

**CITY OF ATLANTA CIVIL SERVICE BOARD
FINDINGS OF FACT AND ORDER**

APPEAL NO. 2020-026AP

APPELLANT: Eric Higgins
Dept. of Parks and Recreation

Effective Date: October 21, 2020
Hearing Date: February 25, 2021

ACTION:

Dismissal

HEARING OFFICERS/PANEL

Nkoyo-Ene Effiong, Chair
Plemon El-Amin, DWB
Sterling P. Eaves

APPEARANCES

City of Atlanta:

Kimberly Myers, Asst. City Attorney

City Witnesses:

Bretta Hunnicut, District Supervisor
Latosha Tucker, Operations Manager
Doug Voss, Director of Parks &
Recreation

Appellant Representative:

Eric Higgins

Appellant's Witnesses:

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 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 Notice of Final Adverse Action (NFAA) dated 10/21/2020.
- C-2 Notice of Proposed Adverse Action (NPAA) dated 10/9/2020.
- C-3 NPAA dated 02/3/2015 and NFAA dated 2/18/15.
- C-4 NPAA dated 9/15/2016.
- C-5 NPAA dated 03/27/2019 and NFAA dated 03/26/2019.
- C-6 City Code 114-528(b)(1).
- C-7 City Code 114-528(b)(3).
- C-8 City Code 114-528(b)(4).
- C-9 City Code 114-528(b)(6).
- C-10 City Code 114-528(b)(8).
- C-11 City Code 114-528(b)(10).
- C-12 City Code 114-528(b)(11).
- C-13 City Code 114-528(b)(20).
- C-14 Vehicle Use Policy.

Appellant:

None

STIPULATIONS

None

CHARGES

Termination for Violation of Civil Codes: Section 114-528(b)(1) (3) (4) (6) (8) (10) (11) & (20); and Violation of the COA Vehicle Use Policy

INFRACTION

See City of Atlanta Notice of Final Adverse Action (NFAA) (Exhibit C-1) and Notice of Proposed Adverse Action (NPAA) (Exhibit C-2).

FINDINGS OF FACT

1. Appellant is employed by the City of Atlanta in the Department of Parks and Recreation for 15 years, and as a Supervisor for 8 of those years.
2. Appellant was aware of City Codes Section 114-528(b) (1,3,4,6,8,10,11, & 20).
3. Appellant was aware of the City's Vehicle Use Policy (items # 11,15,19, & 24).
4. Part of the Appellant's work week includes working on Saturdays and Sundays.

DISCUSSION

Due to Mayor Keisha Lance Bottoms' Executive Order and COVID-19 pandemic guidelines, the appeal of Eric Higgins was called virtually at 10am via the Zoom Internet platform.

The Appellant has been employed with the City for more than 15 years. For the past 8 years, the Appellant has served the Dept. of Parks and Recreation as a weekend Supervisor whose team is responsible for removing litter and garbage from 20 City parks.

The allegations of the City of misconduct by the Appellant include his failure to report to work timely, record his time at work using the clock-in and out procedure, notify his immediate supervisor when he will be late reporting to work, wear the correct work boots upon arrival at his job, comply with his supervisor's direct instructions and his refusal to do so. Additionally, the City alleges that the Appellant has violated the City vehicle use policy by repeatedly using his City-issued vehicle to go to and from his home and in some cases, park it at his home for hours during times when he should be on his job.

The Appellant's response to the allegations is that during the weekends, the offices at the location where he reports to work are empty of supervisors to whom he could report his upcoming tardiness to work and that he is the only supervisor present. Therefore, since there is no available supervisor to whom he can report, he notifies his subordinate instead. As to the clocking-in and out errors, the Appellant reports that he has unintentionally been failing to follow the requirements of timekeeping. Regarding the wearing of unacceptable footwear at work, he responds that the still photo taken by his management from the City's video security system of him getting out of his

personal vehicle with open-toed slides on his feet was because he was returning from lunch and did not want to wear dirty work boots in his personal vehicle.

About his refusal to follow his supervisor's instructions, requiring him to drive a piece of City heavy equipment, i.e., a garbage collection truck one day when the assigned employee was not available to do so, the Appellant responds that he does not have a CDL driver's license required to operate the heavy equipment vehicle and moreover is not required to have a CDL driver's license in his current supervisory position. Lastly, his use of the City-issued pick-up truck to and from his home is not any different than what every other supervisor does in the department.

The specific charges presented by the City to this Board are substantial, numerous, and well documented as an on-going body of evidence against the Appellant. In the presentation of its case against the Appellant, the City additionally included all previous discipline issued against the Appellant via the previously issued NFAA's as their justification for dismissal and Mr. Higgins had earlier defended and accepted all of the previous discipline. Therefore, this panel must rule in favor of the City.

ORDER

The Appeal of Eric Higgins is denied, this the 26th day of March 2021.

Respectfully submitted,

Nkoyo-Ene Effiong

Nkoyo-Ene Effiong, Chair

Plemon El-Amin

Plemon El-Amin, DWB

Sterling P. Eaves

Sterling P. Eaves