

**CITY OF ATLANTA CIVIL SERVICE BOARD
ORDER**

APPEAL NO. 2019-006AP

APPELLANT: **Marquee Scales**

Department of Parks and Recreation (DPR)
City of Atlanta (City)

Effective Date: February 21, 2019

Hearing Date: February 6, 2020

ACTION:

1 DAY SUSPENSION

HEARING OFFICER

Mary Ann S. Phyll

APPEARANCES

City of Atlanta:

Danielle Jones, Director
Department of Human Resources

City Witnesses:

Marquee Scales, Appellant
Louis Harden, Park Supervisor - DPR
Latosha Haney, Parks Operations
Manager - DPR

Appellant Representative:

Gwendolyn Gillespie
Labor Representation and Consulting Svcs.

Appellant's Witnesses:

Marquee Scales, Appellant
Tristan Woods, Park Worker II - DPR
Bretta Hunnicutt, District Manager-DPR

Observers:

Danielle Nichols, Deputy Commissioner - HR
Wendell Bryant, HR Manager - DPR
James Merriweather, Director - Labor Relations

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 before the above-named hearing officers of the Atlanta Civil Service Board ("Board") on the date set forth above in Conference Room 2174 of the City Hall Tower located at 68 Mitchell Street, Atlanta, Georgia 30303

EXHIBITS

City of Atlanta:

- A. Notice of Proposed Adverse Action (NPAA) dated 2/6/2019 - 2 pages
- B. Notice of Final Adverse Action (NFAA) dated 2/18/2019
- C. Letter of Reprimand to Appellant from Latosha Haney, Parks Operations Manager dated July 23, 2018
- D. Written Reprimand to Appellant from Parks Supervisor, Louis Harden dated October 16, 2018

Appellant:

- A-1 Appellant's Grievance Packet to City Department of Human Resources, 18 pages Admitted with objection from City for a lack of relevance to case.
- A-2 Typed Consultation of work issues between supervisor and employee detailed by Louis Harden to Bretta Hunnicutt. (document not signed)
- A-3 Final Investigative Summary of incident, Lorenzo Parker, Manager Labor and Employee Relations v. Marquee Scales, Appellant - 3 pages
- A-4 Written explanation of November 30, 2018 incident from Appellant to representative, Gillespie - 2 pages
- A-5 Five Notices of Appointment forms for Appellant from Employee Assistance Program. Admitted with objections from the City stating that they are not relevant to the case.

A-7 Two email messages between Appellant and Representative Gillespie, dated September 8, 2018 – 4 pages

A-10 Appellant's written response to NPAA dated February 13, 2019 - 3 pages

Note: Exhibits A-6, A-8, and A-9 not presented

STIPULATIONS

None

CHARGES

1-Day Suspension for violation of City of Atlanta Municipal Code of Ordinances:

114-528 (b)(4) Misconduct, including but not limited to engaging in offensive conduct or language toward the public, supervisory personnel or fellow employees.

INFRACTION

See City of Atlanta Notice of Proposed Adverse Action (NPAA) (Exhibit A)

FINDINGS OF FACT

1. The Appellant, Marquee Scales, City employee for approximately 10 years held the position of Parks Worker I in the Department of Parks and Recreation at the time of the November 30, 2018 incident. The job as a crew member entailed maintaining the 82 acres of City park space and landscaping.
2. From July 2018 until the incident, the Appellant's direct supervisor was Louis Harden. Their four-month work relationship as employee/supervisor had developed into a union that was filled with discord and known to be strained by many other employees in the Parks department.

3. On November 30, 2018 at 7:00am, the Appellant requested to be off from work at 10am to go to a 10:30am dental appointment. A 24-hour notice was normal procedure however, the Appellant's request was granted. To arrive on time, Appellant informed his supervisor, Mr. Harden, that he needed to clock out by 10am.
4. Mr. Harden, chose to transport the Appellant from the work site to the NE District office to clock out instead of utilizing a crew member. Mr. Harden testified that he did not want to disrupt the work crew, leaving a shortage of workers for the assignment they had scheduled that day. Mr. Harden arrived at the work site later than the Appellant expected and testified that the time was 9:53am. However, Mr. Harden testified that it was 9:45am.
5. While waiting for Mr. Harden, the Appellant becomes agitated. He didn't want to be late and be subject to a \$25 penalty imposed on clients for tardiness. He contacted Lorenzo Parker, Labor and Employee Relations Manager requesting assistance to his dental appointment. Appellant became "excited" during the conversation that elevated to an uncomfortable level. At the same time, Mr. Harden arrives. Mr. Parker speaks with him briefly; Mr. Harden returns the Appellant's mobile phone to him and Mr. Parker hangs up. (Exhibit A-4)
6. When the Appellant entered Mr. Harden's city vehicle, the Appellant manually activated the drive cam. He stated that he felt that Mr. Harden was late on purpose and a verbal confrontation was imminent. The Appellant testified that he was afraid for his safety and experienced verbal abuse on other occasions from Mr. Harden and that if any abuse occurred that day, he wanted it recorded. The activation of the drive cam was sworn to during the testimonies of both the Appellant and Mr. Harden. (Exhibit A-2)
7. Mr. Parker calls the Appellant back while he is in the city vehicle on the way to the NE District office to clock out. On this second call, Mr. Parker reported that the Appellant raised his voice and was loud so, he discontinued the phone conversation and filed a formal complaint about the incident.
8. An investigation was initiated and the Final Investigative Summary, Lorenzo Parker v Marquee Scales, was completed January 9, 2019. It was concluded that the Appellant violated Atlanta's policy as it relates to misconduct under Section 114-528(b)(4) of the City code of Ordinances. (Exhibit A-3)

9. On February 6, 2019, the City issued the NPAA. (Exhibit A)
10. The Appellant, Marquee Scales received the Final Adverse Action of a 1-Day Suspension effective February 21, 2019 for violating Section 114-528(b)(4) (Exhibit B)

DISCUSSION

On July 16, 2018, the Appellant, Marquee Scales, attended a District Meeting hosted by Latosha Haney, Park Operations Manager. Ms. Haney reported that the Appellant created a disturbance and excused himself from the meeting without permission. (Exhibit C) This meeting was called not only to discuss issues and concerns in the Parks department, it was to announce the filling of a supervisory position with Louis Harden. Mr. Harden became the Appellant's new supervisor.

Mr. Harden's first impression of his new direct report may not have been a positive one. Friction between them advanced early. (Exhibit D) Mutual trust never developed and their negative interactions became a workplace feud familiar to Parks HR managers and the Appellant's co-workers/crew members.

The Appellant reached out to Bretta Hunnicutt, Mr. Harden's immediate supervisor. He sought counsel from her because Mr. Harden referred him to the Employee Assistance Program (EAP). The EAP is a free service that provides professional support to employees for personal and work concerns. Ms. Hunnicutt testified that she didn't feel it was needed. Instead, she considered taking the Appellant off of the work crew but for reasons not disclosed, did not. In fact, Ms. Hunnicutt expressed little knowledge of the riff that existed between her direct report, Mr. Harden and the Appellant. Exhibit A-2, a Consultation that included her name and Mr. Hardens, described the November 30, 2018 incident. She only recounted that the Appellant was a good worker, a curious employee that asks a lot of questions. Of course, sometimes questions are perceived to be confrontational in a workplace setting.

The Appellant contacted the EAP. With the EAP's assistance he was assigned to a new position within the Parks department. (Exhibit A-5) Now working in another area under different supervision, the Board hopes the change will provide the Appellant a healthier work environment; and, encourages the Appellant to consider applying for other positions where his strengths, skills and experience will be beneficial to his future and to the City of Atlanta.

The Appellant's representative, Gwen Gillespie, stressed that her client was a young man of good character. She offered several accolades that the Appellant has received during his City employment, one being "Employee of the Month."

It is not required that you like your supervisor and no one should have to listen to arguing. However, instead of documenting rude behavior, a meeting with Parks managers, HR management and the Appellant to get to the root of the problem and work out a resolution to the issues between the Appellant and Mr. Harden may have been effective. It is unknown if such a meeting was ever called. Nevertheless, there is nothing that excuses the Appellant of his responsibility to present a professional demeanor and treat his fellow employees with respect.

The subject of the appeal hearing is the infraction dated November 30, 2019. And although Lorenzo Parker was the complainant against the Appellant that resulted in his suspension, he was not called as a witness by either side. The written results of an investigation of the incident were presented recommending the discipline. (Exhibit A-3)

More important to the Board was the non-verbal conduct of the Appellant that occurred on that November 30, 2019 morning. It was the manual activation of the drive cam in Mr. Hardin's City vehicle by the Appellant. (Exhibit A-2)

The Appellant testified when entering Mr. Harden's vehicle, he feared for his safety, specifically verbal abuse. So, he triggered the Drive Cam, *for his personal use*, to record the abuse he stated he routinely experienced from his supervisor, Mr. Harden. That was not the appropriate way to do it. The Appellant's actions were contrary to work rules.

Drive Cams are for critical events usage only. Listed are some of the reasons why an employer would equip their work vehicles with them:

- Defend against driving offence allegations
- Added security and theft deterrent
- Improve driving behavior
- Detect both crash and broken glass events

Mr. Harden stated that employees are not allowed to touch Drive Cam equipment. The City representative, Danielle Jones, verified that to be City policy.

In conclusion, the Board carefully reviewed all exhibits and considered all testimony presented by the City and the Appellant. The Board finds that the evidence indicates that the Appellant did, in fact, violate the misconduct provision of the City of Atlanta Code Section 114-528 (b)(4). Therefore, the 1-Day Suspension is affirmed.

ORDER

The appeal of Marquee Scales is denied.

This the 25th day of February 2020.

Respectfully submitted,



Mary Ann S. Phyll
Civil Service Board Member