



CITY OF NEW ORLEANS

DEPARTMENT OF CITY CIVIL SERVICE
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NEW ORLEANS LA 70112
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CITY CIVIL SERVICE COMMISSION

MICHELLE D. CRAIG, CHAIRPERSON
CLIFTON J. MOORE, JR. VICE-
CHAIRPERSON
BRITTNEY RICHARDSON
JOHN H. KORN
MARK SURPRENANT

LATOYA CANTRELL
MAYOR

Wednesday, November 4, 2020

LISA M. HUDSON
DIRECTOR OF PERSONNEL

Mr. Charlie Clerk Jr.

Re: **Charlie Clerk Jr. VS.
Sewerage & Water Board
Docket Number: 9092**

Dear Mr. Clerk:

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 - 11/4/2020 - 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,

Doddie K. Smith
Chief, Management Services Division

cc: Ghassan Korban
Joseph Zanetti
Christina Carroll
file

**CIVIL SERVICE COMMISSION
CITY OF NEW ORLEANS**

CHARLIE CLERK, JR.

VERSUS

DOCKET NUMBER 9092

SEWERAGE & WATER BOARD

DECISION

Appellant, Charlie Clerk, Jr. (hereinafter "Appellant"), brings the instant appeal pursuant to Article X, §8(A) of the Louisiana Constitution and this Commission's Rule II, §4.1, asking this Commission to find that the Sewerage & Water Board (hereinafter "Appointing Authority") did not have sufficient cause to terminate him. At all times relevant to the instant appeal, Appellant served as a Utility Maintenance Assistance Tech. and had permanent status as a classified employee.

The below Commissioners have reviewed the transcript from the December 4, 2019 hearing, all exhibits introduced into the record, and the May 11, 2020 attached report from the Hearing Examiner, which is advisory in nature. After reviewing this record in light of controlling Louisiana law, we DENY Appellant's appeal for the reasons set forth by the Hearing Examiner.

Judgment rendered this 4th day of November, 2020.

CITY OF NEW ORLEANS CIVIL SERVICE COMMISSION

WRITER:

Mark C. Surprenant

Mark C. Surprenant (Oct 20, 2020 11:00 EDT)

MARK SURPRENANT, COMMISSIONER

10/20/20

DATE

CONCUR:

J H Korn

J H Korn (Oct 20, 2020 15:52 CDT)

JOHN KORN, COMMISSIONER

10/20/20

DATE

CJ Moore

CJ Moore (Nov 4, 2020 11:35 CST)

CLIFTON J. MOORE, JR., VICE-CHAIRMAN

11/04/20

DATE

**CIVIL SERVICE COMMISSION
CITY OF NEW ORLEANS**

CHARLIE CLERK, JR.

VERSUS

DOCKET NUMBER 9092

SEWERAGE & WATER BOARD

HEARING OFFICER'S REPORT

This appeal concerns an appeal by a permanent employee of a termination. This appeal was heard on December 4, 2019 by the undersigned. The Appellant, Charlie Clerk, Jr., appeared *pro se*. The Appointing Authority, represented by Joseph Zanetti, offered exhibits 1-4 into evidence. Witnesses for the Sewerage & Water Board were Korye Delarge-Dickerson, Workers' Compensation Supervisor, and Byron Iverson, Disciplinary Specialist. Mr. Clerk testified on his own behalf.

FACTS

The Sewerage & Water Board hired Charlie Clerk, Jr., on July 23, 2018 (Ex. 4) as a Utility Maintenance Assistance Tech. (Tr. at 25). Mr. Clerk is required to perform heavy labor around safety-sensitive equipment. (Tr. at 25). Mr. Clerk was involved in a motor vehicle accident on the job on February 13, 2019, and Mr. Clerk injured his back, resulting in a herniated disc. (Tr. at 29; Ex. 2). The Sewerage & Water Board provided workers' compensation benefits to Mr. Clerk based on this injury. (Ex. 3). Mr. Clerk continues to receive workers' compensation benefits, and Mr. Clerk had not returned to work as of September 30, 2019. (Ex. 4). The Sewerage & Water Board terminated Mr. Clerk's employment on September 30, 2019, after the Appointing Authority learned that Mr. Clerk would not be able to return to work for an additional 8-12 months. (Tr. at

10; Ex. 4). At the hearing, Mr. Clerk testified that he could not perform his job functions, and he did not know when he would be able to perform his job functions. (Tr. at 31). Mr. Clerk testified that he might not be able to return to his position. (Tr. at 30).

RECOMMENDATION

I recommend that the Commission deny the appeal. Mr. Clerk is unable to perform his job duties, as he testified during the hearing. Civil Service Rule IX, Section 1.1 provides as follows:

When an employee in the classified service is unable or unwilling to perform the duties of his/her position in a satisfactory manner . . . the appointing authority shall take action warranted by the circumstances to maintain the standards of effective service. The action may include one or more of the following:

(a) Termination from service

....

Mr. Clerk is unable to perform the duties of his position, so the appointing authority may terminate his employment

This the 11th day of May, 2020



CHRISTINA CARROLL
HEARING OFFICER