

DISCOVERY ORDER 10/31/12

IN THE MATTER OF THE APPEAL OF:

ARTHUR BELL JR., Appellant,

vs.

DEPARTMENT OF PUBLIC WORKS, SOLID WASTE MANAGEMENT,
and the City and County of Denver, a municipal corporation, Agency.

Appellant filed a request for discovery on October 15, 2012. The Agency, after a continuance granted, filed a timely response which provided some of the requested discovery and objected to the remainder. This Order disposes of the discovery remaining at issue. The only issue in this case is whether the Appellant complied with his Stipulation and Agreement for Participation in a Substance Abuse Treatment/Education Plan (Stipulation) dated January 2, 2010 when he was tested thereunder on June 14, 2012. Consequently all discovery must reasonably relate to that issue.

INTERROGATORIES REQUESTED

1. Please state the number of urinalysis (UA) drug tests taken by Mr. Bell in which the results were "negative" following the execution of the Stipulation.

The Agency appears to have complied with this request in its response.

2. Please describe in detail why Mr. Bell was instructed to take a UA on June 21, 2012.

The Agency appears to have complied with this request in its response.

3. Please identify the standards and procedures that Denver Health was required to follow when conducting UA drug tests of employees of the City and County of Denver (City) in June of 2012.

The Agency objected as not within its purview and directed Appellant to seek his answer directly from Denver Health. The interrogatory is a relevant inquiry. The Agency will likely present the requested information at hearing and therefore the request is within the ability of the Agency to provide the requested information without undue burden. This request is GRANTED.

4. Please identify the standards and procedures that Quest Laboratories was required to follow when analyzing UA drug tests of City employees in June of 2012.

The Agency objected as not within its purview and directed the Appellant to seek his answer directly from Quest Laboratories. The Agency will likely present the requested

information at hearing and therefore the request is within the ability of the Agency to provide the requested information without undue burden. This request is GRANTED.

REQUESTS FOR PRODUCTION OF DOCUMENTS

1. Please produce the results from the last ten UA drug tests taken by Mr. Bell in his capacity as a City employee.

The Agency appears to have complied with this request in its response.

2. Please produce a copy of each and every agreement between Quest Laboratories and the City that references or identifies any standards, procedures or requirements to be used for conducting drug testing of City employees.

The agency objected as overbroad and unduly burdensome. I agree. First, the Agency will provide relevant information pertaining to UA testing procedures and standards via the requested interrogatories, above. Second, the request is not limited to a relevant time, relevant agency, and is beyond the scope of this appeal. This request is DENIED.

Notwithstanding the deadline to complete all discovery by November 2, 2012 in the Notice of Hearing and Pre-hearing Order, the Agency shall provide the ordered discovery on or before November 13, 2012.

DONE on Halloween 2012.



Bruce A. Plotkin
Career Service Hearing Officer

I certify that on October 31, 2012, I delivered a correct copy of this Order to the following, in the manner indicated:

Arthur Bell, Jr., arbelljr@yahoo.com	(via email);
Whitney Traylor, Esq., Wtraylor@traylorlawgroup.com	(via email);
Craig Truitt, ctrutt@traylorlawgroup.com	(via email);
Jennifer Jacobson, ACA, Jennifer.Jacobson@denvergov.org	(via email);
City Attorney's Office at Dlefilng.litigation@denvergov.org	(via email);
HR Services, HRServices@denvergov.org	(via email).

