

CITY OF ATLANTA
CIVIL SERVICE BOARD
ORDER

APPEAL No. CSB-2022-004

Effective Date: June 7, 2022
Hearing Date: September 29, 2022

APPELLANT: **James Rankin**

City of Atlanta
Department of Parks and Recreation

ADVERSE ACTION:
Dismissal

HEARING OFFICER:
Connie Russell, Chair
Suzanne Wynn Ockleberry
E. Carl Touchstone

APPEARANCES

City of Atlanta Representative:
Mohamad Nielsen, Esq.

City Witnesses:
Asher Morris
Danielle Jones
Tamika Spirling - Brooks

Appellant:
James Rankin, Pro Se

Appellant Witnesses:
Not Applicable

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:

- C1 – Notice of Proposed Adverse Action (NPAA)
- C2 – Notice of Final Adverse Action (NFAA)
- C3 - Summary of Findings
- C4 - Process for Progressive Discipline

Appellant: Not Applicable

CHARGES

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

114-528(b)(4) -Misconduct, including but not limited to engaging in offensive conduct or language toward the public, supervisory personnel, or fellow employees.

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

STIPULATED FACTS BY THE PARTIES

None.

FINDINGS OF FACT

1. Appellant was a regular, full-time employee with the City of Atlanta (COA) as a custodian in the Department of Parks and Recreation (the “Department”) since November 8, 2016.
2. Appellant was regularly assigned to the Adams Park Recreation Center.
3. On the night of November 26, 2021, Appellant was assigned to work at the Adamsville Recreation Center, while it was serving as a Warming Center, for the community.
4. Appellant was out Christmas shopping earlier in the day on November 26, 2021, when he received the call to report to the Warming Center later that evening, for work.
5. Appellant was carrying his personal firearm with him, for protection, while he was shopping on November 26, 2021.
6. Appellant believed that he did not have enough time to travel to his home, in order to leave his personal weapon, prior to reporting to his assigned workplace.
7. In the early morning of November 27, 2021, Appellant was involved in a couple of altercations with a guest at the Warming Center.
8. The guest became aggressive during the interactions with Appellant.
9. Appellant pulled his firearm from his bag during the second altercation with the guest.
10. In his capacity as a custodian, Appellant was not trained, to interact with the guests at the Warming Center.

DISCUSSION

Based on the results of the investigation into the November 27, 2021 incident at the Warming Center involving Appellant and the aggressive guest, the City determined that Appellant violated the following sections of the City of Atlanta Municipal Code of Ordinances: *114-528(b)(4) Misconduct* and *114-528(b)(20) Any other conduct*. The City ultimately dismissed Appellant from his employment for these violations. Appellant appeals that decision.

Appellant had been employed with the Department since November 8, 2016. At all times, Appellant's position was custodian, and he was assigned to the Adams Park Recreation Center. However, during winter months, COA operated Warming Centers at certain locations to help citizens who did not have adequate heat. On the night of November 26, 2021, Appellant was required to report to the Warming Center at the Adamsville Recreation Center. It was at this assignment that Appellant came into contact with an unruly guest during the early morning hours of November 27, 2021. The guest had been occupying the shower area for an extended period of time and when asked by Appellant to vacate the shower area for cleaning, the guest became belligerent and aggressive towards Appellant. Heated words were exchanged between the two individuals. This was the first encounter with the guest.

Later during the morning of November 27, 2021, Appellant was in the gym area of the building to collect trash. At this time, the guest along with three other men, began walking towards Appellant and Appellant felt threatened. It was during this encounter that Appellant admitted to pulling his firearm from his bag and holding it beside his leg to stop the guest and his friends from approaching him.

Code Section 114-528. Cause for Action

- (a) No employee shall be dismissed from employment or otherwise adversely affected as to compensation or employment status except for cause. However, this shall not apply to employees dismissed or otherwise adversely affected due to curtailment of funds or reduction in staff or reorganization or demoted during a probationary period such that the employee is returned to the position held immediately prior to promotion when such action is in accordance with article IV of this chapter.*
- (b) The following actions constitute cause for which disciplinary action may be imposed, but the imposition of disciplinary action shall not be limited to such offenses:*
 - (4) Misconduct, including but not limited to engaging in offensive conduct or language toward the public, supervisory personnel, or fellow employees.*
 - (20) Any other conduct or action of such seriousness that disciplinary action is considered warranted.*

The City's first witness was Asher Morris ("Morris"). Morris has been the Manager for the COA Mayor's Office of Emergency Preparedness for approximately two (2) years. Although Morris was not on site at the time of the incidents between Appellant and the guest, Morris received a call from an employee later that morning informing him about the encounters. Morris indicated that he then proceeded to interview three employees, as part of his investigation in this matter. Morris confirmed that Appellant was not trained by his department to interact with the guests at the Warming Centers, nor to act as security. Morris finally indicated that Appellant should have walked away or called 9-1-1 for assistance.

Danielle Jones ("Jones"), HR Director for the Department, was the next witness for the City. Jones has served in the role of Director for approximately four (4) years. She provided

testimony concerning the disciplinary process in this matter, primarily indicating that Appellant was served with the Notice of Proposed Adverse Action (“NPAA”) and filed a timely response. Jones added that the Department Head along with Human Resources ultimately decides if an employee’s conduct warrants termination.

The City’s final witness was Tamika Spirling-Brooks (“Spirling-Brooks”). Spirling-Brooks has been the Director of the Office of Labor and Employee Relations (“OLER”) since November, 2021. She stated that her office is responsible for internal administrative complaints, integrity complaints, EEOC matters, and interactions with the labor unions. She testified that the instant matter was referred to her office by then Commissioner Jeffrey Norman. Spirling-Brooks went on to state that she conducted an investigation by speaking with Asher Morris, the Appellant, and several additional witnesses. She testified that as a result of her investigation, her findings were: 1) Appellant did not receive training to work with Warming Center guests; 2) Appellant had his personal firearm in his bag; 3) there were two altercations between Appellant and the guest; 4) Appellant pulled his firearm during the second altercation, in a threatening manner; and 5) Section 106-307 of the City of Atlanta Municipal Code of Ordinances prevents City employees from carrying weapons on City property.

Appellant testified that the reason he was carrying his personal firearm on November 26, 2021, was because he was shopping, and riding MARTA. Appellant stated that he had been “jumped” before, while riding MARTA and believed that he needed the firearm for his personal safety. Appellant further stated that the guest threatened him in the shower area, and that he only pulled his firearm in the gym area because the guest was walking up on him, along with four more guys.

Based on the evidence presented, the Board believes that the City of Atlanta has met its burden to substantiate Appellant’s dismissal in this matter. The City followed the proper procedures in this action and the Board is satisfied that the City’s discipline is appropriate in this matter.

After review of the testimony and evidence, the Board concludes that the City was justified in its action of the **Dismissal** in the instant matter. The City has met its burden concerning all of the allegations as presented.

ORDER

Based upon the evidence presented, the Board **AFFIRMS** the dismissal of Appellant for violation of City of Atlanta Municipal Code Sections 114-528(b)(4) and 114-528(b)(20).

This the 31st day of October, 2022.

Respectfully submitted,

Connie Russell

Connie Russell, Chair

Suzanne Wynn Ockleberry

Suzanne Wynn Ockleberry

E. Carl Touchstone

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