

COMMONWEALTH OF PENNSYLVANIA

Jody M. Strowbridge : State Civil Service Commission  
v. :  
Snyder County Children and Youth : Appeal No. 30527

Jody M. Strowbridge : Patrick Johnson  
*Pro Se* : Attorney for Appointing Authority

ADJUDICATION

This is an appeal by Jody M. Strowbridge challenging her removal from regular Clerk Typist II (Local Government) employment with Snyder County Children and Youth (hereinafter “appointing authority”). A hearing was held on January 7, 2021, via video, 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 has established just cause for appellant’s removal.

## FINDINGS OF FACT

1. By letter dated February 3, 2020, appellant was removed, from her position as a Clerk Typist II (Local Government), regular status, with Snyder County Children and Youth Services (hereinafter “appointing authority”), effective January 31, 2020. Comm. Ex. A.

2. In its February 3, 2020 letter, the appointing authority charged appellant as follows:

Following a fair and objective investigation by the [appointing authority] of your behaviors during and following a meeting with your immediate Supervisor [Michelle Russell] and this Administrator [Jennifer Napp Evans] on January 31, 2020, you have violated Snyder County policy and procedures, work rules, and are guilty of performing the following specific work related offenses (Pages 36-37 Employee Handbook):

#2 Insubordination, deliberate refusal to comply with work assignments and instruction.

#5 Excessive tardiness.

#8 Any conduct which reflects unfavorably on the County, indecent conduct, including use of abusive, obscene, or threatening language or physical acts.

- #10 Violation of personnel policies and procedures.
- #15 Inefficiency, negligence, or lack of effort on the job.
- #19 Negligent conduct which endangers others, which results in damage to County property, or which has the potential for doing either of these things.

Comm. Ex. A.

3. The February 3, 2020 removal letter indicated corrective actions had been progressively taken based on appellant's "gross failure to follow orderly and proper procedures" set forth in the appointing authority's Employee Handbook and her "repeated pattern of misbehaviors, despite efforts to coach and allow [her] to make necessary improvements."

Comm. Ex. A.

4. The appeal was properly raised before this Commission and was heard under Section 3003(7)(i) of Act 71 of 2018.<sup>1</sup>
5. The appointing authority is a child welfare agency and persons who they serve are at risk and very vulnerable. N.T. p. 108.

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<sup>1</sup> Appellant's request for a hearing on the removal under Section 3003(7)(ii) of Act 71 of 2018 was denied due to an insufficient allegation of discrimination.

6. In 2015, appellant began her employment with the appointing authority as a Clerk Typist I. N.T. pp. 27, 31-32.
7. In 2018, appellant was promoted to a Clerk Typist II position. Appellant held this position until her termination. N.T. pp. 27, 30-31.
8. Appellant's work hours were 8:00 a.m. to 4:00 p.m. N.T. pp. 35, 54, 87-88.
9. Any change in appellant's work hours required prior authorization. N.T. p. 38.
10. As a Clerk Typist II, appellant was responsible for answering phones, admitting persons into the building, and other complex clerical work. N.T. pp. 36-37, 69-71, 151-152; AA Ex. 7.
11. The building, at which appellant worked, is secure and persons cannot enter without authorization. N.T. pp. 36-37, 69-71.
12. Appellant's job performance was good until shortly after her house caught on fire in or around March 2019. N.T. pp. 32, 149; Ap. Exs. A, D, D.1, D.2, D.3, D.4, D.5, D.5.1.

13. By Notice, dated April 2, 2019, appellant was granted leave under the Family and Medical Leave Act (hereinafter “FMLA”) for her absence from March 18, 2019 to March 22, 2019, as well as additional intermittent leave for appointments related to the housefire. Prior notification was required for appellant to attend such appointments. N.T. pp. 58, 135; Ap. Ex. A.
14. After the housefire, appellant began arriving late to work. Appellant’s immediate supervisor, Michelle Russell, did not address this issue with appellant until it occurred approximately ten times. N.T. pp. 34-36.
15. On June 19, 2019, Russell met with appellant to discuss her tardiness because she was frequently arriving ten to fifteen minutes late for work. Appellant responded, “Shit happens.” N.T. pp. 34-37; AA Ex. 4 (p. 1).
16. On July 5, 2019, Russell again met with appellant to address her continued tardiness. N.T. p. 38; AA Ex. 4 (p. 1).

17. On July 22, 2019, Administrator Jennifer Napp Evans spoke with the clerical staff, including appellant, regarding reports from several supervisors of the clerical staff's resistance to providing basic support on requested clerical tasks. Appellant questioned Evans about the validity of these claims and suggested Evans was joking. N.T. pp. 86-87; AA Ex. 4.
18. On September 11, 2019, Russell again spoke with appellant about her tardiness and job performance. N.T. pp. 40-41; AA Ex. 4 (p. 2).
19. During the September 11, 2019 meeting, appellant was instructed that monitoring the work hours of the caseworkers was not her responsibility, but she continued to act as if it was. N.T. pp. 40-41; AA Ex. 4 (p. 2).
20. On October 1 and 10, 2019, Russell met with appellant regarding unprofessional emails that she sent. N.T. p. 42, 44-45, 88-89, 91, 125; AA Ex. 4 (p. 2); Ap. Ex. B.4.

21. On October 18, 2019, a disciplinary memorandum was issued to appellant, regarding the incidents discussed at the meetings on June 19, July 5 and 22, September 11, and October 1 and 10, 2019. N.T. pp. 33-34; AA Ex. 4.
22. The October 18, 2019 disciplinary memorandum informed appellant that, based on her behaviors, disciplinary action would be taken in the form of a written reprimand. Appellant was also placed on a performance improvement plan (hereinafter “PIP”). AA Exs. 4 (p. 2), 5.
23. Under the PIP, appellant was asked to remain professional and not allow her emotions to affect her work. Appellant was also asked to develop a plan to ensure that she arrived to work on time. N.T. p. 47; AA Ex. 5.
24. After the first thirty days on the PIP, appellant’s tardiness increased and she began interfering in issues which were not her responsibility and were outside of the scope of her job duties. N.T. p. 49; AA Ex. 6 (pp. 1-2).

25. On December 30, 2019, appellant circumvented her chain of command and directly contacted the Commissioner about a holiday pay issue pertaining to another clerical employee. This was outside the scope of appellant's job duties. N.T. pp. 50-51, 94-95; AA Ex. 6 (pp. 1-2).
26. On December 31, 2019, appellant interfered with an issue regarding the care of a youth, which was outside of her job duties. N.T. pp. 51-52, 95-97; AA Ex. 6 (p. 2).
27. On January 2, 13, 15, 16, 17, 21, 24, 27, and 30, 2020, appellant was more than seven minutes late for work. N.T. p. 107.
28. On January 23, 2020, appellant sought and received medical treatment related to her personal situation. N.T. p. 138.
29. On January 31, 2020, Russell and Evans issued a second disciplinary memorandum to appellant based on her conduct during the period of the PIP, which included the December 30 and 31, 2019

incidents and her tardiness from November 2019 through January 2020. N.T. pp. 47-48, 52; AA Ex. 6.

30. During the January 31, 2020 meeting, appellant refused to read or sign the second disciplinary memorandum after being directed to do so. N.T. pp. 52-53, 99, 159; AA Ex. 6 (p. 2).
31. After appellant refused to sign the second disciplinary memorandum, Russell went to her office to get the PIP so that she and Evans could review it again with appellant. N.T. p. 53, 101.
32. While Russell was retrieving the PIP, Evans commented to appellant that they could work this out and that these were things they could work on. In response, appellant shoved her chair back, which startled Evans, and stated “she needed out of this fucking place.” Appellant then stormed out of the meeting and went to the front office, slamming the doors as she pushed through them. N.T. pp. 100-102, 126.
33. After appellant left the meeting room, she entered the main office area. Three employees were present in the main office area, when appellant entered. No

visitors were in the waiting room, which looks into the main office area. N.T. pp. 72, 75, 108; AA Ex. 9 (p. 1).

34. Appellant was crying when she entered the main office area. Appellant said, “she was done with this fucking place and that she couldn’t stay in this office any longer.” N.T. pp. 71-73; AA Ex. 9 (p. 1).
35. Appellant retrieved her purse from her lower desk drawer and kicked the drawer several times. Appellant also dropped her cellphone and kicked it across the floor. N.T. pp. 73, 75; AA Ex. 9 (p. 1).
36. As appellant was putting her coat on, she said, “I am never coming back to this fucking place again.” N.T. p. 75.
37. Appellant never said, “I quit,” nor did she submit a letter of resignation. N.T. pp. 77-78, 127, 152.
38. Appellant left the building at approximately 3:20 p.m. on January 31, 2020. N.T. p. 76.
39. Appellant had the following belongings with her when she left: her purse; a tablet; her coat; and her cellphone. N.T. p. 77.

40. During the last couple of months of appellant's employment, staff was hesitant to bring anything to the front office because they did not know what kind of answer they would get from appellant. N.T. pp. 54-55.
41. Appellant had a button on her desk that said, "That's not my job," and she would occasionally hit this button. N.T. p. 45.
42. The appointing authority's Discipline Policy requires employees to recognize and acknowledge receipt of discipline by signing a copy of it. N.T. p. 99.
43. The appointing authority's Employee Handbook provides disciplinary action or dismissal may result from work-related offenses, which include:
  - 1) insubordination, including deliberate refusal to comply with work assignments or instruction;
  - 2) excessive tardiness;
  - 3) any conduct which reflects unfavorably on the County, indecent conduct, including use of abusive, obscene, or threatening language or physical acts;
  - 4) violation of personnel policies and procedures;
  - 5) inefficiency, negligence, or lack of effort on the job; and
  - 6) negligent conduct which endangers

others, which results in damage to County property, or which has the potential of doing either of these things. AA Ex. 10 (p. 1).

44. The appointing authority's Code of Ethics, which is set forth in the Employee Handbook, requires employees to "[g]ive a full day's labor for a full day's pay; giving the performance of their duties earnest effort and thought." AA Ex. 10 (p. 3).
45. Appellant acknowledged receiving a copy of the Employee Handbook on May 12, 2015. N.T. p. 29; AA Ex. 3.

### DISCUSSION

By letter dated February 3, 2020, the appointing authority removed appellant from her position as a Clerk Typist II (Local Government). Comm. Ex. A. Appellant challenged this action under Section 3003(7)(i) of Act 71 of 2018 (hereinafter "the Act").<sup>2</sup> 71 Pa.C.S.A. §§ 3003(7)(i). Thus, the sole issue before the Commission is whether the appointing authority has established just cause for the removal.

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<sup>2</sup> Act of June 28, 2018, P.L. 460, No. 71, § 1.

In an appeal challenging the removal of a regular status employee, the appointing authority bears the burden of proving just cause for the removal 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 (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 charge, the appointing authority presented the testimony of Fiscal Technician Supervisor Michelle Russell,<sup>3</sup> Administrative Assistant 1 Marsha Klinepeter,<sup>4</sup> and Administrator Jennifer Napp Evans.<sup>5</sup> Appellant testified on her own behalf. The evidence provided by the parties has been reviewed by the Commission and is summarized below.

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<sup>3</sup> Russell is employed by the appointing authority as a Fiscal Technician Supervisor. N.T. p. 25. Russell has held this position since June 2015. N.T. p. 26. In that capacity, Russell supervises clerical staff, as well as Fiscal Technicians. N.T. p. 26. Russell was appellant's direct supervisor from June 9, 2015 until appellant was removed. N.T. pp. 27, 31.

<sup>4</sup> Klinepeter is employed by the appointing authority as an Administrative Assistant 1. N.T. pp. 67-68. Klinepeter has held this position for approximately two and a half years. N.T. p. 68. Prior to being promoted to an Administrative Assistant 1, Klinepeter worked for the appointing authority as a Clerk Typist II and then a Clerk Typist III. N.T. p. 69.

<sup>5</sup> Evans is the Administrator at the appointing authority. N.T. p. 84. Evans has held this position since September 25, 2017. N.T. p. 84. As the Administrator, Evans was involved in discussions regarding appellant's work performance and tardiness. N.T. p. 85; AA Exs. 4, 5, 6.

### *Summary of Evidence*

Appellant began her employment with the appointing authority in 2015 as a Clerk Typist I. N.T. pp. 27, 31-32. In 2018, appellant was promoted to a Clerk Typist II position. N.T. pp. 27, 30; AA Ex. 7. Appellant held this position until her termination. N.T. p. 31.

Appellant's Supervisor, Michelle Russell, noted appellant's job performance was good, until shortly after her house caught on fire.<sup>6</sup> N.T. p. 32. Understanding that appellant was going through a lot of turmoil in her life, Russell did not immediately address the deficiencies in appellant's performance. N.T. pp. 32-33. Russell began to approach appellant about issues with her work performance in June 2019. N.T. p. 33.

On June 19, 2019, Russell met with appellant regarding her excessive tardiness. N.T. p. 34; AA Ex. 4 (p. 1). Appellant was frequently arriving approximately ten to fifteen minutes late.<sup>7</sup> N.T. pp. 35-36. Appellant's shift began at 8:00 a.m., at which time, appellant was expected to be at her desk and ready to

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<sup>6</sup> It is unclear from the witness testimony when appellant's house caught on fire. However, based on an FMLA Notice entered into evidence by appellant, it appears the housefire occurred in or around March 2019. Ap. Ex. A.

<sup>7</sup> Russell noted she only addressed the tardiness issue with appellant after this occurred approximately ten times. N.T. p. 36. Russell also testified that she did not consider those instances where appellant was two or three minutes late. N.T. p. 35.

answer the phones. N.T. p. 35; AA Ex. 7. Appellant was also responsible for admitting persons into the building. N.T. pp. 36-37, 69-71; AA Ex. 7. The building is secure and persons cannot enter without authorization or without the caseworker being notified. N.T. pp. 36-37, 69-71. If appellant is not at her post, this creates a potential security issue because she is responsible for allowing persons to come in and out of the building. N.T. pp. 37, 71-72; AA Ex. 7.

During the June 19, 2019 meeting regarding appellant's tardiness, appellant merely responded, "Shit happens." N.T. p. 37. Russell explained this was indicative of the attitude appellant displayed each time she spoke with appellant about an issue. N.T. pp. 37-38. Russell further stated appellant was becoming difficult to supervise. N.T. p. 38.

Russell next met with appellant on July 5, 2019. At this meeting, Russell again addressed appellant's continued tardiness. N.T. p. 38; AA Ex. 4 (p. 1). Russell also reminded appellant that clerical staff have a set schedule and any change in work hours required prior authorization. N.T. p. 38. In response, appellant attempted to compare herself to caseworkers, who are on call. N.T. p. 39. However, unlike caseworkers, appellant's schedule does not necessitate flexibility. N.T. p. 38.

On July 22, 2019, Administrator Jennifer Napp Evans spoke with the clerical staff, including appellant, regarding reports from several supervisors of resistance when they requested basic support on clerical tasks. N.T. p. 87; AA Ex. 4 (p. 2). Appellant responded by questioning who was saying this and what they were talking about. N.T. pp. 86-87. Appellant also suggested Evans was joking. N.T. p. 87.

On September 11, 2019, Russell again spoke with appellant about her tardiness and job performance. N.T. p. 40; AA Ex. 4 (p. 2). It had been brought to Russell's attention that appellant was monitoring when the caseworkers were leaving and returning to the building, as well as discussing this with the clerical staff and other staff in the building. N.T. p. 41. Specifically, appellant was accusing the caseworkers of not being truthful about their hours when they worked out of the office. N.T. p. 40. Appellant is not responsible for monitoring the caseworkers, and Russell instructed her as such. N.T. p. 40. Russell explained the caseworkers were notifying their direct supervisors when they were "coming and going," which is what they are required to do. N.T. p. 40. Russell further explained the direct supervisor is the only person the caseworkers need to notify. N.T. p. 40. However, appellant refused to let the issue go and continued to act as if it was her responsibility. N.T. pp. 41-42.

On October 1, 2019, Russell met with appellant regarding multiple emails that she forwarded after work hours to the "CY email group." N.T. p. 42; AA Ex. 4 (p. 2). The emails that appellant forwarded were by other staff members and were personal in nature. N.T. p. 43. For example, one contained a joking meme; another email was from an employee thanking coworkers for flowers when her grandfather passed away; and one was regarding a pet that passed away. N.T. pp. 42, 88-89. Prior to appellant forwarding the emails, a newer employee, in response to the email about the pet passing, asked not to be included on personal emails. N.T. pp. 42, 89. The newer employee's request was communicated to appellant. N.T. p. 89. However, despite knowing this, a few hours later, appellant forwarded the emails to the entire "CY email group." N.T. p. 89. Therefore, it was perceived that appellant was retaliating against or trying to alienate or intimidate the new employee, who wanted more professional interactions. N.T. pp. 42-43, 88-89, 123. Russell

and Evans also noted this action by appellant “hurt a lot of people’s feelings,” because, for example, the employee, whose grandfather passed away, was reminded again of his passing. N.T. pp. 42, 89-90. Evans further stated clerical staff do not have any reason to access their work email after their shift. N.T. p. 88. Clerical staff only provide services during their work hours, which are from 8:00 a.m. to 4:00 p.m. N.T. pp. 87-88.

On October 10, 2019, Russell met with appellant regarding an unprofessional email appellant sent to the entire agency. N.T. p. 44; AA Ex. 4 (p. 2); Ap. Ex. B.4. Russell explained appellant sent her an email requesting to use a canopy, which was the property of the appointing authority. N.T. p. 44. Appellant intended to use the canopy for her own personal use. N.T. p. 44. Russell replied that it was not appropriate to use the appointing authority’s property for personal use. N.T. p. 44. Instead of contacting Russell directly about the denial of her request, appellant sent an argumentative email to the entire agency. N.T. pp. 44-45, 91, 125; Ap. Ex. B.4.

On October 18, 2019, a disciplinary memorandum was issued to appellant, in which the above incidents were documented. N.T. pp. 33-34; AA Ex. 4. The disciplinary memorandum also informed appellant that, based on her behaviors, as addressed at the preceding meetings, disciplinary action would be taken in the form of a written reprimand. AA Ex. 4 (p. 2). Additionally, appellant was placed on a performance improvement plan (hereinafter “PIP”). AA Exs. 4 (p. 2), 5. The PIP was developed and given to appellant on the same day as the disciplinary memorandum. N.T. p. 46; AA Ex. 5.

The focus of the PIP was improving appellant's work ethic and her relationships with others in the office. AA Ex. 5 (p. 1). Under the PIP, appellant was asked to remain professional and not allow her emotions to affect her work. N.T. p. 47; AA Ex. 5. Appellant was also asked to develop a plan to ensure that she arrived to work on time. N.T. p. 47; AA Ex. 5.

Evans, who was present at the October 18, 2019 meeting in which the disciplinary memorandum and PIP were presented to appellant, testified appellant responded positively, in that she seemed open to coaching and willing to work on her tardiness. N.T. p. 86. The PIP was structured to monitor appellant's performance for ninety days. N.T. p. 48. During the first thirty days after the issuance of the PIP, appellant's performance and tardiness improved. N.T. p. 48; AA Ex. 6 (p. 1). However, after the first thirty days, appellant's tardiness increased and she began interfering in issues which were not her responsibility and outside of the scope of her job duties. N.T. p. 49; AA Ex. 6 (pp. 1-2). Specifically, appellant was tardy on December 9, 11, 23, and 26, 2019 and every day during the week of January 21 through 24, 2020. N.T. p. 49; AA Ex. 6 (p. 1).

Also, on December 30, 2019, appellant interfered with a holiday pay issue pertaining to another clerical employee that Russell was in the process of resolving with Evans and Human Resources. N.T. pp. 50-51; AA Ex. 6 (pp. 1-2). Appellant directly contacted the Commissioner about this issue, which is outside of her job description. N.T. pp. 51, 94-94; AA Ex. 6 (p. 1). The Commissioner brought this to Evans' attention because the Commissioner was concerned appellant felt comfortable violating the chain of command in that she failed to first address the concern with her immediate supervisor or Evans. N.T. p. 95.

Appellant again interfered with an issue outside of her duties on December 31, 2019. N.T. pp. 51-52; AA Ex. 6 (p. 2). This issue involved whether a youth, who was over the age of eighteen, would be permitted to resume care. N.T. pp. 51-52, 95-96; AA Ex. 2 (p. 6). Appellant approached the caseworker's supervisor and told the supervisor if they were going to deny the youth care, she would allow the youth to live in a camper on her property. N.T. pp. 51-52, 96; AA Ex. 6 (p. 2). Russell noted appellant is not a caseworker, nor did she know the details of the issue, yet she felt compelled to voice her opinion. N.T. p. 52; AA Ex. 6 (p. 2). Evans further indicated the only persons who are permitted to weigh in on those decisions are persons who have a direct service certification, which is obtained by attending a month-long training. N.T. p. 96. Evans also noted it is inappropriate for appellant to offer housing to a youth because she works for the appointing authority. N.T. p. 97. Evans indicated, previously, an employee housing a youth was only done by court order, and this was against the Commissioners' will, thereby resulting in the Commissioners directing the employee be terminated. N.T. p. 97.

Based on appellant's conduct during the period of the PIP, a second disciplinary memorandum was issued to her by Russell and Evans. N.T. pp. 47-48; AA Ex. 6. This disciplinary memorandum was provided to appellant at a meeting on January 31, 2020. N.T. p. 52. After being informed she was receiving another disciplinary memorandum, appellant asked if this meant she needed to put in her two-week notice. N.T. p. 98. Thereafter, appellant became insubordinate in that she refused to participate in the meeting as directed. N.T. p. 99. Appellant refused to read the memorandum when directed by Russell and Evans to do so. N.T. pp. 52-53, 99. Since appellant refused to read the memorandum, Evans asked Russell to

read it to her, after which appellant refused to sign it. N.T. pp. 53, 99; AA Ex. 6 (p. 2). Evans noted the appointing authority's Discipline Policy, which is contained in the Employee Handbook, requires employees to recognize and acknowledge receipt of the discipline by signing a copy of it. N.T. p. 99.

After appellant refused to sign the memorandum, Evans asked Russell to get the PIP so that they could review it again with appellant. N.T. pp. 53, 101. Evans hoped, by reviewing the goals outlined in the PIP, they could develop a plan and "continue to work on those skills that [appellant] had once performed and salvage the performance of her employment with the [appointing authority]." N.T. p. 100.

While Russell was retrieving the PIP, Evans commented to appellant that they could work this out and that these were things they could work on. N.T. pp. 100, 126. In response, appellant shoved her chair back, which startled Evans, and stated "she needed out of this fucking place." N.T. pp. 100-102. Then appellant stormed out to the front office, slamming the doors as she pushed through them. N.T. p. 102. Russell also heard the commotion, but she could not understand what was being said through the walls. N.T. pp. 53-54. About five minutes later, Russell observed appellant leaving the building. N.T. p. 54. This occurred before 3:30 p.m. N.T. p. 54. Appellant's workday ends at 4:00 p.m. N.T. p. 54.

Administrative Assistant 1 Marsha Klinepeter was present in the main office area when appellant left the building on January 31, 2020. N.T. pp. 69, 72. Klinepeter noted she was working at one of the computers in the main office, when

appellant walked into the main office crying. N.T. p. 72; AA Ex. 9 (p. 1). Klinepeter noted there were two other persons in the office at the time, Lauren Brandt and Dane Zimmerman, who walked in to check his mailbox. N.T. pp. 72, 75; AA Ex. 9 (p. 1).

Klinepeter recalled Brandt asked appellant what happened, to which appellant responded she had met with Russell and Evans and she received a second disciplinary action report for being three minutes late and for talking to the Commissioner about an issue concerning Brandt. N.T. pp. 72-73; AA Ex. 9 (p. 1). Appellant then said, “she was done with this fucking place and that she couldn’t stay in this office any longer.” N.T. p. 73; AA Ex. 9 (p. 1). Appellant next handed correspondence she had been working on to Brandt to finish and put some mail in the outgoing mail bin. N.T. p. 73; AA Ex. 9 (p. 2). Appellant then retrieved her purse from her lower desk drawer and kicked the drawer shut. N.T. p. 73; AA Ex. 9 (p. 1). Appellant proceeded to kick the drawer several more times. N.T. p. 73; AA Ex. 9 (p. 1). As appellant was putting her coat on, she said, “I am never coming back to this fucking place again.” N.T. p. 75.

Klinepeter noted the only conversation she had with appellant, during this outburst, was when appellant dropped her cellphone and kicked it across the floor. N.T. p. 75; AA Ex. 9 (p. 1). Klinepeter stated she picked up the phone, told appellant she may want it, and then put it in appellant’s purse. N.T. p. 75; AA Ex. 9 (p. 1). Also, as appellant was trying to get some items out of her desk drawer,

Klinepeter told her that she could come back for the items later. N.T. p. 76; AA Ex. 9 (p. 2). Additionally, Klinepeter told appellant she would sign her out of the EIOBoard, which is an electronic sign-in sheet.<sup>8</sup> N.T. pp. 61, 77-78.

Klinepeter testified it appeared appellant was quitting because she had her belongings, put on her coat, and made a statement that she was never coming back before walking out the door at approximately 3:20 p.m. N.T. p. 76. Specifically, Klinepeter recalled appellant said, “I am done with this fucking place,” and “I am never coming back to this fucking place again.” N.T. p. 78. However, Klinepeter acknowledged appellant did not say the words “I quit,” or clean out her desk. N.T. pp. 77-78. Klinepeter noted appellant had the following belongings with her when she left: her purse; a tablet; her coat; and her cell phone. N.T. p. 77.

After appellant left the building, Evans called the Board of Commissioners and informed them of how poorly the disciplinary meeting went with appellant and that it was her understanding appellant resigned based on her behaviors. N.T. pp. 102-103. After speaking with the Board of Commissioners and consulting with the County Solicitor, Evans was directed to draft a letter accepting appellant’s verbal resignation, which she did. N.T. p. 103; AA Ex. 8. Evans noted prior to sending the letter, she was informed by Klinepeter that appellant contacted her outside of work and stated that she did not quit. N.T. p. 104. Based upon this information, Evans included a paragraph in the letter indicating that if appellant desires to withdraw her verbal resignation, it is the decision of the appointing authority that she is removed from her position. N.T. p. 104; AA Ex. 8. Evans also drafted a written notification of termination. N.T. p. 105; AA Ex. 1.

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<sup>8</sup> Appellant was given permission to update the EIOBoard. N.T. p. 61. However, this was not her responsibility. N.T. p. 61.

Evans further explained, based on appellant's behavior, there was no feasible way for appellant to return to work because returning appellant to work would inhibit management's ability to maintain order and would negatively impact the appointing authority. N.T. p. 106. Russell indicated the work environment was not good during the last couple of months appellant worked for the appointing authority. N.T. pp. 54-55. Russell stated staff was hesitant to bring anything to the front office because they did not know what kind of answer they would get from appellant. N.T. p. 55. Russell stated, "everybody was walking on eggshells." N.T. p. 55. Russell also noted appellant had a button on her desk that said, "That's not my job," and she would occasionally hit this button. N.T. p. 45.

Additionally, Evans noted, based on appellant's pattern of behavior, she was unable to effectively perform her job and she was not acting professional. N.T. p. 93. Evans testified appellant increasingly stepped outside her role as a Clerk Typist II and involved herself in matters outside the scope of her employment, which resulted in some of the incidents outlined in the second disciplinary memorandum. N.T. p. 94. Appellant also did not follow her chain of command, and she was frequently tardy. N.T. pp. 94, 107. In January 2020, appellant was more than seven minutes late on January 2, 13, 15, 16, 17, 21, 24, 27, and 30, 2020. N.T. p. 107.

Evans further indicated, appellant's insubordinate behavior on January 31, 2020, along with her use of profanity and vulgarity in the front office rose to a level of seriousness which merited removal. N.T. pp. 107-108. Evans explained the front office area, where the January 31, 2020 episode occurred, often contains members of the public who are waiting. N.T. p. 108. While there was no one present in the waiting room when this occurred, Evans stated there is no guarantee appellant will not engage in such conduct again. N.T. p. 108. Evans

indicated this is particularly concerning because the appointing authority is a child welfare agency and persons who they serve are at risk and very vulnerable. N.T. p. 108.

In addition to the above concerns, Evans noted progressive discipline had been initiated, starting with an oral reprimand and coaching, which was based on a clear and extensive PIP. N.T. pp. 108-109. Appellant also had been forewarned that failure to progress would result in the next level of discipline, including suspension or removal. N.T. p. 109.

Evans further indicated appellant's actions, as detailed above, violated provisions of the Employee Handbook, including the Work Rules and Code of Ethics, which appellant acknowledged receiving on May 12, 2015. N.T. pp. 29, 100, 110; AA Exs. 3, 10. Specifically, Evans stated appellant violated the following provisions of the Work Rules:

- #2 Insubordination, deliberate refusal to comply with work assignments and instruction.
- #5 Excessive tardiness.
- #8 Any conduct which reflects unfavorably on the County, indecent conduct, including use of abusive, obscene, or threatening language or physical acts.
- #10 Violation of personnel policies and procedures.
- #15 Inefficiency, negligence, or lack of effort on the job.
- #19 Negligent conduct which endangers others, which results in damage to County property, or which has the potential for doing either of these things.

N.T. p. 110; AA Ex. 1 (p. 1).

In response to the testimony presented by the appointing authority, appellant argued she did not quit and denied committing several of the violations, which were documented in the first or second disciplinary memos. However, appellant did not deny storming out of the meeting on January 31, 2020, nor did she deny leaving the office that day. N.T. p. 158.

Appellant testified she had no intention of quitting. N.T. p. 148. Appellant stated she did not say, “I quit,” nor did she write a letter of resignation. N.T. p. 152. Appellant stated she was having a panic attack and “left under distress.” N.T. p. 152. Appellant explained she was going through a very hard time in her life, which is why her behavior was altered a little bit. N.T. p. 148.

Appellant further asserted, even though she was going through a hard time, her performance was not poor, nor was it affected. N.T. p. 149. Appellant stated she had received raises and was rated satisfactory or commendable on her performance reviews.<sup>9</sup> N.T. p. 149; Ap. Exs. D, D.1, D.2, D.3, D.4, D.5, D.5.1. Additionally, appellant claimed she did not resist assignments, as documented in the first disciplinary memorandum.

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<sup>9</sup> In support of this claim, appellant entered into evidence excerpts from the following performance reviews: 1) a probationary review from September 25, 2015; 2) a probationary review from December 17, 2015; 3) an annual review from May 10, 2016; 4) an annual review from May 1, 2017; 5) an annual review from May 1, 2018; 6) a probationary review for her Clerk Typist II position from January 10, 2019. Ap. Exs. D, D.1, D.2, D.3, D.4, D.5, D.5.1. All of the performance reviews referenced by appellant preceded the incidents catalogued in the two disciplinary memos. AA Exs. 4, 6; Ap. Exs. D, D.1, D.2, D.3, D.4, D.5, D.5.1. Five of the performance reviews pertain to appellant’s performance in her prior Clerk Typist I position, and the sole performance review pertaining to her Clerk Typist II position was issued before the housefire, which appellant insinuated was the cause of her altered behavior. N.T. pp. 148-149. Thus, these reviews are not dispositive of or relevant to the issue presently before this Commission.

Appellant asserted she was disciplined for failing to draft a letter that she was not initially asked to draft. N.T. p. 140; Ap. Ex. B.2. Appellant testified the email, which would have prompted her to draft the letter, was sent on June 12, 2019, to her supervisor and another staff member, who was previously responsible for drafting such letters. N.T. pp. 140-141; Ap. Ex. B.2. Appellant explained the email was subsequently forwarded to her on June 25, 2019, with an apology acknowledging that the email was not initially sent to appellant. N.T. p. 140; Ap. Ex. B.2. Appellant explained this is why she did not answer the initial email. N.T. p. 140.

Appellant also noted she forwarded the email to Russell and Evans on July 22, 2019, to inform them that she was not being resistant to completing the task. N.T. pp. 141-142; Ap. Ex. B.2.1. Appellant testified Russell and Evans acknowledged “that explains that one” and thanked her for looking into it. N.T. p. 141; Ap. Ex. B.2.1. Thus, appellant asserts Russell should not have disciplined her for failing to draft the letter. N.T. pp. 142-143.

During the hearing, Evans explained the discipline appellant received was not for this incident. N.T. p. 119. Rather, it was for multiple incidents in which appellant was resistant to performing tasks for various supervisors. N.T. p. 119. Evans also noted she began receiving complaints about appellant from various supervisors in and around June 2019. N.T. p. 119.

Contrary to Evans’ testimony, appellant believes she was being disciplined for failing to draft the letter based on an email she received from Evans, dated October 30, 2019. N.T. p. 143; Ap. Ex. B.3. Evans explained the purpose of

this email was to inform appellant that she received reports from multiple areas, including reports of verbal comments by appellant, which appellant characterized to Evans as joking. N.T. pp. 145-146. Evans stated she wanted to prevent any future miscommunication, which is why she sent the email. N.T. p. 146. Evans further indicated appellant had made progress during the month of October 2019, and she had not received any reports during that month that appellant was deliberately resisting assignments. N.T. p. 146.

In addition to the June 2019 incident, appellant argued she was never provided an opportunity to refute the other incidents detailed in the first disciplinary memorandum.<sup>10</sup> N.T. p. 149. Appellant stated she was never provided with specifics regarding the alleged violations so that she could either disprove or explain her behavior. N.T. p. 149. Appellant stated they told her that it was not necessary and she should not dwell on the past. N.T. p. 149. Contrary to this assertion, Evans testified she informed appellant that she had a right to put a statement together, which would be attached to the discipline and included in her personnel file. N.T. p. 111.

Regarding the second disciplinary memorandum, appellant testified, when this memorandum was issued, she was already receiving medical treatment related to her personal situation. N.T. pp. 149-150. Appellant further testified she believed she would not be provided an opportunity to defend herself, which caused

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<sup>10</sup> Appellant did not appeal the written reprimand, which arose from the incidents documented in the first disciplinary memorandum. Comm. Ex. B; AA Ex. 4 (p. 2). Moreover, written reprimands are not appealable personnel actions. *McGuire v. Department of Aging*, 140 Pa. Commw. 378, 381, 592 A.2d 830 (1991). The sole issue before this Commission is whether there is just cause for the removal. Comm. Ex. C.

her “defenses” to go up. N.T. p. 150. Appellant also asserted she was not provided any proof in writing of the violations at the meeting on the second disciplinary memorandum. N.T. p. 150.

With that said, appellant denied the December 31, 2019 incident, which was documented in the second disciplinary memorandum. Specifically, appellant denied approaching anyone about the youth or being involved in the matter. N.T. pp. 150-151. Appellant stated this matter was being discussed in the hallway and she jokingly said she has a camper that they “can put in the back parking lot and all our kids can stay in there.” N.T. p. 150. Appellant recalled another caseworker said, “at least we’d know where they are,” and they all laughed. N.T. pp. 150-151. Appellant stated this is another example of management misperceiving something. N.T. p. 151.

Additionally, appellant claimed the appointing authority was prohibited from disciplining her for tardiness. N.T. p. 139. Appellant argued the appointing authority knew she was going to come in late because she was granted leave under the Family and Medical Leave Act (hereinafter “FMLA”). N.T. p. 137. Appellant testified she was granted FMLA leave by Notice, dated April 2, 2019. N.T. p. 135; Ap. Ex. A. Appellant argued this Notice protected her from being disciplined for tardiness based on the housefire. N.T. p. 139.

Contrary to appellant’s testimony, Russell explained the leave granted to appellant under FMLA was limited to appointments related to the housefire. N.T. p. 58. For example, appellant was permitted to use FMLA leave to deal with contractors, who were rebuilding her house or to address banking information. N.T. p. 58. The April 2, 2019 Notice, which was entered into evidence by appellant,

corroborates Russell's testimony. Specifically, the Notice indicates appellant was granted FMLA leave for her absence from March 18, 2019 to March 22, 2019, as well as additional intermittent leave for appointments related to the housefire. Ap. Ex. A. Prior notification was required for appellant to attend these appointments. N.T. p. 58; Ap. Ex. A.

Lastly, regarding her behavior during the January 31, 2020 meeting, appellant does not deny refusing to read the disciplinary memorandum but denies refusing to sign it. N.T. p. 159. Appellant explained she failed to sign the memorandum because things "escalated" and she left prior to the end of the meeting. N.T. p. 159. Appellant testified since the housefire, she was "experiencing a lot of emotional and medical issues," and she was seeing a medical professional about these issues. N.T. pp. 137-138. Appellant stated on January 23, 2020, a few days before the January 31, 2020 meeting, she sought and received medical treatment related to her personal situation. N.T. p. 138.

Appellant also denied leaving the office "vulnerable" when she left prior to the end of her shift on January 31, 2020. N.T. p. 151. Appellant testified there are two Clerk Typists who work in the front office, and both Clerk Typists are responsible for answering phones and admitting visitors. N.T. pp. 151-152.

Russell confirmed there are two clerical staff at the front desk who are responsible for allowing persons to enter the building and answering phones. N.T. p. 59. Both clerical staff are required to report at 8:00 a.m. N.T. p. 59. If appellant is late, the other clerical staff person can answer the phones and admit persons into the building. N.T. p. 50. There is also a doorbell at the entrance, which people can ring before or after hours to get the attention of caseworkers. N.T. pp. 59-60.

However, Russell stated, even though there are two clerical staff at the front desk, if one is late, it could create issues if the other clerical staff person is off or out sick. N.T. p. 64. In those instances, Russell would need to handle the door and phones. N.T. p. 64. When appellant left on January 31, 2020, Brandt, who was the other clerical staff person, was present and could cover the phones and door. N.T. p. 79.

Appellant stated, after she left the office on January 31, 2020, she believed she had been fired because she learned through another employee that her badge was turned off. N.T. p. 152. Appellant stated she tried to contact Evans by phone and text message to tell her she was sorry for leaving like that and that they needed to talk, but she did not receive a response. N.T. p. 152. Appellant also recalled texting Evans on Monday, February 3, 2020, and asking her if she could discuss what happened. N.T. p. 153. This text message was sent at 6:46 a.m. and read: “Will you meet with me when I get in.” Ap. Ex. C. At 6:47 a.m., Evans responded as follows:

As a courtesy, [I am] letting you know not to come to the office. You will receive a certified letter in the mail today. After which you will need to call the office during normal business hours to schedule with Michelle [Russell] and I.

N.T. p. 153; Ap. Ex. C.1. Appellant stated based on this action, along with the deactivation of her badge, she believed she had been fired. N.T. p. 153.

Appellant testified, pursuant to the section of the Employee Handbook pertaining to resignations and voluntary terminations, “any employee who leaves cannot expect to receive their next pay period, or their next pay, until a written notice

of resignation is received.” N.T. p. 153. Appellant stated she received her last paycheck, which contradicts the appointing authority’s claim that she quit. N.T. p. 153.

### *Motion to Dismiss<sup>11</sup>*

At the conclusion of the hearing, the appointing authority asserted the appeal should be dismissed because appellant resigned. N.T. pp. 168-169. The appointing authority argues appellant orally resigned on January 31, 2020, when she walked out the door prior to the end of her shift, took some of her things, and said, “Fuck this place. I’m never coming fucking back here.” N.T. pp. 168-169.

Under Section 2601(2) of the Act, a resignation is a permanent separation from the classified service. 71 Pa.C.S.A. § 2601(2). Under Section 3003(7)(i) of the Act, a regular status employee may appeal a permanent separation from the classified service on the grounds that such action has been taken in violation of the Act’s provisions. 71 Pa.C.S.A. § 3003(7)(i). In a hearing held under Section 3003(7)(i), the appointing authority bears the burden of establishing that the personnel action was taken in accordance with the Act and the Rules. 71 P.S. § 3003(7)(i). Consequently, the issue before the Commission is whether appellant’s statement represents a validly tendered resignation and whether it was validly accepted by the appointing authority.

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<sup>11</sup> Prior to the hearing on this matter, appellant asserted there was a potential conflict of interest because she and the attorney for the appointing authority previously worked in the same office. N.T. pp. 18-19. None of the matters on which appellant worked with the appointing authority’s attorney related, in any way, to the present matter before the Commission. N.T. pp. 19-20. Therefore, appellant waived any objection to the attorney representing the appointing authority. N.T. p. 20.

The Commission concludes appellant's resignation cannot be considered a validly tendered resignation. While an employee may resign from the classified service either verbally or in writing, the resignation must be voluntary. 71 Pa.C.S.A. § 2606(a)(1); 4 Pa. Code § 605.3(a). Here, appellant had an emotional outburst in response to discussions during a disciplinary meeting. As appellant credibly testified, at the time of this outburst, she was "experiencing a lot of emotional and medical issues." N.T. pp. 137-138. Appellant had sought medical help for these issues about a week before her outburst. N.T. p. 138. While this does not excuse appellant's unprofessional and disruptive behavior for purposes of the termination which followed, it does lend context to her actions and supports the Commission's conclusion that appellant's outburst was not a voluntary resignation. Therefore, the Motion to Dismiss is denied. Having determined appellant did not voluntarily resign, we must next address whether there was just cause for her removal.

### ***Just Cause for Removal***

To show just cause for the removal of a regular status civil service employee, the employer must show that the actions resulting in the removal are related to an employee's job performance and touch in some rational and logical manner upon the employee's competence and ability. *Mihok v. Department of Public Welfare, Woodville State Hospital*, 147 Pa. Commw. 344, 348, 607 A.2d 846, 848 (1992). Having carefully reviewed the evidence, we find the appointing

authority has established the charges against appellant and established just cause for her removal. In support of our conclusion, we find credible<sup>12</sup> the testimony provided by the appointing authority's witnesses.

Appellant was charged with violating several provisions the appointing authority's Work Rules, to include insubordination, excessive tardiness, use of obscene language, violation of policies and procedures, inefficiency, negligence, lack of effort on the job, and negligent conduct which endangers others. Comm. Ex. A. These violations arose primarily from appellant's unprofessional and disruptive conduct on January 31, 2020, in that she repeatedly used profane language, slammed doors, kicked her desk, threw her phone, and left prior to the end of her shift. However, appellant's resistance to management had been building over the prior six months, as evidenced by the incidents documented in the first and second disciplinary memos. AA Exs. 4, 6. Indeed, appellant had been placed on a PIP in attempt to improve her work ethic and her relationships with others in the office. AA Ex. 5 (p. 1). However, the January 31, 2020 incident made it clear that appellant could not be rehabilitated.

Further, we find credible Evans' assessment that there is no feasible way for appellant to return to work because doing so would inhibit management's ability to maintain order. N.T. p. 106. Appellant has displayed repeated resistance

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<sup>12</sup> 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. Ct. 1986).

to direction from management, which culminated in her disruptive and unprofessional behavior on January 31, 2020. Appellant increasingly stepped outside her role as a Clerk Typist II, failed to follow her chain of command, and was frequently tardy. N.T. pp. 93-94, 107; AA Exs. 4, 6. In January 2020, alone, appellant was tardy on nine occasions. N.T. p. 107.

Moreover, appellant's violent and profane behavior on January 31, 2020, occurred in an area of the office where visitors could have been present. N.T. p. 108. As a child welfare agency, the appointing authority provides services to persons who are at risk and very vulnerable. N.T. p. 108. As such, appellant's violent behavior of kicking the desk drawer and throwing her phone, as well as her use of profanity, created a situation that potentially put vulnerable persons at risk. Thus, appellant's behavior rose to the level of seriousness which merited removal.

Based on the above, we find the appointing authority had just cause to remove appellant. Specifically, we find the appointing authority presented credible evidence establishing appellant violated its Work Rules, in that she was insubordinate, excessively tardy, used obscene and profane language, was resistant to performing her job duties, and acted in a manner which endangered others. Accordingly, we enter the following:

CONCLUSIONS OF LAW

The appointing authority has presented evidence sufficient to establish 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,<sup>13</sup> dismisses the appeal of Jody M. Strowbridge challenging her removal from regular Clerk Typist II (Local Government) employment with Snyder County Children and Youth Services, and sustains the action of Snyder County Children and Youth Services in the removal of Jody M. Strowbridge from regular Clerk Typist II (Local Government) employment, effective January 31, 2020.

State Civil Service Commission

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Gregory M. Lane  
Commissioner

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Bryan R. Lentz  
Commissioner

Mailed: 6/24/21

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<sup>13</sup> Chairwoman Maria P. Donatucci, who took office June 10, 2021, did not participate in the discussion of or decision for this appeal.