

CITY OF ATLANTA CIVIL SERVICE BOARD
ORDER

APPEAL NO. 2019-030AP

Effective Date: August 15, 2019

Hearing Date: October 31, 2019

APPELLANT:

Alfred Farley

HEARING OFFICERS:

S. Ralph Martin, Chair

Plemon El-Amin

Nkoyo-Ene R. Effiong, DWB

APPEARANCES

City of Atlanta (“City”):

None

Counsel/Representative:

Kareemah Lewis, Esq.

Nikkina Speaks

City of Atlanta’s Witnesses:

Lisa Wilson

Nicholas Sotolongo

Abdur Muhammad

James Gray

Appellant:

Alfred Farley

Counsel/Representative:

Kyle Jones

Appellant’s Witnesses:

None

Observers:

Robert Hawkins

Under the authority and provisions of Chapter 114, Article VI, Division 3, Sections 114-546 through 556 of the Atlanta City Code (the “Code”), a hearing conference in

the above-referenced case was held before the above-named hearing officers of the Atlanta Civil Service Board (the “Board”) on the date set forth above in Conference Room 2174 of the City Hall Tower located at 68 Mitchell Street, Atlanta, Georgia.

EXHIBITS

The City’s Exhibits

1. City of Atlanta Department of Aviation Notice of Final Adverse Action dated August 8, 2019 (“August NFAA”).
2. City of Atlanta Department of Aviation Notice of Proposed Adverse Action dated August 1, 2019.
3. Memorandum to Alfred Farley from Abdur Muhammad re Written Reprimand dated July 9, 2019.
4. City of Atlanta Department of Aviation Notice of Final Adverse Action dated April 19, 2019.
5. Memorandum to Alfred Farley from Harold Hart re Written Reprimand dated April 19, 2019.
6. City of Atlanta Department of Aviation Notice of Proposed Adverse Action dated April 9, 2019.
7. City of Atlanta Code of Ordinances Section 114-528.
8. City of Atlanta Vehicle Use Policy.
9. Videos (6) related to Drive Cam and Aviation Incident.
10. Pictures (3) of Appellant.
11. Work Safety Personal Protection Equipment (PPE) Acknowledgement Form.

Appellant's Exhibits

A-1. City of Atlanta Vehicle Use Policy.

Stipulations:

1. I, Alfred Farley, was made aware of the Department of Aviation Section 114-528(b)(1) rule, Negligence in performing duties, and violation of Vehicle Use Policy.
2. I, Alfred Farley, agree that on 7/12/19, 7/25/19, 7/26/19, and 7/27/19, I operated a City vehicle in violation of the Vehicle Use Policy.
3. I, Alfred Farley, agree that on 7/25/19, I operated a City vehicle on North Lower Level roadway.

VIOLATIONS

City of Atlanta, Code of Ordinances Section 114-528:

(b)(1) Negligence in performing assigned duties.

City of Atlanta Vehicle Use Policy.

CHARGES

See City of Atlanta, Atlanta Police Department Notice of Final Adverse Action
(City's Exhibit 1)

FINDINGS OF FACT

1. Appellant is employed by the City of Atlanta (the "City") in the Department of Aviation (the "Department") as a Facility Mechanic Senior. He has been with the City for approximately 21 years.
2. Appellant has had a history of workplace infractions that have resulted in written reprimands.
3. Appellant was aware of the Vehicle Use Policy.

4. Appellant operated a City vehicle in violation of the Vehicle Use Policy on four occasions dated 7/12/19, 7/25/19, 7/26/19, and 7/27/19.
5. On July 25, 2019, Appellant operated a City vehicle on North Lower Level roadway where he nearly made contact with a City employee who was preparing to cross the street.

DISCUSSION

Following an investigation into a near vehicle/pedestrian collision at the airport, the City determined that Appellant failed to uphold his responsibility under Section 114-528(b)(1): Negligence in performing duties and violation of the Vehicle Use Policy. Accordingly, the City suspended Appellant without pay for thirty (30) days. Appellant appeals this decision.

Appellant has been employed with the City as a Facility Mechanic Senior for approximately 21 years. During this time, Appellant has engaged in various behaviors that led to discipline. Notably, on April 19, 2019, Appellant received a written reprimand for sleeping on the job in violation of Section 114-528(b)(1). (City's Exhibit C-5). The memo referenced two separate incidents where Appellant was observed sleeping during his scheduled working hours. Appellant received another written reprimand on July 9, 2019, related to a vehicle accident that resulted in damage to a City vehicle.

In July, Appellant was observed violating the Vehicle Use Policy four (4) times. Of these four incidents, three occurred on consecutive days. The Vehicle Use Policy requires vehicle operators to ensure all passengers riding in City of Atlanta vehicles are wearing their seat belt at all times during the operation of the vehicle. (City's Exhibit 8). This includes the vehicle operator himself. On several occasions, the City's drive cam recorded Appellant driving his vehicle without a seatbelt. The City's drive cam only activates whenever risky behavior occurs and records a total of twelve (12) seconds: eight (8) seconds before the trigger and four (4) seconds after.

On July 25, 2019, Appellant was driving in a high traffic, heavy pedestrian traffic area of the airport – North Lower Level. The City's witness testified that the speed limit is 15 mph. Despite the reduced speed and conditions, Appellant was recorded driving through this area at a high speed and failing to yield at a crosswalk. (City's Exhibit 9). As a result, Appellant nearly struck another City of Atlanta employee as she attempted to cross the street. On the next day, Appellant triggered

the Drive Cam and was observed driving without his seatbelt. The following day, July 26, 2019, Appellant was again seen without his seatbelt. Furthermore, he was observed crossing a double yellow line into oncoming traffic to avoid colliding with a vehicle merging into the lane. On August 8, 2019, Appellant received the NPAA (City's Exhibit 2). He responded to the NPAA acknowledging responsibility or continually not wearing his seatbelt but accepted no responsibility for any other incident. (City's Exhibit 1).

Appellant argues that the City failed to follow its own policy when it did not discipline him progressively according to the guidelines laid out in the Vehicle Use Policy. Under the Vehicle Use Policy, a thirty-day suspension without pay is triggered when an individual triggers the Drive Cam for events involving traffic violations and whether there is no accident or damage five times within a twenty-four month period. (Appellant's Exhibit 1). The Board agrees that the City must follow its policies. The Board disagrees, however, that the City failed to do so in this instance.

The City presented evidence that in two months Appellant had at least six incidents where he triggered the Drive Cam. This included one incident that resulted in damage to the City's vehicle. Appellant received a written reprimand for that incident and was required to pay restitution and take a defensive driving course. (City's Exhibit 3). Notably, Appellant failed to do either. The incidents in July occurred at such a frequency that the Board did not find it feasible for the City to address each incident separately. Furthermore, Appellant's argument that he would have benefited from coaching about wearing his seatbelt, a well-known driving requirement in the state of Georgia, is astoundingly unpersuasive. Lastly, the Board finds that the City also complied with the progressive discipline process laid out in Section 114-527.

Appellant has demonstrated a continued disregard for safe work practices that have not only endangered him but also his coworkers and others. Appellant's argument that he needed coaching to wear his seatbelt or was a product of the "culture" within his department is not compelling. As a self-described Union representative who wins cases, Appellant is in a position of leadership and is knowledgeable enough to conduct himself in accordance with his department's policies. Leadership requires accountability and responsibility; Appellant demonstrated neither.

ORDER

Based on the foregoing, the City's decision is AFFIRMED in accordance with City Code Section 114-553(b).

S. Ralph Martin

S. Ralph Martin, Chair

Plemon El-Amin

Plemon El-Amin

Nkoyo-Ene R. Effiong

Nkoyo-Ene R. Effiong, DWB