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CITY CIVIL SERVICE COMMISSION

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CHAIRMAN
AMY L. GLOVINSKY
JOSEPH S. CLARK
COLEMAN D. RIDLEY, JR.

LISA M. HUDSON
DIRECTOR OF PERSONNEL

Friday, August 09, 2013

Mr. Brett Emmanuel
P.O. Box 19405
New Orleans, LA 70179

Re: **Pamela Randall VS.**
Office of Inspector General
Docket Number: 7837

Dear Mr. Emmanuel:

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 - 8/9/2013 - 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: Edouard Quatrevaux
Michael Fantaci
Jay Ginsberg

PAMELA RANDALL

CIVIL SERVICE COMMISSION

VERSUS

CITY OF NEW ORLEANS

OFFICE OF INSPECTOR GENERAL DOCKET NO. 7837

Pamela Randall (“Appellant”) was employed by the Office of Inspector General as a Management Development Specialist. The Appointing Authority terminated the Appellant during her probationary period. Because the Appellant was probationary at the time of her termination, she was without appeal rights under Rule II, Section 4.1 of the Rules of the Civil Service Commission of the City of New Orleans. However, the Appellant has alleged that she has appeal rights under Rule II, Section 4.5 – the provision of the Civil Service Rules that prohibits employment discrimination. Rule II, Section 4.5 of the Rules of the Civil Service Commission of New Orleans states:

Employees in the classified service who allege that they have been discriminated against because of their political or religious beliefs, sex, race, age, disability or sexual orientation shall have the right to appeal to the Commission.

The Appointing Authority terminated the Appellant after determining that her performance did not justify giving her permanent status. The Appellant contends that she was terminated because of racial discrimination.

Under Rule II, Section 4.5, the Appellant has a limited right of appeal. She has the burden of proof to establish that the Appointing Authority terminated her employment because of racial discrimination. If the Appellants can establish a prima facie case, the Appointing Authority is required to rebut the Appellant’s prima facie case, and provide a non-discriminatory justification for the adverse employment action. Rule II, Sec. 4.8 of the Rules of the Civil Service Commission of the City of New Orleans.

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 May 9, 2012. 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.

At the direction of the Civil Service Commission, the Appellant amended her appeal to state with specificity the facts that formed the basis of her claim of race discrimination. By written communication dated June 30, 2011, the Appellant provided a list of occurrences that she contended supported her appeal. Her grievances revolved around her relationship with her immediate supervisor, Deborah McCrocklin, the Appointing Authority's General Counsel.

Ms. McCrocklin interviewed the Appellant for the position and recommended her hiring. The Appellant was employed as the Office Manager and had a variety of responsibilities. From the testimony, it was apparent that the Appellant had a different opinion than her supervisor as to what was required of her on a day to day basis and her role in the office. As a consequence, there was tension between the Appellant and her supervisor. As the Appellant's supervisor, Ms. McCrocklin evaluated the Appellant during her working test period, placing her on notice of her deficiencies. Ultimately, Ms. McCrocklin recommended to the Appointing Authority that he terminate the Appellant because she failed to complete her working test period satisfactorily.

The Appellant's June 30, 2011 amended appeal on its face does not offer any viable claims of racial discrimination. The Appellant complains about her supervisor and then provides unsupported conclusions that race was a motivating factor. Further, her

claims are clearly exaggerated in an attempt to achieve the desired effect. What appear to be trivial exchanges are magnified, and Ms. McCrocklin's attempts to supervise the Appellant and evaluate her performance are mischaracterized as discrimination. For example, the Appellant complained that she was required to leave her office door open by her supervisor when other employees who were employed as investigators and auditors were not. As explained by Ms. McCrocklin, the Appellant only had an office as opposed to an open space because her office contained personnel files. Thus, she had no reason to close her door. The Appellant also complained that she was instructed to answer the telephone. However, all employees answered the telephone from time to time and Ms. McCrocklin credibly testified that the Appellant was informed of this responsibility during her initial job interview.

There is no evidence of disparate treatment based upon comparisons of similarly situated employees or any conduct that could be construed as evidence of racial animus. The Appellant can only point out that she is black and was replaced by someone who is white.

Conclusion

Civil Service employees who have reached permanent status cannot be terminated without a lawful cause. *Barquet v. Department of Welfare*, 620 So. 2d 501, 504 (La. App. 4 Cir. 1993); Louisiana Constitution Article X, Sec. 8. However, there is no such guarantee for probationary employees. Nevertheless, all employees have a right not to be subject to discipline based on discrimination. *Goins v. Department of Police*, 570 So. 2d 93, 94 (La. App. 4 Cir. 1990). As noted in *Scott v. New Orleans Dep't of Fin.*, 804 So.2d 836, 838 (La. App. 4th Cir. 2001), permanent status is an extraordinary employee

P. Randall
#7837

benefit. A probationary period provides the Appointing Authority with an opportunity to train and observed a new employee without having to justify in a formal preceding its decision not to retain that individual.

The Appellant did not provide evidence sufficient to meet the burden of proving that the Appointing Authority's decision to terminate her employment was motivated by racial discrimination. The Appellant's complaints are at best subjective and speculative, and there is no evidence that other employees were treated more favorably because of their race. Ultimately, there is insufficient evidence to establish a prima facie case of race discrimination that would justify requiring the Appointing Authority to provide any evidence as to why it terminated the Appellant.

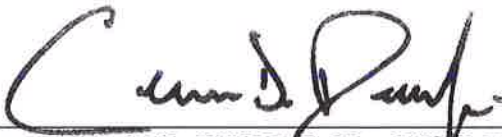
After considering all of the evidence the Appellant's appeal is DISMISSED.

RENDERED AT NEW ORLEANS, LOUISIANA THIS 9th DAY OF AUGUST,
2013.

CITY OF NEW ORLEANS
CIVIL SERVICE COMMISSION


JOSEPH S. CLARK, COMMISSIONER

CONCUR:


COLEMAN D. RIDLEY, JR., COMMISSIONER


AMY L. GLOVINSKY, COMMISSIONER