

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

APPEAL NO. 2021-005AP

Department of Watershed Management

Effective Date: March 2, 2021

Hearing Date: June 17, 2021

APPELLANT:

Chris Johnson, Jr.

ACTION:

Dismissal

HEARING OFFICERS:

Plemon El-Amin, Chair

Herman Sloan

Robert D. Hawkins, DWB

APPEARANCES

City of Atlanta (“City”):

None

Counsel/Representative:

Alisha Marie S. Nair

City of Atlanta’s Witnesses:

Jenelle Bonds

Darren Boykins

Dr. Stephen Dawkins

Appellant Chris Johnson, Jr.

Appellant:

Chris Johnson, Jr.

Counsel/Representative:

None

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 conference 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 (the "Board") on the date set forth above.

ATLANTA CIVIL SERVICE BOARD MISSION STATEMENT

As stated during the June 17, 2021 Zoom hearing, the Board's sole purpose is to examine the issues of adverse employment action(s) in accordance with the Atlanta City "Code". More specifically, the Board **is not** charged with determining if the Appellant's actions were criminal in nature nor will it make any reference thereto.

EXHIBITS

City of Atlanta: See List in the Official Records

Appellant: None

CHARGES

Appellant was dismissed for violating Section 114.573 of the Code:

"A positive test of the Drug/Alcohol analysis under this Division shall constitute cause for which disciplinary action may be imposed up to and including dismissal."

FINDINGS OF FACTS

The Appellant was hired on April 20, 2016, in the Department of Watershed Management as a Watershed Construction Maintenance Worker I.

As part of the recertification process for maintaining privileges to operate a commercial vehicle in the State of Georgia, the Appellant was required to undergo a drug/alcohol screen.

On December 4, 2020, the Appellant completed the drug/alcohol screen. The result was positive. At that point, the Appellant's driving privileges were suspended.

On December 15, 2020, Dr. Stephen Dawkins, a Medical Review Officer for Caduceus USA, which is the organization engaged by the City of Atlanta to conduct drug/alcohol screenings, submitted the original specimen to an unaffiliated laboratory to ensure independence, impartiality and final confirmation.

The second screening was confirmed as positive on January 7, 2021. The Appellant was immediately placed on paid administrative leave until all facts and details could be appropriately and sufficiently evaluated as disclosed during the hearing by Jenelle Bonds, a Benefits Representative for the City of Atlanta's Department of Human Resources.

During his testimony, the Appellant said he was not notified of the results of the split specimen test. Dr. Stephen Dawkins testified that efforts to communicate the results of the aforementioned test were not successful because the Appellant's cell phone was unable to receive additional messages at the time.

On February 17, 2021, a Notice of Proposed Adverse Action was issued to the Appellant with a "Dismissal" recommendation. In accordance with the Code, the Appellant was given five days to submit a written and/or a verbal response.

On February 25, 2021, Darren Boykin, Deputy Commissioner, Department of Watershed Management and former Human Resources Manager Janine Williams met with the Appellant. Before the meeting formally commenced, the Appellant was given an opportunity to have a Union Representative present; however, he declined the offer. This is confirmed in the City's Exhibit C7, dated February 25, 2021 and signed Mr. Boykin, Ms. Williams and the Appellant.

On February 25, 2021, the Appellant received a Notice of Final Adverse Action for violating Section 114.573 of the Code, effective March 2, 2021.

DISCUSSION

The Appellant was not represented by legal counsel or by a Union Representative. During the hearing, the Appellant did not offer any exhibits, or witnesses to refute or counter the City's action. He did state that he was not informed of the results of the split specimen test; however, his comments were countered during the testimony of Dr. Stephen Dawkins.

The Appellant objected to the City's request to enter Exhibits C1 and C2, Notice of Proposed Adverse Action and the Notice of Final Adverse Action, respectively, asserting the language in the documents did not coincide. Chairman El-Amin informed the Appellant that no such requirement exists.

The Appellant expressed displeasure in what he believed to be the City's rush to judgment, because subsequent drug screenings conducted in accordance with his current position with a new employer, yielded negative results. It is important to note; however, that the Appellant was not immediately terminated when the initial screening results were received. As highlighted in the "Findings of Facts", additional testing of the original specimen was conducted by an independent laboratory to ensure that an accurate and valid conclusion was reached. Moreover, after a positive screening was confirmed by a second laboratory, the Appellant was placed on paid administrative leave until the effective termination date shown in the Notice of Final Adverse Action. Therefore, the City's action does not seem rushed nor void of due consideration. Finally, Deputy Commissioner Boykin and Benefits Specialist Bonds told the Panel, that the Department of Watershed Management was not suggesting or inferring that the Appellant was a chronic user or an abuser of illegal substances. They did reiterate the Department's "Zero- Tolerance" protocol for illegal drug use. Meaning prior instances of similar behavior exhibited by other employees resulted in the same consequences and outcomes.

ORDER

Based on concrete documentary evidence confirming a positive drug screening and the testimony provided by witnesses, the City's action is **Affirmed** and the Appellant's **Appeal** is **Dismissed**.

This the 6th day of July 2021.

Plemon El-Amin

Plemon El-Amin, Chairperson

Herman Sloan

Herman Sloan

Robert Hawkins

Robert D. Hawkins, DWB