

CONCUR:

CJ Moore

CJ Moore (Jun 7, 2021 09:40 CDT)

CLIFTON J. MOORE, JR., VICE-CHAIRPERSON

J H Korn

J H Korn (Jun 17, 2021 10:02 CDT)

JOHN KORN, COMMISSIONER