

CAREER SERVICE BOARD, CITY AND COUNTY OF DENVER, STATE OF COLORADO

Appeal No. 53-08 A

FINDINGS AND ORDER

IN THE MATTER OF THE APPEAL OF:

KARENE'E WILLIAMS,

Appellant/Petitioner,

vs.

DEPARTMENT OF AVIATION, and the City and County of Denver,

Agency/Respondent.

This matter is before the Career Service Board on Appellant's Petition for Review. After reviewing and considering the full record before it, the Board **AFFIRMS** the Hearing Officer's Decision of December 19, 2008, on the grounds outlined below.

FINDINGS

Appellant received a 2-day suspension based upon two areas of misconduct: 1) failure to maintain satisfactory working relationships, and 2) time and attendance issues, including the failure to provide leave slips and clocking in and out at improper times. The Hearing Officer sustained the disciplinary action.

CSR 16-60 O. (failure to maintain satisfactory working relationships)

Appellant argues that she should not be disciplined under CSR 16-60 O. because she and Ms. Sarmiento-Gonzales, an Agency payroll technician who provided assistance to Appellant on leave and pay issues, are not coworkers. This argument, however, makes a distinction without a difference as the rule encompasses "relationships with co-workers, other City employees, or the public" and regardless of whether these two individuals are coworkers, they are certainly both City employees.

Next, Appellant contends that CSR 16-60 O. requires a showing that the Agency's mission was compromised or could not be accomplished as a result of an employee's conduct. Again, Appellant is incorrect about what this rule requires. CSR 16-60 O. is violated by conduct that an employee knows, or reasonably should know, will be harmful to coworkers, other City

employees, or the public, or will have a significant impact on the employee's working relationship with them. *In re Burghardt*, CSA No. 81-07, 2 (CSB 8/28/08). Here, the record demonstrates that Appellant was rude and unprofessional with the payroll technician over the course of seven months, including yelling at her and accusing her of tampering with leave and pay records, to the point where Ms. Sarmiento-Gonzales felt threatened and intimidated, and Appellant's supervisor took on the responsibility of communicating directly with the payroll department to prevent further harm to Ms. Sarmiento-Gonzales. The Board finds the Hearing Officer correctly interpreted CSR 16-60 O. and the record supports her conclusion that Appellant's conduct was harmful and had a significant impact on the working relationship.

Appellant also claims that the maintenance department's policy regarding unauthorized leave without pay is, in her opinion, unreasonable and in conflict with career service rules. She does not, however, provide any evidence or argument in support her opinions. Nevertheless, a review of the record reveals that this issue was not raised before the Hearing Officer and therefore is not properly before the Board under any of the grounds for appeal listed in CSR 19-61. More importantly, the Board is not impressed with Appellant's suggestion that a bad policy somehow excuses unprofessional conduct. City employees are expected to treat each other with courtesy and respect, regardless of whether they disagree with departmental policy or are frustrated by the application of that policy to their own leave issues.

CSR 16-60 J. (failure to comply with lawful orders of an authorized supervisor)

Appellant contends that the July 18, 2008 disciplinary letter does not clearly identify the lawful order she failed to comply with and for which she was disciplined. If Appellant is trying to suggest that she did not have sufficient notice of the charges against her before her career service hearing, that issue was not raised before the Hearing Officer and therefore does not fit within any of the grounds for appeal to the Board. In any event, the issue of notice appears to be moot on appeal as Appellant admits to violating CSR 16-60 J.: "Did Ms. Williams fail to comply with a lawful order to provide a signed slip when she left work early to take a CSA exam? Yes." Opening Brief, p. 9.

Appropriateness of the Penalty

Although Appellant suggests that the imposition of a 2-day suspension was the result of some improper motive, the record does not support her contention. Here, the discipline was imposed by Appellant's supervisor, Mr. Davis, and he testified as to why he believed a 2-day suspension was appropriate. Transcript, 74: 15-22. On the other hand, Appellant's brief raises accusations of alleged misconduct against the director of airport maintenance, Steven Draper, who was not the decision-maker in this disciplinary action, and Mr. Davis testified that he was unaware of any issues between Appellant and Mr. Draper. Transcript, 105: 2-6.

Prior to the hearing, the Agency moved to dismiss Appellant's claims of sexual harassment, discrimination and retaliation, because her notice of appeal did not allege any facts giving rise to an inference of discrimination or retaliation, and because Appellant failed to exhaust her administrative remedies under CSR 15 by not filing a complaint of harassment.

Although Appellant filed a response to the Agency's motion to dismiss, she did not respond to these arguments and the Hearing Officer correctly dismissed these claims without prejudice as premature.

Finally, the Board finds that the evidence in the record supports the Hearing Officer's conclusion that in light of the number of other remedial measures taken to assist Appellant, a 2-day suspension is within a reasonable range of discipline for the proven rule violations.

ORDER

IT IS THEREFORE ORDERED that the Hearing Officer's Decision, dated December 19, 2008, is **AFFIRMED**.

SO ORDERED by the Board on May 7, 2009, and documented this
14th day of May, 2009.

BY THE BOARD:



Luis Yoro, Co-Chair

Board Members Concurring:
Tom Bonner
Patti Klinge

CERTIFICATE OF DELIVERY

I certify that I delivered a copy of the foregoing **FINDINGS AND ORDER** on
May 15, 2009, in the manner indicated below, to the following:

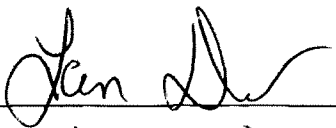
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