

COMMONWEALTH OF PENNSYLVANIA

Courtney Thompson : State Civil Service Commission
 :
 v. :
 :
 Delaware County Assistance Office, :
 Department of Human Services : Appeal No. 30454

Courtney Thompson James S. Marshall
Pro Se Attorney for Appointing Authority

ADJUDICATION

This is an appeal by Courtney Thompson challenging her removal from regular Income Maintenance Caseworker employment with the Delaware County Assistance Office, Department of Human Services. A video hearing was held on August 7, 2020, via Skype for Business, before Commissioner Bryan R. Lentz.

The Commissioners have reviewed the Notes of Testimony and exhibits introduced at the hearing. The issue before the Commission is whether the appointing authority had just cause for appellant's removal.

FINDINGS OF FACT

1. On December 26, 2019, appellant was informed she was removed from her regular Income Maintenance Caseworker employment with the appointing authority, effective December 27, 2019. Comm. Ex. A.

2. The December 26, 2019 removal letter provides the following:

LATENESS: (as defined by DHS Human Resource Policy 7173)

Specifically, on November 13, 2019 you reported to work at 2:23 p.m. indicating an emergency. You have exhausted all earned and anticipated leave entitlement, so the late arrival has been charged to AW leave.

Comm. Ex. A (emphasis in original).

3. The appeal was properly raised before this Commission and was heard under Section 3003(7)(i) of Act 71 of 2018. Comm. Exs. C, D, E, E-1, E-2.

4. Appellant was employed as an Income Maintenance Caseworker working at the Delaware County Assistance Office. An Income Maintenance Caseworker is responsible to be on time to perform his or her duties, such as answering the phones, updating client cases, and providing customer service. N.T. pp. 37, 86.
5. On October 15, 2018, appellant received an oral reprimand for tardiness. N.T. pp. 59-60; AA Ex. 1.
6. On September 19, 2019, appellant received a Level-One Alternative Discipline in Lieu of Suspension (hereinafter “ADLS”) for an unreported absence on September 9, 2019. Appellant’s Level-One ADLS had the same effect as a one-day suspension. N.T. pp. 64-65; AA Ex. 2.
7. On October 24, 2019, appellant received a Level-Two ADLS with a final warning for lateness. N.T. pp. 67-69; AA Ex. 3.

8. Appellant's assigned work hours at the Delaware County Assistance Office were 8:30 a.m. to 4:30 p.m. N.T. p. 39.
9. On November 13, 2019, appellant arrived for work at the Delaware County Assistance Office at 2:23 p.m. N.T. pp. 77, 90-91; Ap. Exs. 1, 2, 3, 4.
10. On November 13, 2019, appellant did not have any actual or anticipated annual leave. N.T. pp. 46, 79, 81.
11. Appellant's pre-disciplinary conference (hereinafter "PDC") occurred on November 19, 2019. N.T. p. 72.
12. Field Human Resource Officer Linda Davis received the PDC notes from appellant's supervisor, Welfare Hearings Officer Asha Woodall, and Office Manager, Susan O'Hara, recommending appellant's removal. N.T. p. 74.
13. Davis recommended appellant's removal. N.T. p. 74.

DISCUSSION

The issue in the present appeal is whether there was just cause for appellant's removal from regular Income Maintenance Caseworker employment. The appointing authority charged appellant with lateness for reporting to work at 2:33 p.m. Comm. Ex. A.

The appointing authority bears the burden of proving just cause for removal of a regular status employee and must prove the substance of the charges underlying the removal. *Long v. Commonwealth of Pennsylvania Liquor Control Board*, 112 Pa. Commw. 572, 535 A.2d 1233 (Pa Commw. 1988). Factors supporting the just cause removal of a civil service employee must be related to the employee's job performance and touch in some logical manner upon the employee's competency and ability to perform his job duties. *Woods v. State Civil Service Commission*, 590 Pa. Commw. 337, 912 A.2d 803 (2006).

In support of its charges, the appointing authority presented the testimony of Welfare Hearings Officer Asha Woodall¹ and Field Human Resource Officer Linda Davis.² In response, appellant testified on her own behalf.

¹ Asha Woodall is employed by the appointing authority as a Welfare Hearings Officer. N.T. pp. 31, 32. Prior to being a Welfare Hearings Officer, Woodall was an Income Maintenance Casework Supervisor for three years within the Delaware County Assistance Office located 845 Main Street, Darby, Pennsylvania. N.T. pp. 30-31, 32, 35. As an Income Maintenance Casework Supervisor, Woodall reported to Income Maintenance Administrator Susan O'Hara. N.T. p. 34.

² Linda Davis is employed by the appointing authority as a Field Human Resource Officer at the Delaware County Assistance Office. N.T. pp. 54, 55. As a Field Human Resource Officer, Davis is responsible for overseeing human resource functions, labor management issues, time issues, and disciplinary matters. N.T. p. 56.

Pursuant to her duties as an Income Maintenance Casework Supervisor, Woodall supervised Income Maintenance Caseworkers, including appellant, within the Delaware County Assistance Office's Continuing Eligibility Unit. N.T. pp. 36, 39. Woodall explained the Delaware County Assistance Office provides public assistance programs such as the Supplemental Nutritional Assistance Program, medical assistance, LIHEAP, employment, and training. N.T. p. 35.

Woodall explained appellant's duties as an Income Maintenance Caseworker. An Income Maintenance Caseworker determines whether their assigned clients are eligible for public assistance programs and continues monitoring the client's continuing eligibility throughout the certification period. N.T. p. 37. Woodall emphasized one of the duties of an Income Maintenance Caseworker is to be on time to perform his or her duties, such as answering the phones, updating client cases, and providing customer service. N.T. p. 37. Appellant's assigned work hours are from 8:30 a.m. to 4:30 p.m. N.T. p. 39. Woodall asserted appellant was aware of the importance of being on time because she previously received disciplinary actions in relation to time and attendance and being absent without leave. N.T. p. 41. Woodall recalled appellant was completely depleted of any anticipated annual leave, actual annual leave, anticipated sick leave and actual sick leave in November 2019.³ N.T. p. 46. Woodall emphasized appellant had full knowledge she was out of annual leave due to her previous disciplinary actions. N.T. p. 47.

³ Anticipated leave is time that an employee earns over the calendar year. Actual time is time that is acquired during the calendar year. N.T. pp. 46-47.

Davis testified appellant received three disciplinary actions before her removal. N.T. p. 58. On October 15, 2018, appellant received an oral reprimand for tardiness. N.T. pp. 59-60; AA Ex. 1. On September 19, 2019, appellant received a Level-One Alternative Discipline in Lieu of Suspension (hereinafter “ADLS”) for an unreported absence on September 9, 2019. Appellant’s Level-One ADLS had the same effect as a one-day suspension. N.T. pp. 64-65; AA Ex. 2. On October 24, 2019, appellant received a Level-Two ADLS with a final warning for lateness. Specifically, appellant arrived to work late on October 17, 2019. Davis explained a final warning informs an employee if similar infractions occur in the future, then the result would be the employee’s removal. Appellant’s Level-Two ADLS had the same effect as a three-day suspension. N.T. pp. 67-69; AA Ex. 3.

Davis received emails regarding appellant’s lateness on November 13, 2019. In response, Davis prepared appellant’s pre-disciplinary conference (hereinafter “PDC”) scheduled for November 19, 2019. N.T. p. 72. Woodall, Susan O’Hara, and appellant attended appellant’s PDC. Appellant’s charges were tardiness and being absent without leave. N.T. pp. 42, 43. Woodall acknowledged appellant’s response to the charges is identical to the narrative appellant submitted through her Appeal Request Form.⁴ Comm. Ex. B; N.T. p. 46; Ap. Exs. 1, 2, 3, 4. Davis recalled appellant’s response to the charges during her PDC on November 19, 2020. Davis explained that on November 13, 2020, appellant called the Delaware County

⁴ The appointing authority does not dispute the events that occurred on November 13, 2019 presented in appellant’s narrative attached within her Appeal Request Form. Comm. Ex. B; N.T. pp. 23-24; AA Exs. 1, 2, 3, 4.

Assistance Office to inform the office that her car had broken down and she would be late to work. Appellant continued to call the office multiple times to inform the staff about her car's repairs until her car was fixed and she arrived at the office at 2:23 p.m. N.T. p. 77; Ap. Exs. 1, 2, 3, 4.

Davis received the PDC notes from appellant's supervisor, Woodall, and Office Manager, Susan O'Hara, recommending appellant's removal. N.T. p. 74. Davis also reviewed the appointing authority's Human Resource Policy 7173 regarding lateness. N.T. p. 75; AA Ex. 4. Pursuant to the appointing authority's Human Resource Policy 7173, an employee receives a lateness charge when he or she reports for work more than fifteen minutes beyond his or her designated start time. AA Ex. 4. If an employee reports for work fifteen minutes beyond his or her designated start time within six months of receiving a disciplinary action with the effect of a three-day suspension, removal would be warranted. AA Ex. 4.

Davis recommended and participated in the decision to remove appellant. N.T. p. 74. Davis explained when appellant received a final warning for lateness, the next disciplinary step would be removal for time and attendance related infractions. N.T. pp. 74, 78. Davis emphasized appellant used all the leave she accumulated since she was hired in July 2015. N.T. pp. 79; 81. In support of her recommendation, Davis prepared a report, submitted it to the appointing authority's Executive Director and through the appointing authority's labor relations to obtain an approval for appellant's approval. N.T. p. 74.

In response to the appointing authority's presentation, appellant testified on her own behalf. Prior to her removal, appellant was employed as an Income Maintenance Caseworker. N.T. p. 86. Appellant recalled the appointing authority did not consider her response to the lateness charge as acceptable. Comm. Ex. A; N.T. p. 90. Appellant presented the narrative she provided as her response during her PDC on November 13, 2019. N.T. p. 91; Ap. Exs. 1, 2, 3, 4.

According to appellant's response and narrative, on November 13, 2019, appellant discovered she was unable to start her car at 7:49 a.m. and called Woodall because she was aware she would not be able to arrive at her designated start time of 8:00 a.m. Ap. Exs. 1, 2, 3, 4. Although she was unable to contact Woodall, appellant called Woodall's direct supervisor and appellant's manager, Susan O'Hara, at 9:13 a.m. to inform O'Hara that she would not be able arrive on time. Appellant acknowledged she did not have any accumulated leave time when she called into the office. After 9:45 a.m., appellant contacted Woodall's work phone to inform her a tow truck was dispatched to tow appellant's car. At 12:25 p.m., appellant called Woodall's work phone to inform her that the tow truck towed her car to the dealership. At 1:08 p.m., appellant contacted Woodall's work phone to inform her that the dealership was able to diagnose her car's starter was inoperable. At 1:59 p.m., appellant called Woodall to inform her that the car was fixed and that she was traveling to the office. Appellant arrived at the Delaware County Assistance Office and signed in at 2:23 p.m. N.T. pp. 90-91; Ap. Exs. 1, 2, 3, 4. Appellant argued her car failing to start was an extraordinary circumstance and should have been considered as an acceptable response to her lateness on November 13, 2019. N.T. p. 91; Ap. Exs. 1, 2, 3, 4.

Having carefully reviewed the record, the Commission finds the appointing authority presented just cause to establish appellant's removal due to lateness. In support of our conclusion, we find credible⁵ the testimony of Asha Woodall and Linda Davis.

Appellant's designated start time while working at the Delaware County Assistance Office was 8:30 a.m. As an Income Maintenance Caseworker, appellant was responsible for arriving for work at her designated time. Appellant acknowledged in her narrative she did not have any available leave on November 13, 2019, when she arrived for work at 2:23 p.m. Moreover, Woodall and Davis credibly emphasized appellant was aware of the importance of time and attendance because she received three prior disciplinary actions related to arriving to work late and being absent without leave. Appellant received a final warning on October 24, 2019 for a late arrival on October 17, 2019. Her subsequent lateness on November 13, 2019, was within six months of the final warning and warranted her removal from the position of Income Maintenance Caseworker.

Although appellant asserted her car failing to start should have been considered extraordinary circumstances, we are not persuaded that these circumstances would be sufficient to modify the removal. Appellant's lateness on November 13, 2019 clearly and negatively reflects upon her competency and ability to perform her job duties as an Income Maintenance Caseworker. *Woods, supra*. Accordingly, we enter the following:

⁵ It is within the purview of the Commission to determine the credibility of the witnesses. *State Correctional Institution at Graterford, Department of Corrections v. Jordan*, 505 A.2d 339, 341 (Pa. Commw. 1986).

CONCLUSION OF LAW

The appointing authority has presented evidence establishing just cause for removal under Section 2607 of Act 71 of 2018.

ORDER

AND NOW, the State Civil Service Commission, by agreement of its members, dismisses the appeal of Courtney Thompson challenging her removal from regular Income Maintenance Caseworker employment with the Delaware County Assistance Office, Department of Human Services and sustains the action of the Delaware County Assistance Office, Department of Human Services in the removal of Courtney Thompson from regular Income Maintenance Caseworker employment, effective December 27, 2019.

State Civil Service Commission

Gregory M. Lane
Commissioner

Bryan R. Lentz
Commissioner

Mailed: 12/21/20