



CITY OF NEW ORLEANS

DEPARTMENT OF CITY CIVIL SERVICE
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CITY CIVIL SERVICE COMMISSION

REV. KEVIN W. WILDES, S.J.,
CHAIRMAN
JOSEPH S. CLARK
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RONALD P. MCCLAIN

MITCHELL J. LANDRIEU
MAYOR

Wednesday, April 23, 2014

LISA M. HUDSON
DIRECTOR OF PERSONNEL

Ms. Renee Daw

Re: **Renee Daw VS.
Department of Parks & Parkways
Docket Number: 8166**

Dear Ms. Daw:

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: Ann McDonald
Elizabeth S. Robins
Jay Ginsberg
file

RENEE DAW

CIVIL SERVICE COMMISSION

VERSUS

CITY OF NEW ORLEANS

DEPARTMENT OF PARKS
AND PARKWAYS

DOCKET NO. 8166

Renee Daw (“Appellant”) is employed by the Department of Parks and Parkways (“Appointing Authority”) as a Laborer with permanent status. The Appointing Authority suspended the Appellant for 3.5 hours after she refused a directive from her immediate supervisor and became argumentative.

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 August 8, 2013. 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.

Barbara Jordon, Grounds Maintenance Supervisor III, testified that she sent the Appellant home for the day after she refused a directive to blow cut grass debris out of the street and onto the neutral ground. According to Ms. Jordon, the Appellant became argumentative, told her she would do it when she was ready, and started to walk away. At this point, Ms. Jordon reported the incident to her supervisor and sent the Appellant home for the day.

The Appellant testified that she did not refuse the task. She stated that the directive did not come from Ms. Jordon, that the gas blower was not working, and that she was then instructed to use the lawnmower to perform the task. The Appellant stated that she did not think it was safe to use the lawnmower for this task.

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 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

We credit Ms. Jordon's version of events and find that the Appellant refused to perform a regular function of her job without a reasonable justification.

R. Daw
#8166

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

RENDERED AT NEW ORLEANS, LOUISIANA THIS 23rd DAY OF

April, 2014.

CITY OF NEW ORLEANS
CIVIL SERVICE COMMISSION



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

CONCUR:



RONALD P. MCCLAIN, COMMISSIONER



JOSEPH S. CLARK, COMMISSIONER