

CITY OF ATLANTA
CIVIL SERVICE BOARD
FINDINGS OF FACT AND ORDER

APPEAL NO. 2018-021AP

Effective Date: February 5, 2018

APPELLANT: Pierre Lubin

Hearing Date: April 22, 2021

City of Atlanta (“City”)
Department of Watershed Management (DWM)

ACTION:

Five-day Suspension

HEARING OFFICERS/BOARD:

Mary Ann Phyll, Chair
Robert Hawkins
Plemon El-Amin, DWB

APPEARANCES

City of Atlanta Representative:

Kellye Terrell, HR Director

City Witnesses:

Kelvin Duffy, Project Coordinator DWM
Quinton Fletcher, Deputy Commissioner DWM

Appellant Representative:

Rita Cherry, Esq., National Association of Government Employees

Appellant Witnesses:

Pierre Lubin, 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 Memorandum dated March 17, 2017.
- C-2 Notice of Final Adverse Action issued on January 19, 2018 (“NFAA”).
- C-3 Notice of Proposed Adverse Action issued on January 4, 2018 (“NPAA”).
- C-4 Document dated December 1, 2017.
- C-5 Document dated December 13, 2017.
- C-6 Reprimand dated August 2017.
- C-7 Waiver of Representation dated August 2017.
- C-8 Oral Admonishment dated May 8, 2017.

Appellant:

None

STIPULATION

None Agreed Upon

VIOLATIONS

City of Atlanta Municipal Code of Ordinance 114-528 (b) (3) Failure to carry out an official directive or refusal to carry out the lawful, reasonable directions given by a supervisor or other acts of insubordination.

FINDINGS OF FACT

1. The Appellant on December 17, 2017 was a Process Control Technician employee of the City of Atlanta Department of Watershed Management (DWM), Office of Water Treatment and Reclamation (OWTR).
2. On December 1, 2017, Mr. Lubin left his assigned work area without obtaining his supervisor's permission.
3. Mr. Lubin was charged with being in violation of City Code 114-528 and received a five-day unpaid suspension effective Feb. 5, 2018.

DISCUSSION

Several things became apparent to the Board during testimony of the witnesses and the Appellant. The work responsibilities of Mr. Lubin and his Supervisor Kelvin Duffy are extremely important to the City's water supply, safety, and drinkability. It was also apparent that the relationship between the two was quite strained, as was indicated by previous incidents of similar nature between Lubin and Supervisor Duffy. It was clearly presented that Mr. Lubin on several occasions left his assigned plant without permission or notification to his Supervisor, as is prescribed and required in a Department Memorandum, of which Mr. Lubin was well aware.

However, it was presented that Mr. Lubin's expertise was often needed and requested at other City Water Treatment Plants, and his testimony was that he was responding to urgent and sometimes emergency requests. The City did not present any evidence or arguments that disputed his presence and assistance at other City Water facilities. Also, Mr. Lubin testified that informing his Supervisor via phone or email was difficult in many of the Plants because of being either underground or surrounded by water which impeded signals. Moreover, contacting a supervisor during the early morning hours of the third shift was inconsiderate and inappropriate.

The Board recognizes the insubordination of the Appellant in this incident, but also heard nothing that contradicted his testimony that his leaving one City facility was to answer requests from other City facilities for his special expertise. We surmise that better communications between Facilities may have been needed as well.

ORDER

Accordingly, the Board **Modifies** the discipline of a **Five (5) Day Suspension** imposed by the City against the Appellant to a **Three (3) Day Suspension** as permitted by Code.

This the 20th day of May 2021.

Mary Ann Phyll

Mary Ann Phyll, Chair

Robert Hawkins

Robert Hawkins

Plemon El-Amin

Plemon El-Amin, DWB