



# CITY OF NEW ORLEANS

DEPARTMENT OF CITY CIVIL SERVICE  
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CITY CIVIL SERVICE COMMISSION

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CLIFTON J. MOORE, JR.

LATOYA CANTRELL  
MAYOR

Friday, August 10, 2018

LISA M. HUDSON  
DIRECTOR OF PERSONNEL

Ms. Catina Robertson

Re: **Catina Robertson VS.  
Sewerage & Water Board  
Docket Number: 8715**

Dear Ms. Robertson:

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 - 8/10/2018 - 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: Jade Brown-Russell  
James E. Thompson, III  
Jay Ginsberg  
file

**CIVIL SERVICE COMMISSION**

**CITY OF NEW ORLEANS**

CATINA ROBERTSON	
vs.	DOCKET No.: 8715
SEWERAGE AND WATER BOARD OF NEW ORLEANS	

**I. INTRODUCTION**

Appellant, Catina Robertson, brings the instant appeal pursuant to Commission’s Rule II, §4.5. The Appointing Authority, the Sewerage and Water Board of New Orleans, (hereinafter the “S&WB” or “Appointing Authority”) contends that the instant appeal is procedurally deficient since Appellant’s appeal fall outside of the exclusive grounds upon which a classified employee may bring a discrimination claim under Article X, Section 8(B) of the Louisiana State Constitution.

On Wednesday, November 29, 2017, a referee appointed by the Commission presided over an appeal hearing during which both Parties had an opportunity to call witnesses and present evidence. The undersigned Commissioners have reviewed the transcript from this hearing, as well as the referee’s report. Based upon our review, we render the following judgment.

## II. PROCEDURAL BACKGROUND

### A. Alleged Discrimination

Employees in the classified service who allege discrimination based on political or religious beliefs, sex or race may bring an appeal before the Commission. (C.S. Rule IV, § 4.5). Any employee availing him or herself of this rule must specifically identify the following information:

- (a) The type of alleged discrimination.
- (b) The name(s) of the person(s) alleged to have committed the discriminatory act(s).
- (c) The date(s) of such act(s).
- (d) Where and in what manner such act(s) occurred.

(C.S. Rule IV, § 4.7).

In her appeal, Appellant alleged that the S&WB discriminated against her because of an actual or perceived disability. Specifically, Appellant alleged that the S&WB deprived her of overtime opportunities because her supervisors perceived her as disabled due to a knee replacement.

## III. ANALYSIS

### A. Constitutional Limitation on Commission's Analysis

The Louisiana Constitution allows any employee in the classified service to file an appeal challenging an adverse employment action based upon discrimination. La. Con. art X, § 8(B). The protected categories are religious beliefs, political beliefs, sex and race. *Id.* To the categories specifically identified by the Louisiana Constitution, the Commission's Rules add "age, disability or sexual orientation." Rule II, § 4.5. The Louisiana Supreme Court has found that the Commission impermissibly expanded the scope of its jurisdiction by adding protected classes not

C. Robertson  
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specifically mentioned in the Louisiana Constitution. *Louisiana Dep't of Agric. & Forestry v. Sumrall*, 98-1587 (La. 3/2/99, 12), 728 So.2d 1254, 1262-63. The Commission recently recognized this restriction in the matter of *Patrick Lindsley v. NOPD*, C.S. No. 8406.

Since "disability" is not among the protected categories identified by Article X, Section 8(B) of the Louisiana Constitution, the Commission does not have subject matter jurisdiction over her disability discrimination appeal.

#### **IV. CONCLUSION**

As a result of the above findings of fact and law, the Commission hereby DENIES the Appellant's appeal.

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SIGNATURES APPEAR ON THE FOLLOWING PAGE.

Judgment rendered this 10<sup>th</sup> day of August, 2018.

CITY OF NEW ORLEANS CIVIL SERVICE COMMISSION

**WRITER**



TANIA TETLOW, COMMISSIONER

8-8-18

DATE

**CONCUR**



RON McCLAIN, VICE-CHAIRPERSON

7-27-18

DATE



CLIFTON J. MOORE, Jr., COMMISSIONER

7-25-18

DATE