

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

APPEAL No. 2019-007AP

Effective Date: September 21, 2019

Hearing Date: February 3, 2022

APPELLANT: Envil Westmoreland

City of Atlanta  
Department of Public Works

**ADVERSE ACTION:**

Three (3) Day Suspension

**HEARING OFFICER/BOARD:**

Suzanne Wynn Ockleberry, Chair

City of Atlanta Representative:  
Byron Gibson

Appellant:  
Envil Westmoreland

**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, facilitated by the City, pursuant to Mayor Andre Dickens Executive Order regarding COVID-19, and before the above-named hearing officer of the Atlanta Civil Service Board (“Board”) on the date set forth above.

**EXHIBITS**

City of Atlanta: C-001 – Notice of Proposed Adverse Action  
C-002 - Time Clock Report for Appellant from October, 29, 2018 until  
January 8, 2019  
C-003 - Written Reprimand dated October 2, 2018  
C-004 – Notice of Final Adverse Action

Appellant: None

## **CHARGES**

Three (3) day suspension for violating City of Atlanta Municipal Code of Ordinance:

Sec. 114-528(b)(5) Excessive Tardiness.

Sec. 114-528(b)(20) Any other conduct or action of such seriousness that disciplinary action is considered warranted.

## **FINDINGS OF FACT**

1. At all relevant times, Appellant was employed by the City of Atlanta, Department of Public Works (“Department”).
2. On October 2, 2018, Appellant was issued a Written Reprimand for excessive tardiness. The Written Reprimand advised Appellant that any repeat occurrence or failure to correct his behavior would result in more severe disciplinary action, including up to and including dismissal. (C-003).
3. After the issuance of the Written Reprimand, Appellant was tardy on October 31; November 1, 2, 26, 27, 28, 29, 30; December 3, 5, 2018; and January 3 and 7, 2019. (C-002).
4. On January 20, 2019, the Department issued a Notice of Proposed Adverse Action (“NPAA”) to Appellant for a proposed action of a three (3) day suspension effective on February 14, 2019 for violating City of Atlanta Municipal Code Ordinances Secs. 114-528(b)(5) and 114-528(b)(20). (C-001).
5. On February 20, 2019, the Department issued a Notice of Final Adverse Action (“NFAA”) for a three (3) day suspension effective on February 21, 2019. (C-004).

## **DISCUSSION**

Due to Mayor Andre Dickens’ Executive Order and COVID-10 pandemic guidelines, the appeal by Envil Westmoreland was called virtually at 2 p.m. on February 3, 2022 via the Zoom Internet platform.

After hearing arguments from both sides and reviewing all of the evidence presented, the Chair finds that there was sufficient evidence presented by the City that Appellant was in violation of Atlanta City Code of Ordinances Sections 114-528(b)(5) and 114-528(b)(20) which warranted a three (3) day suspension.

Mr. Byron Gibson, Human Resource Director for Public Works and Transportation, introduced into evidence City of Atlanta Exhibits C-001 through C-004. The evidence indicates that Appellant was tardy at least twelve (12) times after he signed the Written Reprimand on October 2, 2018.

Appellant testified that he believes that he was tardy because the time clock may have not been working properly, that his supervisor told him to “come in” and said, “I got you”, that his bus and train were often late, and/or that he had business to take care of.

Appellant admitted during the hearing that he had signed the Written Reprimand in October, 2018 which cautioned him about possible discipline for any future tardy occurrences. And, Appellant did not provide any documentary evidence to support that any of the reasons he testified about were the cause for any of his tardies.

Based upon the evidence presented, there was just cause for the City of Atlanta to issue a three (3) day suspension to Appellant for violation of Atlanta City Code of Ordinances Sections 114-528(b)(5) and 114-528(b)(20).

**ORDER**

The appeal by Envil Westmoreland regarding his three (3) day suspension issued to him by the City of Atlanta Department of Public Works on February 20, 2019 and effective on February 21, 2019 is DENIED.

This the 4<sup>th</sup> day of February, 2022.

Respectfully submitted,

*Suzanne Wynn Ockleberry*  
BOARD MEMBER, Chair