

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

APPEAL NO. 2018-026AP

Effective Date: February 21, 2018

APPELLANT: **Othell Daniels**

Hearing Date: April 8, 2021

City of Atlanta (“City”)  
Department of Watershed Maintenance: (“DWM”)

ACTION:

Dismissal

HEARING OFFICERS/BOARD:

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

**APPEARANCES**

City of Atlanta Representative:

Jacquita Parks, Esq.  
Natasha Murphy, Esq.

City Witnesses:

Jenelle Bonds, City Human Resources, Benefits Division  
Dr. Stephen Dawkins, Medical Director, Caduceus, USA  
Maher Abed, Watershed Manager, OLIO, DWM

Appellant Representative:

None

Appellant Witnesses:

Othell Daniels, Appellant

**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 City Standard Operating Procedure, No. 500.06 Drug and Alcohol Policy and Procedures dated September 7, 2017.
- C-2 Letter of Notification, Selection for Random Testing, Othell Daniels ID# 17654, date selected Nov. 13, 2017, served November 27, 2017.
- C-3 Caduceus View Patient Visit Report for Othell Daniels, date of service November 27, 2017, 1 page.
- C-4 Quest Diagnostics Laboratory Report, Donor ID#17654, dated November 30, 2017.
- C-5 Caduceus Patient View Patient Visit Report for Othell Daniels, date of service November 27, 2017, 3 pages.
- C-6 DER Report Memo to Sherri Dickerson, HR Director, DWM, dated January 10, 2018.
- C-7 Quest Diagnostics Federal Drug Testing Custody and Control Form, dated December 7, 2017.
- C-8 Notice of Final Adverse Action issued on February 19, 2018 (“NFAA”) and Notice of Proposed Adverse Action issued on February 7, 2018 (“NPAA”).
- C-9 Notification of Administrative Leave Letter from Maher Abed to Othell Daniels dated February 7, 2018.

**Appellant:**

None.

**STIPULATIONS**

None.

**VIOLATIONS**

Dismissal for violation of the City of Atlanta Municipal Code of Ordinances:

§114-573 Results of drug/alcohol analysis

A positive test result of the drug/alcohol analysis made under the division shall constitute cause for which disciplinary action may be imposed, up to and including dismissal.

### **SPECIFIC CHARGES**

*“On January 2, 2018, a random drug analysis revealed that you tested positive for being under the influence of an illegal substance.”*

### **FINDINGS OF FACT**

1. The Appellant worked for DWM as a Crew Supervisor and was employed by the City for more than seventeen (17) years.
2. On November 27, 2017, the Appellant was notified and submitted himself to a random drug and alcohol screen at the City-contracted testing facility at Caduceus USA (“the Lab”).
3. On or about December 7, 2017, the Appellant was notified by telephone by the Lab that the results of the drug screen were positive for the presence of the metabolites of marijuana. During that call, the Appellant was given the option to have the Lab test his second urine/split sample for potential results confirmation which the Appellant requested.
4. On January 2, 2018, the split sample result re-confirmed that the Appellant’s sample had marijuana metabolites present. On January 10, 2018, an internal memo was sent to DWM from the Human Resources Department (“HR”) notifying DWM of the Appellant’s positive test results.
5. By letter dated February 7, 2018, the Appellant was notified that the City was placing him on administrative leave.
6. The NPAA was issued on February 7, 2018, with the NFAA issued on February 19, 2018 stating that the Appellant’s employment would be terminated effective February 21, 2018.

### **DISCUSSION**

The City has a no-tolerance drug and alcohol policy and the Appellant was dismissed from City employment because of the presence of marijuana metabolites, a prohibited substance, in his urine. There was no defense given by the Appellant about the contents of his urine or the collection or testing by the Lab of his urine sample. The Appellant only asserts that the test results and resulting discipline should be nullified because the time between the testing date and

the date discipline was imposed was excessive.

The Appellant was employed by the City in a safety sensitive position and he therefore was subject to random drug and alcohol screening. The City HR department administers the drug and alcohol screening process. Ms. Janelle Bonds, Benefits Representative, HR, testified for the City and she explained in detail about the process she uses. A random generator program produces a report of names of the City employees to be tested and Ms. Bonds provides that information to the appropriate department. Once the collection and testing is completed by the Lab, she is notified by the Lab of each result. After she notifies the department(s) of the test results, she is no longer involved in the process.

A review of the generated paperwork in this case reveals a fourteen (14) day delay between the day Ms. Bonds notified DWM of the required random test of the Appellant and the day that the Appellant was tested. Ms. Bonds explained that while she did not know what caused that delay, she posited that DWM personnel, including potentially the Appellant, could have been out of work on sick or vacation leave. While Ms. Bonds was not asked about it, there was an eight (8) day delay between the test results date and the day she issued her internal memo to DWM notifying them of the Appellant's test results.

Mr. Maher Abed, DWM OLIO Manager also testified for the City. He explained that, as is his usual process, when he received notice of the Appellant's positive test result, at his direction, a letter to the Appellant notifying him that he would be placed on administrative leave with pay effective February 7, 2018, was prepared and he signed it. Another time gap appears in the form of nearly twenty-eight (28) days between Ms. Bonds notification to DWM of the positive test results and the date of the administrative leave letter. There was no discussion at the hearing of this time gap.

Regarding timing in the collection and testing process itself, the Lab's Chief Medical Officer Dr. Stephen Dawkins testified. He testified about the process and procedure used by the Lab and its contractors in the collection, testing, re-testing and final confirmation review by their medical staff. Dr. Dawkins stated that he could only speak to the Lab's process and not that used by its vendors. He explained that once the sample is collected from the donor, it is physically split into two vials (therefore creating the split sample). From the collection date until the date the Lab issues the written results to the City, the process could take up to ninety (90) days. In this case, the little more than thirty (30) days that the entire collection and testing process took was within guidelines and therefore acceptable.

Turning to the Appellant's defense, there was no evidence introduced that the City has any mandate regarding the exact timing of any particular step's completion during the drug and alcohol testing process. In the absence of prescribed time limits, the City, and indeed the Lab on its behalf, established that the Code was followed from beginning to end in this case. That the City and/or the Lab was excessively slow in the screening process as the Appellant asserted, was simply not proved.

As to the positive test results from the Appellant's urine sample, the Board met with befuddlement when it attempted to understand the specific written test result numbers and even

though Dr. Dawkins' was asked to and did explain them, confusion lingered. Regardless, the Board is clear that the Appellant had a prohibited substance/marijuana metabolites in his urine on the date he was tested. Given that the Appellant presented no defense to or denial of the test result itself and that his "results delayed" argument was not found to be persuasive, this Board finds that the City has met its burden in proving that the Appellant violated the City drug and alcohol policy and that his dismissal from City employment was justified.

### **ORDER**

Accordingly, the Board **AFFIRMS** the discipline imposed by the City against the Appellant and **DENIES** the appeal.

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This the 19<sup>th</sup> day of April, 2021.

*Plemon El-Amin*

Plemon El-Amin, Chair

*Nkoyo-Ene Effiong*

Nkoyo-Ene R. Effiong

*Sterling Eaves*

Sterling P. Eaves, DWB