

COMMONWEALTH OF PENNSYLVANIA

George A. Trudel : State Civil Service Commission
 :
 v. :
 :
 Bucks County Assistance Office, :
 Department of Human Services : Appeal No. 31437

George A. Trudel Peter J. Yoon
Pro Se Attorney for Appointing Authority

ADJUDICATION

This is an appeal by George A. Trudel challenging his removal from probationary Income Maintenance Caseworker employment, with Bucks County Assistance Office. A hearing was held on April 21, 2025, via video, before Commissioner Gregory M. Lane.¹

The Commissioners have reviewed the Notes of Testimony and exhibits introduced at the hearing.² The issue before the Commission is whether appellant has established his removal was motivated by discrimination.

¹ A hearing was held on February 25, 2025, before Chairwoman Maria P. Donatucci, at which time Chairwoman Donatucci disclosed her previous business encounter with appellant. Chairwoman Donatucci recused herself from the proceedings, to include voting on this Adjudication and Order. The hearing was concluded and immediately rescheduled to be heard before Commissioner Lane.

² The parties elected to file briefs at the conclusion of the hearing on April 21, 2025. However, in subsequent emails submitted on June 3, 2025, both parties withdrew their requests to file a written brief and informed the Commission of their intent to rest on the Record.

FINDINGS OF FACT

1. By letter dated September 4, 2024, appellant was removed from his position as an Income Maintenance Caseworker, probationary status, with Bucks County Assistance Office, effective September 5, 2024. Comm. Ex. A.
2. The appeal was properly raised before this Commission and was heard under Section 3003(7)(ii) of Act 71 of 2018. Comm. Ex. C.
3. The Bucks County Assistance Office, Department of Human Services (hereinafter “appointing authority”) charged appellant with Unsatisfactory Work Performance as outlined in appellant’s probationary Employee Performance Review (hereinafter “EPR”) issued to him on August 27, 2024. Comm. Ex. A.
4. Appellant began working for the appointing authority as an Energy Assistance Worker, probationary status, in November 2023. N.T. pp. 46, 116-117.

5. In March 2024, appellant was promoted to an Income Maintenance Caseworker (hereinafter “IMCW”), probationary status, with the appointing authority. N.T. pp. 46, 116-117; AA Ex. 16.
6. Upon his promotion to an IMCW, appellant underwent a twelve-week Income Maintenance Standard Training Program (hereinafter “IMSTP”). N.T. p. 123.
7. Keely Castagnola, Staff Development with the Office of Income Maintenance for the appointing authority, served as the direct supervisor of Jennifer Scochin, who mentored appellant during the classroom portion of his IMSTP. N.T. pp. 155, 193.
8. Scochin based her assessment of appellant’s performance throughout the training period on his quiz scores and data entry skills displayed during class and workshops. N.T. pp. 203-204; AA Ex. 10.
9. In both his Supplemental Nutrition Assistance Program (hereinafter “SNAP”) Assessment case and Medical Assistance (hereinafter “MA”)/SNAP Assessment case completed during training, appellant received an “unsatisfactory” rating due to

his incorrect authorizations and incomplete data entries, which led to erroneous results. N.T. pp. 329-337; AA Ex. 10.

10. Scochin rated appellant's overall performance for his IMSTP as "unsatisfactory," asserting,

George [appellant] ended IMSTP with an overall unsatisfactory rating because while he had a quiz average of 80%, just meeting the minimum threshold of 80% to be considered satisfactory, he earned unsatisfactory ratings on both assessments. He had good participation levels in sessions and asked a lot of questions that were somewhat related to the session being presented, but he also asked many off topic questions and some regarding topics that were just discussed or about to be addressed. He had a lot of confusions [sic] that slowed down his pace and evidently led to his unsatisfactory outcome. My biggest concern with George [appellant] is his lack of self-awareness in his levels of comprehension that he portrayed all through IMSTP.

AA Ex. 10.

11. At the conclusion of appellant's classroom portion of his IMSTP, Leanne Heston, Income Maintenance Supervisor, generated an interim probationary EPR

for the rating period of March 11, 2024, through June 12, 2024, based on Scochin's evaluation. N.T. pp. 328-329; AA Ex. 7.

12. Heston rated appellant's overall performance as "unsatisfactory." She explained that,

IMSTP places emphasis on learning the policies/procedure and data entry that guide eligibility determinations for benefits. Your overall rating matches the rating for your time at IMSTP. You did not meet Satisfactory standards due to the inconsistent knowledge and application of DHS policies. Your data entry pace and quality did not sufficiently improve as evidenced by the data entry errors in your SNAP and SNAP/MA Assessments. These types of data entry errors were reoccurring throughout your time at IMSTP. Your data entry had reoccurring issues of accuracy, resulting in the Unsatisfactory rating for both Assessments. Immediate improvement is demanded. You must be able to attain, maintain, and sustain a satisfactory rating by the end of your probationary period.

AA. Ex. 7.

13. Cheryl Cole, Income Maintenance Administrator 1 for the appointing authority, reviewed and agreed with Heston's overall rating for appellant's interim probationary EPR. N.T. pp. 287-290; AA Ex. 7.
14. Both Heston and Cole signed the interim probationary EPR on June 24, 2024, and appellant signed on June 25, 2024. AA Ex. 7.
15. Following completion of his IMSTP classroom training, appellant worked with Heston to complete on-the-job training, working with live cases. N.T. pp. 298-299.
16. In July and August 2024, Heston had weekly conferences with appellant to discuss his areas for improvement and/or performance issues. She informed appellant of her continuing expectations that appellant be able to sustain his workload within his probationary period. N.T. pp. 301-303; 344-345; AA Ex. 6.
17. Heston noted appellant's ongoing issues with incorrect data entries and errors in eligibility determinations. N.T. pp. 346-347; AA Ex. 6.

18. At the conclusion of appellant's in-office training, Heston completed the final probationary EPR for the rating period of June 25, 2024 through August 16, 2024, for which she gave appellant an overall "unsatisfactory" rating. N.T. pp. 351-352.

19. In rating appellant's performance as "unsatisfactory" overall, Heston wrote,

IMSTP and probationary period places emphasis on learning the policies/procedure and data entry that guide eligibility determinations for benefits. Overall, your performance is unsatisfactory. You fail to meet the expectations and standards of this job. You continue to struggle with successfully organizing and planning your work to ensure both timeliness and accuracy. At the start of this rating period you were advised that you must achieve, maintain and sustain a satisfactory level of performance. Your data entry pace and quality has minimally improved since classroom IMSTP but not to a Satisfactory level. Data entry errors have continued throughout your time at IMSTP and throughout the probationary period. Your data entry has reoccurring issues of accuracy, resulting in incorrect eligibility of client benefits.

AA Ex. 4.

20. Cole reviewed and agreed with Heston's overall "unsatisfactory" rating for appellant's final probationary EPR. N.T. pp. 304-305; AA Ex. 4.
21. Heston signed the final probationary EPR on August 16, 2024, and appellant signed on August 27, 2024. Cole signed the final probationary EPR, but she did not date her signature. AA Ex. 4.
22. In a letter dated August 28, 2024, the appointing authority notified appellant of his pre-disciplinary conference (hereinafter "PDC") scheduled for September 4, 2024 regarding his unsatisfactory work performance. N.T. pp. 315-316; AA Ex. 3.

DISCUSSION

The current appeal challenges appellant's removal from his Income Maintenance Caseworker (hereinafter "IMCW") position due to unsatisfactory work performance as outlined in his final probationary Employee Performance Review (hereinafter "EPR") issued to him on August 27, 2024. The sole issue before the Commission is whether appellant has established his removal was motivated by discrimination. Specifically, appellant alleges he was discriminated against based on labor union affiliations, bias related to his prior criminal history, and retaliation.

Appellant bears the burden of establishing the personnel action was due to discrimination. *Henderson v. Office of the Budget*, 126 Pa. Commw. 607, 560 A.2d 859 (1989). In analyzing claims of discrimination under Section 2704 of Act 71 of 2018, appellant has the burden of establishing a *prima facie* case of discrimination by producing sufficient evidence that, if believed and otherwise unexplained, indicates that more likely than not discrimination occurred.³ 71 Pa.C.S.A. § 2704; *Department of Health v. Nwogwugwu*, 141 Pa. Commw. 33, 38, 594 A.2d 847, 850 (1991). The burden of establishing a *prima facie* case cannot be an onerous one. *Henderson*, 126 Pa. Commw. at 616, 560 A.2d 859 at 864. Once a *prima facie* case of discrimination has been established the burden of production then shifts to the appointing authority to advance a legitimate non-discriminatory reason for the personnel action. If it does, the burden returns to appellant, who always retains the ultimate burden of persuasion, to demonstrate the proffered merit reason for the personnel action is merely pretext. *Id.* at 614-615.

In particular, an employee claiming disparate treatment must demonstrate that he or she was treated differently than others similarly situated. *Nwogwugwu*, at 141 Pa. Commw. 40, 594 A.2d 851 (1991). Here, appellant alleges discrimination based on his labor union affiliations, as well as bias for his prior criminal history. Comm. Ex. B.

³ Section 2704 of Act 71 provides:

An officer or employee of the Commonwealth may not discriminate against an individual in recruitment, examination, appointment, training, promotion, retention or any other personnel action with respect to the classified service because of race, gender, religion, disability or political, partisan or labor union affiliation or other nonmerit factors.

71 Pa.C.S.A. § 2704. The prohibition set forth in this section encompasses two general types of discrimination—“traditional discrimination,” which encompasses claims of discrimination based on labor union affiliation, race, sex, national origin or other non-merit factors; and “technical discrimination,” which involves a violation of procedures required pursuant to the Act or related Rules. *Price v. Luzerne/Wyoming Counties Area Agency on Aging*, 672 A.2d 409, 411 n. 4 (Pa. Commw. Ct. 1996), citing *Pronko v. Department of Revenue*, 114 Pa. Commw. 428, 539 A.2d 462 (1988).

A retaliation claim is a specific subcategory of the broader category of non-merit factor discrimination. In a retaliation case, appellant may establish a *prima facie* case by proving 1) he engaged in a protected activity; 2) the appointing authority was aware of the protected activity; 3) that subsequent to participation in the protected activity, appellant was subjected to an adverse employment action by the appointing authority; and 4) that there is a causal connection between participation in the protected activity and the adverse employment action. *Robert Wholey Co., Inc. v. Pennsylvania Human Rel. Commn.*, 606 A.2d 982, 983 (Pa. Commw. 1992) citing *Brown Transport Corp. v. Pennsylvania Human Rel. Commn.*, 578 A.2d 555 (Pa. Commw. 1990). When participation in a protected activity and the occurrence of an adverse employment action occurs within close proximity in time, causation is inferred. *Id.* at 984.

In support of appellant's removal, the appointing authority presented the testimony of Staff Development Manager Keely Castagnola,⁴ Field Human Resource Officer 2 Sophiny Pek-Lilly,⁵ Human Resource Program Manager John Cvejkus,⁶ Income Maintenance Administrator 1 Cheryl Cole,⁷ Income Maintenance

⁴ Castagnola works for the appointing authority as a Staff Development Manager with the Office of Income Maintenance. N.T. pp. 189-191. She has worked in that position for six years. N.T. p. 191. In that capacity, Castagnola supervises a team of staff development specialists, including training specialists who present IMSTP, or new Income Maintenance Caseworker (IMCW) training. N.T. p. 193.

⁵ Pek-Lilly works for the Office of Administration as a Field Human Resource Officer 2. N.T. pp. 209-209. She has worked in that position since 2020. N.T. p. 213.

⁶ Cvejkus works for the appointing authority as a Human Resource Program Manager. N.T. p. 267. His working title is Director of the Department of Human Resources Field Operations. *Id.* He has worked in that position since 2023. N.T. p. 269.

⁷ Cole works for the appointing authority as an Income Maintenance Administrator 1. N.T. p. 283. She has worked in that position for fourteen years. N.T. p. 284. In that capacity, Cole manages the training units for the appointing authority. N.T. pp. 285-286.

Supervisor Leanne Heston,⁸ and Income Maintenance Administrator 3 David Keller.⁹ Appellant testified on his own behalf, as well as presented the testimony of former Field Human Resource Officer 1 Wilhelmina Terry.¹⁰

Having carefully reviewed the evidence, we find appellant failed to make a *prima facie* case of discrimination related to his removal from Income Maintenance Caseworker employment, probationary status. In support of our conclusion, we find credible¹¹ the testimony provided by the appointing authority's witnesses.

Appellant began working for the appointing authority as an Energy Assistance Worker (hereinafter "EAW") in November 2023. *See* Finding of Fact No. 4. In March 2024, appellant was promoted to an IMCW. *See* Finding of Fact No. 5. As part of his training for the IMCW position, appellant participated in a twelve-week Income Maintenance Standard Training Program (hereinafter "IMSTP"), conducted in a classroom setting. *See* Findings of Fact Nos. 6-7. Appellant's mentor, Jennifer Scochin, rated appellant's overall IMSTP as "unsatisfactory." *See* Findings of Fact Nos. 7-10. She expressed concern over appellant's pace and comprehension of IMCW procedure. *Id.*

⁸ Heston works for the appointing authority as an Income Maintenance Supervisor. N.T. p. 323. She began working in that position as an acting supervisor, temporarily working out of class (TWOC), in August 2024. N.T. pp. 221, 324.

⁹ Keller works for the appointing authority as an Income Maintenance Administrator 3. N.T. p. 365. His working title is Executive Director of Bucks County Assistance Office. *Id.* Keller has worked for the appointing authority for 33 years. N.T. pp. 365-366.

¹⁰ Terry worked for the appointing authority as a Field Human Resource Officer 1 from June 2013 through February 21, 2025. N.T. pp. 43-44.

¹¹ 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).

Following the classroom portion of his training, appellant proceeded with in-person training under the supervision of Leanne Heston. *See* Finding of Fact No. 15. Based on Scochin’s IMSTP rating, Heston first generated an interim probationary EPR covering the period of March 11, 2024, through June 12, 2024. *See* Finding of Fact No. 11. Cheryl Cole explained she was required to supervise Heston in preparing the interim probationary EPR because Heston was temporarily working out of class (hereinafter “TWOC”) as appellant’s supervisor during that period.¹² N.T. pp. 287-288, 328. Heston and Cole, as respective rater and reviewer of appellant’s interim probationary EPR, based their overall unsatisfactory rating on Scochin’s evaluation. *See* Finding of Fact No. 11. Heston noted appellant’s most notable error throughout the IMSTP was in the income section for unearned income, where appellant did not enter any of the child support income for the case. N.T. pp. 323-333. In that instance, appellant would have overissued the client benefits. *Id.* In her EPR comments, Heston emphasized appellant’s need to improve his performance to a satisfactory level by the end of his probationary period. *See* Finding of Fact No. 12.

Appellant worked live cases under Heston’s supervision from late-July through mid-August 2024. Throughout that period, he had weekly conferences with Heston to discuss any performance issues or areas for improvement. *See* Findings of Fact No. 16. In their meeting on July 18, 2024, Heston expressed appellant

¹² The Commission notes appellant improperly asserted that, as a supervisor temporarily working out of class (TWOC), Heston was not authorized to issue an EPR. Pek-Lilly testified that, based on her knowledge of policy and procedure, because Heston was TWOC, she was expected to perform the functions of the higher-level supervisor position, which included completing EPRs. N.T. pp. 220-222. Additionally, pursuant to Management Directive 540.7, as appellant’s immediate supervisor, Heston should be the rater and complete the EPR. N.T. pp. 227-228; AA Ex. 13. Cvejkus confirmed Heston’s position as the rater was in keeping with previous guidance in similar cases. N.T. p. 273.

continued to have supervisory review of his cases, whereas other trainees were progressing further on their own. N.T. p. 344. Appellant still needed Heston to revise his cases due to ongoing data entry issues. *See* Finding of Fact No. 17. His problems with incorrect data entry and his inability to complete screens correctly showed a backward progression in progress through August of 2024. N.T. pp. 344-350. Cole recalled having conversations with Heston regarding appellant's lack of progress, noting appellant's difficulty with data entry, his inability to retain policy information between cases, and his inability to correctly determine eligibility. N.T. pp. 299-300.

At the conclusion of appellant's in-office training, Heston rated appellant's performance as "unsatisfactory" overall in the final probationary EPR covering the period of June 25, 2024, through August 16, 2024. *See* Findings of Fact Nos. 18-19. Heston noted appellant's ongoing timeliness issues, as well as data entry errors, resulted in the incorrect eligibility of client benefits. *Id.* Cole explained appellant's performance evaluation, particularly in the job factors of job knowledge and work results, were significant for the numbers and types of errors being made by appellant, which were at an unsatisfactory level. N.T. p. 305. Furthermore, without Heston's supervision during his in-person training, appellant's work would have resulted in payment errors with people receiving benefits for which they were not eligible, and vice versa. N.T. p. 306. In Cole's opinion, appellant committed errors beyond those made by a typical trainee in their early days of training. N.T. pp. 306-307.

In support of his case-in-chief, appellant testified he had problems with the training material, and he was not familiar with the data entry on SNAP. N.T. pp. 123-124. He stated he could not get help from supervisors or mentors on his

quizzes for IMSTP, and he completed a critique offering suggestions regarding more hands-on-learning for future training. N.T. pp. 125-126. Regarding his in-person training with Heston, appellant stated Heston instructed him to try and figure things out first before coming to her with any questions. N.T. pp. 128-129. When Heston reviewed appellant's interim probationary EPR with him, appellant stated, "it felt personal," and it did not reflect who he was as an employee. N.T. p. 129. Appellant believed the negative rating was due to appellant completing the training survey, testifying he could not otherwise understand why anyone would write such a "vicious EPR." N.T. p. 129.

Regarding his final probationary EPR, appellant stated it was a repeat of the first. N.T. p. 135. He testified he could not do anything right, and Heston did not respond when he tried to reach out for help. N.T. pp. 133-134. Additionally, he found his back-and-forth emails with Heston to be confusing, and he felt Heston never gave appellant any credit for anything he did right. *Id.* Appellant stated Heston and Cole made it so appellant could not succeed, and constantly made appellant feel as though he was getting pushed out. N.T. pp. 136-138. Ultimately, appellant believed Heston's and Cole's behavior toward him was connected to his past, later explaining it was related to his former incarceration. N.T. pp. 139, 165.¹³

¹³ The Commission notes appellant further introduced the testimony of Wilhelmina Terry during his case-in-chief. Terry's testimony concerning appellant's use of sick leave around his PDC is not relevant to appellant's final probationary EPR "unsatisfactory" rating for poor work performance, nor to his subsequent removal. As such, her testimony will not be further summarized herein.

Having carefully reviewed the evidence, we first determine appellant did not make a *prima facie* case of discrimination based on his labor union affiliations or based on bias for his prior criminal history. Appellant did not present any evidence concerning his labor union affiliations throughout the hearing. John Cvejkus testified he was aware of appellant's prior criminal history at the time of his appointment to the EAW position. N.T. p. 272. However, appellant failed to present any evidence establishing if either Heston or Cole, his EPR rater and reviewer, were aware of his prior criminal history at the time they rendered their overall "unsatisfactory" rating of appellant's work performance. Without such evidence, appellant failed to establish he was removed from his IMCW position because of his labor union affiliations or his prior criminal history. *Henderson*.

Furthermore, we determine appellant failed to make a *prima facie* case on his retaliation claim. Appellant first alleged he received an "unsatisfactory" EPR due to the IMSTP critique he completed following his classroom training. However, Keely Castagnola clarified what appellant referred to as a critique was actually a feedback survey sent out to all 40 trainees within appellant's training class. N.T. pp. 194-196. Appellant's feedback was reviewed only by Castagnola and the rest of her training team, as it was intended to help better the training program. N.T. p. 197. The information within appellant's survey was not shared with any appointing authority employees, to include Heston or Cole. N.T. p. 198. Thus, appellant failed to establish Heston's or Cole's "unsatisfactory" final probationary EPR rating, which served as the basis for his removal, was in retaliation to his survey.

Additionally, appellant failed to establish his removal was in retaliation to an Equal Employment Opportunity (hereinafter "EEO") complaint appellant filed around the time of his removal. In his Appeal to the Commission, appellant

originally stated he had filed an EEO complaint against Heston and Cole on August 29, 2024, which was a week prior to his pre-disciplinary conference (hereinafter “PDC”) on September 4, 2024. *See* Comm. Ex. B, p. 12. However, at the hearing, when discussing his participation in his PDC, appellant merely testified, “I did not want to speak to Ms. Heston and Ms. Cole, basically because I was afraid to speak to them because I didn’t want to lose my job, realizing what had been going on and that I had just filed a complaint with the EEO.” N.T. p. 144.

Appellant did not present sufficient evidence or testimony during his case-in-chief regarding a specific date or timeframe for when he allegedly filed his EEO complaint. Nonetheless, assuming *arguendo* appellant filed his complaint on August 29, 2024, appellant’s retaliation claim must fail where his EEO complaint was filed after his interim and final probationary EPRs were both completed. Both Heston and Cole signed the interim probationary EPR on June 24, 2024. *See* Findings of Fact No. 14. For the final probationary EPR, Heston signed it on August 16, 2024, and appellant signed it on August 27, 2024. Cole signed it without dating her signature, though her signature must have predated appellant’s. *See* Finding of Fact No. 21. Thus, appellant received his overall “unsatisfactory” rating before the date he claims he filed the EEO complaint. Appellant failed to establish a causal connection between his complaint and his negative EPR rating. *Robert Wholey Co., Inc.* Therefore, where appellant’s “unsatisfactory” rating could not have logically been made in retaliation to the filing of his EEO complaint, appellant failed to prove his removal for poor work performance was due to retaliation.

Although appellant did not make a *prima facie* case of discrimination, the Commission nonetheless notes the appointing authority presented credible evidence which establishes legitimate non-discriminatory reasons for its overall “unsatisfactory” rating on appellant’s final probationary EPR, which served as the basis for his removal. Scochin noted appellant’s performance issues began with the classroom training through IMSTP. Both Heston and Cole continued to monitor appellant’s work throughout his in-person training, and they found ongoing issues relating to appellant’s accuracy and timeliness in his data entry. The testimonies of both Heston and Cole established the appointing authority had legitimate non-discriminatory reasons for appellant’s removal based on his overall “unsatisfactory” EPR rating, namely, his poor work performance as an IMCW.

Lastly, the Commission finds appellant’s assertion he is entitled to return rights to his previous EAW position to be without merit. Cvejkus testified appellant never had permanent status in his EAW classification. N.T. pp. 274-275. Appellant’s own witness, Terry, confirmed appellant’s previous EAW position was seasonal in nature, and that appellant did not have return rights as an EAW because he never finished his probationary period as an EAW before being promoted to his IMCW position in March 2024. N.T. p. 75. Cvejkus explained appellant held probationary civil service status and never achieved full-time/permanent status as an EAW, thus he is not entitled to return to that position. N.T. p. 275. The Commission concurs. Accordingly, we enter the following:

CONCLUSION OF LAW

Appellant has failed to present evidence establishing discrimination violative of Section 2704 of Act 71 of 2018 related to his removal from Income Maintenance Caseworker employment, probationary status.

ORDER

AND NOW, the State Civil Service Commission, by agreement of its members,¹⁴ dismisses the appeal of George A. Trudel challenging his removal from probationary Income Maintenance Caseworker employment, with Bucks County Assistance Office and sustains the action of Bucks County Assistance Office in the removal of George A. Trudel from probationary Income Maintenance Caseworker employment, effective September 5, 2024.

State Civil Service Commission

Gregory M. Lane
Commissioner

Pamela M. Iovino
Commissioner

Issued: September 23, 2025

¹⁴ As Chairwoman Maria P. Donatucci recused herself from discussion of the present matter, she further abstained from voting on the present Order.