



# CITY OF NEW ORLEANS

DEPARTMENT OF CITY CIVIL SERVICE  
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CITY CIVIL SERVICE COMMISSION

REV. KEVIN W. WILDES, S.J.,  
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MITCHELL J. LANDRIEU  
MAYOR

Wednesday, April 23, 2014

LISA M. HUDSON  
DIRECTOR OF PERSONNEL

Mr. Darrin Duplissey

Re: **Darrin Duplissey VS.  
French Market Corporation  
Docket Number: 8154**

Dear Mr. Duplissey:

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 - 4/23/2014 - 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 that reads "Germaine Bartholomew".

Germaine Bartholomew  
Chief, Management Services Division

cc: Jon Smith  
Elizabeth S. Robins  
Jay Ginsberg  
file

**DARRIN DUPLISSEY**

**CIVIL SERVICE COMMISSION**

**VERSUS**

**CITY OF NEW ORLEANS**

**FRENCH MARKET CORPORATION DOCKET NO. 8154**

The French Market Corporation (“Appointing Authority”) employs Darrin Duplissey (“Appellant”) as the property manager for the Upper Pontalba Apartments with permanent status. The Appointing Authority suspended the Appellant by letter dated March 11, 2013 “for failing to notify [his] immediate supervisor of a contractor’s arrangements, allowing unsupervised access to a resident’s apartment.”

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 July 18, 2013. 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.

The facts are not in dispute. The Appellant worked under the direct supervision of Frank Pizzolato, the former Executive Director until Mr. Pizzolato resigned effective December 18, 2012. The Appointing Authority was completing renovations on a number of apartment units in the Upper Pontalba and to facilitate their completions Mr. Pizzolato instructed the Appellant to provide keys to a couple of trusted contractors who had provided services for a period of time. Unfortunately, on January 19, 2013, one of the tenants entered their apartment to find one of the contractors stretched out on the tenant’s couch watching television. He had spent the night. The Appellant reported the incident to the Acting Executive Director, Patricia Henry and the contractor was immediately terminated.

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At a subsequent meeting, the Appointing Authority's governing board recommended to Ms. Henry that she suspend the Appellant for one day for his failure to inform her of Mr. Pizzolato's instructions. Ms. Henry testified that had she known she would have instructed the Appellant to retrieve the keys from the contractors.

The Appellant testified that he followed Mr. Pizzolato's instructions, and that it did not occur to him to inform Ms. Henry of Mr. Pizzolato's instructions during the brief period between his resignation and the incident.

#### LEGAL PRECEPTS

An employer cannot subject an employee who has gained permanent status in the classified city civil service to disciplinary action 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 make an independent judgment, based on 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 proving by a preponderance of the evidence the occurrence of the complained of activity and that the conduct complained of impaired the

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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.*

#### CONCLUSION

The Appointing Authority has failed to establish by a preponderance of evidence that it suspended the Appellant for legal cause. The Appellant was acting upon the instructions of the former Executive Director, and the organization was in transition. Consequently, it was not reasonable to expect the Appellant to anticipate the problem that occurred and inform his acting supervisor.

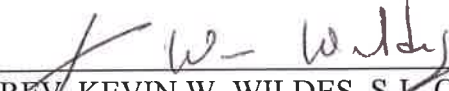
Considering the foregoing, the Appellant's appeal is GRANTED.

RENDERED AT NEW ORLEANS, LOUISIANA THIS 23<sup>rd</sup> DAY OF  
April, 2014.

CITY OF NEW ORLEANS  
CIVIL SERVICE COMMISSION

  
RONALD P. MCCLAIN, COMMISSIONER

CONCUR:

  
REV. KEVIN W. WILDES, S.J., CHAIRMAN

  
JOSEPH S. CLARK, COMMISSIONER