

**CITY OF ATLANTA CIVIL SERVICE BOARD  
ORDER**

**APPEAL NO. 2020-008AP**

APPELLANT: Roy Earls, Jr.

Effective Date: February 24, 2020

Hearing Date: October 15, 2020

**ACTION:**

Dismissal

**HEARING OFFICERS/PANEL**

Mary Ann Phyll, Chair

Plemon El-Amin, DWB

Sterling Eaves

**APPEARANCES**

**City of Atlanta:**

Jacquita Parks, Attorney

**City Witnesses:**

Carl McKinney, Facilities Manager P&R

Wendell Bryant, P&R Manager

**Appellant Representative:**

Self

**Appellant's Witnesses:**

None

**ATTENDEE(S)/OBSERVER(S)**

Kandice Harmon, CSB Coordinator

Princess Jones, IT, City

**STATEMENT OF AUTHORITY**

Under the authority and provisions of Chapter 114, Article VI, Division 3, Sections 114-546 through 556 of the Atlanta City Code ("Code"), a hearing in the above-referenced case was held virtually via Zoom Webinar, facilitated by the City, pursuant to Mayor Keisha Lance Bottoms Executive Order regarding COVID-19, and before the above-named hearing officers of the Atlanta Civil Service Board ("Board") on the date set forth above.

## **EXHIBITS**

### **City of Atlanta:**

- C-1 Requisition for Electrician Specialist (DPR)
- C-3 Employee Safety & Skills Orientation Checklist
- C-4 Emails from McKinney to Earls
- C-5 Notice of Proposed Adverse Action (NPAA ) dated 2/10/2020
- C-6 Notice of Final Adverse Action (NFAA) dated 2/24/2020

### **Appellant:**

None

## **STIPULATIONS**

None

## **CHARGES**

Termination for Violation of Civil Code Section 114-528(6)(2)

## **INFRACTION**

See City of Atlanta Notice of Final Adverse Action (NFAA) (Exhibit C-6) and Notice of Proposed Adverse Action (NPAA) (Exhibit C-5).

## FINDINGS OF FACT

On February 7, 2019, Roy Earls, Jr. was hired provisionally by the City of Atlanta Parks and Recreation Department as a Electrician Specialist with the documented understanding that he was required to obtain a Commercial Drivers License (CDL) within one year. The City arranged for Mr. Earls to attend a CDL class offered through the City on April 22-26, 2019, which Mr. Earls attended. Afterwards, Mr. Earls failed the Ga. Dept. of Motor Vehicles (DMV) CDL written exam on two occasions. Mr. Earls was reminded via numerous emails of the necessity of obtaining his CDL before the one year deadline of February 7, 2020. As a result of failing to obtain a CDL certification, the Dept. of Parks & Recreation terminated Mr. Earls' employment on February 24, 2020.

## DISCUSSION

Due to Mayor Keisha Lance Bottoms' Executive Order and COVID-19 pandemic guidelines, the appeal of Roy Earls was called virtually at 2:00pm via the internet platform of Zoom. The City's first witness was Carl McKinney, the Facilities Manager that supervised Mr. Earls. He testified to having on-going discussions throughout the year with Mr. Earls regarding the necessity of obtaining his CDL to continue his employment. He verified that Mr. Earls had attended the classes and failed the written exam twice. He also verified that Mr. Earls was sent monthly reminders in October, November, and December of 2019 and in January of 2020. The City's 2nd witness was HR Manager of P&R, Wyndell Bryant, who detailed the requirement and need for an Electrician Specialist in the Department to have a valid CDL. He also clarified the Department's step by step process utilized in Mr. Earls' case, which included reminding, encouraging, admonishment, reprimand, and finally termination.

The Appellant, representing himself, offered a tenuous cross examination. However, in his closing, he stated that the training instructor's accent was difficult for him to understand and he had asked his Supervisors to provide him additional help and time. He further stated that for 10 consecutive months, he worked a full shift plus overtime for the Department which severely limited his opportunities to study and prepare for the tests. Lastly, the Appellant said he expected the Department to offer him a different position, that did not require a CDL, rather than termination.

The Board carefully considered and weighed all testimony and evidence presented by both the City and the Appellant during the hearing. We agreed that the

referenced Civil Service Code Section 114-528(b)(2) was applicable in Mr. Roy Earls' circumstances, that he did, in fact, display "incompetence, inability or failure to perform assigned duties, including but not limited to loss of job requirements, such as loss of a required license". Assessing the necessity for a CDL in this position and the one year CDL provisional requirement that was not satisfied by Mr. Earls, the Board upholds the City.

**ORDER**

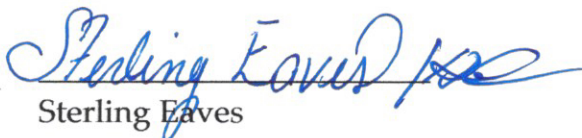
The appeal of Roy Earls, Jr. is denied.

This the 22nd day of October 2020.

Respectfully submitted,

  
Mary Ann Phyllis, Chair

  
Plemon El-Amin, DWB

  
Sterling Eaves