

DISCOVERY ORDER 8/20/13

IN THE MATTER OF THE APPEAL OF:

DARRELL S. BOONE, Appellant,

vs.

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

The Agency terminated Appellant's employment based on its allegations that Appellant allowed unauthorized people to dump non-agency material into Agency vehicles on May 24, 2013, resulting in damage to Agency property, and for lying about those unauthorized activities. Appellant denies he authorized those activities, and even if he did, it is a common practice, such that he was unfairly singled out. Appellant requested discovery on August 13, most of which the Agency opposed in its response on August 16. Having considered the opposing pleadings, I find most of Appellant's request to be either relevant or narrowly tailored to obtain admissible information regarding the aforementioned allegations. As such the following orders enter.

1. Request to view, at a location convenient to the Agency, video of the Cherry Creek Transfer station from January 1, 2013 through May 30, 2013 is granted.
2. Request for Agency to produce copies of citations, including any narrative police reports, for overweight Agency vehicles, from January 1, 2013 through May 30, 2013, is granted.
3. Request to enter Cherry Creek Transfer Station is denied, unless the Agency permits Appellant and/or his attorney to view the aforementioned video there. In that case only, and only to the extent that doing so does not unreasonably interfere with Agency operations or safety, Appellant's attorney may view the premises and take pictures of it. The Agency shall not unreasonably deny access, however, the Agency's decision in that regard shall be final.
4. Spoliation request is granted. The Agency shall suspend forthwith its practice of destroying video of the Cherry Creek Transfer Station for the period from January 1, 2013 through May 30, 2013, until Appellant has a reasonable opportunity to view the same.
5. Request for waiver or reduction of costs. No ruling at this time. Appellant may reapply for relief when he has more specific information as to the extent of the reproductions to be made.

The Agency shall provide the requested discovery on or before August 27, 2013.

DONE August 20, 2013.



Bruce A. Plotkin
Career Service Hearing Officer