

**CITY OF ATLANTA CIVIL SERVICE BOARD  
ORDER**

**APPEAL NO. 2017-022AP**  
**APPELLANT: Darrell Partridge**  
Department of Aviation

Effective Date: April 7, 2017  
Hearing Date: September 5, 2019

**ACTION:**  
**DISMISSAL**

**HEARING OFFICERS/BOARD**  
Plemon El-Amin, Chair  
S. Ralph Martin, Jr.  
Mary Ann S. Phyll, DWB

**APPEARANCES**

**City of Atlanta :**

Valorri Jones, Esq.  
Nikkina Speaks, Legal Asst.

**Appellant Representative:**

Kyle Jones, Esq.  
AFSCME

**City Witnesses:**

April Broaders, HRBP Director Dept. of  
Aviation

**Appellant's Witness:**

Darrell Partridge, Appellant

Paul Meyer, Asst. General Manager  
Dept. of Aviation

**Observers:**

None

**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:**

- B. Transcription from Concentra Medical Center, Medical Examiner's Certification, Clinical Summary, Physician's Report, Physician Work Activity Status Report, Concentra billing information, City of Atlanta-Workers' Compensation Treatment Authorization Form, all dated March 2, 2017 – 8 pages
- C. Quest Diagnostics Laboratory Report for Darrell Partridge, Appellant, dated March 11, 2017
- E. Memorandum from Jenelle Bonds, Benefits Rep. to Department of Aviation reporting Appellant's positive drug test.
- F. NPAA dated March 17, 2017
- G. Email from Lisa Wilson, HR Mngr. to Appellant with a copy of NPAA dated March 17, 2017, attached - 9 pages
- H. Email correspondence from Lisa Wilson, HR Manager to Paul Meyer, Asst. GM, requesting an update on Appellant
- I. Email correspondence from Lisa Wilson to Appellant extending NFAA dated March 30, 2017, NFAA with a date of issue April 7, 2017, Attachment and Certified Mail Receipt – 6 pages
- K. City of Atlanta Code of Ordinances Sec 114-570 thru Sec 114-574, 3 page

### **Appellant:**

- A-1. Atlanta Medical Center Hospital Report that resulted from Appellant's motorcycle accident dated March 10, 2017 – 5 pages

### **Stipulations:**

None

## **VIOLATIONS**

Dismissal for violation of Atlanta City Code of Ordinances 114-570(a) and(b)  
See (Exhibit K)

## **CHARGES**

See City of Atlanta Notice of Final Adverse Action (Exhibit I)

## **FINDINGS OF FACT**

1. The Appellant, Darrell Partridge, a 25-year City of Atlanta employee in good standing was dismissed for testing positive for cocaine. He held the position of Facilitator Maintenance II Worker with the Department of Aviation since 2001.
2. On March 2, 2017, the Appellant suffered an on-the-job injury, a cut to his right index finger that required 6 sutures. No oral medication was given, but Lidocaine, a topical anesthetic was applied to the cut. When released from Concentra Medical Center, he returned to work the same day.
3. Six days later, on March 8, 2017, Appellant completed his prescheduled CDL (Commercial Drivers' License) DOT recertification physical at Caduceus, a City of Atlanta drug screening partner. The clinic utilized the split specimen procedure for drug screening. They split the donor's sample into two vials, one used for the initial screen and, if positive, the second sample is normally used for a confirmation test.
4. March 10, 2017, the Appellant crashed his personal motorcycle in a non-work-related accident. He presented a hospital report that is extremely technical and out of the scope of the Board's authority and expertise to interpret.
5. On March 17, 2017, Caduceus reported to the City of Atlanta HR and the Department of Aviation that the Appellant tested positive for cocaine.

6. HR advised the Department of Aviation that Appellant must be removed due to his safety-sensitive job position. The NPAA was issued on March 17, 2017, and on the same day, the Appellant was released from duty.
7. On March 22, 2017, Asst. GM Dept. of Aviation, Mike Meyer, had a face to face meeting with Appellant and his Union representative, Emma Kincaid, as part of the department's appeal process.
8. On March 28, 2017, the Appellant met again with the Dept of Aviation management.
9. Two days later, on March 30, 2017, via certified mail, telephone, and email, HR Manager Lisa Wilson extended the NPAA allowing 14 more business days for Appellant to prepare and respond to the two meetings held with the Aviation department.
10. Appellant did not respond to any communication from management. On April 7, 2017, Appellant was terminated.
11. At the hearing, witness, April Broaders, HR VP Dir. for Aviation said that she is responsible for oversight of all disciplinary actions for the department. She outlined the department's policy and their responses to situations involving failed drug tests and safety issues. Her responsibilities include oversight of 612 Hartsfield-Jackson Airport employees.
12. Witness, Mike Meyer testified that at the March 22, 2017 meeting, the Appellant presented some medical documents. The Appellant contended that medications from his finger injury gave the 'positive' test result. Mike Meyer said he advised the Appellant during that meeting that it is his responsibility to resolve test results directly with the drug testing facility, Caduceus.
13. Appellant testified that he did go to Caduceus with his documents (date unknown). He spoke with a clinic doctor, whose name he could not remember. However, he did remember that the doctor told him that his finger injury and treatment would not affect his test results.

14. Also, during his visit, Caduceus informed Appellant that he had missed the deadline to take a second test. But that he could retest his sample at his own expense, which Appellant says he was willing to pay for, yet it was not done. Appellant declined the testing of his 2nd vial sample testifying that it would probably have the same result. Appellant commented at least three times during testimony that he felt the doctor blew him off; so he left the clinic.

15. The Appellant clearly stated that he is aware of the City's Drug-Free Policy.

16. City of Atlanta's Employee Handbook - Alcohol and Drug Policy dated November 2010, "*A positive result on a drug screen is a direct violation of the city's substance abuse ordinance. Any employee found in violation will be subject to disciplinary action, up to and including dismissal.*"

## DISCUSSION

The case was called at 10:00am. After introductions, the Board Chair asked if the parties had discussed a settlement. Both parties responded no. The case was more than two years on the pending list waiting for a hearing. In addition, the case had been allowed several resets, two occurring in 2019.

At 10:16 am the Board Chair offered the City and Appellant thirty to ninety minutes to settle the case. They accepted. Everyone understood if a settlement was not reached, the case would move forward and be heard. Forty-three minutes later, the parties stated they were at an impasse. So, the case was called again at 10:59am.

The Appellant contends that he was taken by surprise when his drug screening test was positive for cocaine during a routine CDL recertification physical. His job position and his job's location, Hartsville/Jackson Airport, require a CDL. The City of Atlanta schedules employee drug screening every 24 months for all safety-sensitive positions.

Appellant's representative, Attorney Kyle Jones argued that the City should have investigated and disputed the test results of the drug screening on behalf of the Appellant, because he was an employee who had worked for the City 25 years and that he had a positive work record. In addition, the Appellant said that he did not use drugs.

City witness, Paul Meyer explained the department's position. He testified that the donor of a test with a positive result is required to personally contact the test facility, in this case, Caduceus, to dispute the negative results.

Moreover:

1. Drug screening is a private matter between the donor and the testing facility.
2. A testing facility is the only authority to overturn or nullify test results.
3. City Code does not require the department heads to investigate and/or dispute test results.

During testimony, Appellant stated that he did go to Caduceus. However, he missed a deadline which eliminated the opportunity to take a second test. He refused to test the second vial. The Board questions that decision.

If the first test was compromised by a lab error, testing the second vial would have possibly resulted in a different outcome.

The Board weighed all of the testimony and every exhibit carefully. The Board, therefore, concluded that the Appellant did not carry out the steps necessary to dispute his drug test so he could be cleared to return to work. His managers extended his NPAA deadline to allow him more time to investigate and communicate with them. More importantly, the Board believes that his union's guidance and support were available.

In conclusion, the Appellant stated that he understood the City's Drug-Free Policy and that he witnessed employees that have been terminated because they violated it. Due to the length of his employment and his admitted awareness of the policy, the Appellant's failure to comply cannot be excused. The Board, therefore, finds that Appellant had an undisputed positive drug screening test which violates City Code Sec. 114-573: Results of drug/alcohol analysis. *A positive test result of the drug/alcohol analysis made under this division shall constitute cause for which disciplinary action may be imposed, up to and including dismissal.* The dismissal is upheld.

**ORDER**

This Board **DENIES** the appeal of Appellant, Darrell Partridge

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This the 13<sup>th</sup> day of September 2019.

Signed:

  
Plemon El-Amin, Chair

  
S. Ralph Martin, Jr.

  
Mary Ann S. Phyll, DWB