

Clearwater, Florida, February 18, 2016

The Unified Personnel Board (UPB) met in special session at 6:29 P.M. on this date in the County Commission Assembly Room, Fifth Floor, Pinellas County Courthouse, 315 Court Street, Clearwater, Florida, with the following members present: Ricardo Davis, Chair; James Dates, Vice-Chair; Keith C. Dekle; Louise Dolsay; Bill Schulz; Joan M. Vecchioli; and Ron Walker.

Also Present: David Blasewitz, Interim Director of Human Resources; Michelle A. Wallace, Senior Assistant County Attorney; Christopher Bartlett, Board Reporter, Deputy Clerk; and other interested individuals.

AGENDA

PLEDGE OF ALLEGIANCE

Safety and Emergency Services

I. TERMINATION APPEAL

Andrew Belich

CALL TO ORDER

Chair Davis called the meeting to order at 6:29 P.M.; whereupon, he led the Pledge of Allegiance.

APPEAL OF TERMINATION OF ANDREW BELICH, FORMERLY OF SAFETY AND EMERGENCY SERVICES – DENIED

Appeal of Termination filed by Andrew Belich, formerly of Safety and Emergency Services, was presented by Leena Delli Paoli, Employee Advocate, representing the Appellant, and by Jodie Sechler, Ambulance Billing and Finance Services Director, representing the Appointing Authority.

At the Chair's request, the witnesses were sworn by the Deputy Clerk; whereupon, Chair Davis confirmed that exceptions to the prehearing conference statement have been made.

Attorney Wallace indicated that the first exception was an objection filed by the Appointing Authority regarding the Appellant's document titled *Case Surrounding the Advocate* on the grounds that the document addresses an unrelated matter and does not directly pertain to the Appellant.

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At the Chair's request, Ms. Sechler stated that the unrelated matter is between one of the Appellant's advocates and a member of management; and that the Appointing Authority is asking for the document to be removed; whereupon, Ms. Delli Paoli stated that the Appellant would agree and allow the removal of the document.

Attorney Wallace indicated that the second exception was an objection filed by the Appellant regarding the appearance of Jim Holbrook as witness on behalf of the Appellee on the grounds that his testimony would reference the Appellant's computer usage which is not a charge in this case. She noted that the Grievance Panel concluded that a computer use policy does not exist for the department and suggested that management consider creating a policy to set guidelines on computer use.

Ms. Sechler stated that Jim Holbrook is the department's Information Technology (IT) expert who provided management with system reports which were then used to determine disciplinary actions; and that Mr. Holbrook is available to answer any technical questions that may be asked by the Board.

At the Chair's request, Employee Co-Advocate Steve Yeatman stated that the Appellant objects to testimony from Mr. Holbrook for several reasons, including that the evidence presented was previously discounted at the informal grievance hearing; that some evidence was presented during the hearing which did not allow the Appellant adequate time to prepare his defense; that Mr. Holbrook's reports run counter to proving the stated charges against the Appellant; and that the documents in disclosure do not match the same documents more recently presented.

Ms. Vecchioli stated that the arguments presented go more towards the credibility of the evidence rather than the admissibility of the witness' testimony; that the documents do contain relative information regarding the productivity or lack thereof of the Appellant; and that should a document eventually be presented as evidence, the Appellant could object to its credibility at that time; whereupon, she stated that she would be uncomfortable ruling to exclude the witness in his entirety at this time.

Responding to query by Mr. Dekle, Attorney Wallace confirmed that no new evidence beyond what was presented at the grievance hearing should be brought forth for this hearing.

Mr. Yeatman noted that the video evidence presented by the Appointing Authority also varies from the video evidence presented earlier; whereupon, Chair Davis stated that arguments for the case will be made shortly; and that, at this time, the Board should only determine whether or not to allow Mr. Holbrook to testify.

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Mr. Dekle stated that he would allow the witness to testify but would object to any new evidence being introduced in the case, and Mr. Dates indicated that the documents could not be ruled out without knowing what the witness would offer in his testimony.

Ms. Vecchioli moved, seconded by Mr. Dates and carried unanimously, that the motion to prevent Mr. Holbrook from testifying be denied.

Following the vote, Mr. Dates noted that two weeks earlier the Board delayed hearing this appeal in order to allow the County Attorney's Office time to present the case; and that the County Attorney's Office is not present as expected at this hearing; whereupon, he asked for an explanation. Ms. Sechler indicated that initially County Administration recommended that a County attorney present the case due to several legal issues that might become complex; and that subsequent to that recommendation, a new direction was received which indicated that management would present the case; whereupon, Chair Davis called for opening statements in order to begin the hearing.

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During the testimony the hearing was recessed at 8:11 P.M. and 11:00 P.M., and reconvened at 8:21 P.M. and 11:08 P.M. respectively.

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Following the completion of the testimony and closing statements, Chair Davis reviewed the issues to be resolved by the Board and indicated that the first issue is whether the Appellant did commit the activities for which he was disciplined.

Mr. Walker moved, seconded by Ms. Dolsay, that the Appellant engaged in the activities for which he was terminated. Following discussion and upon call for the vote, the motion carried by a vote of 5 to 2, with Messrs. Dekle and Schulz dissenting.

Chair Davis indicated that the second issue is whether the Board finds that cause existed for the disciplinary action in that the Appellant's activities violated Personnel Rule XXIV, Items Nos. 3 and 8; whereupon, the members considered the resolution of each item separately.

Ms. Vecchioli moved, seconded by Mr. Walker, that cause existed for disciplinary action in that the Appellant's activities violated Personnel Rule XXIV, Item No. 3: Failure to Perform Duties.

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Following discussion and upon call for the vote, the motion carried by a vote of 5 to 2, with Messrs. Dekle and Schulz dissenting.

Thereupon, Mr. Dates moved, seconded by Chair Davis, that cause existed for disciplinary action in that the Appellant's activities violated Personnel Rule XXIV, Item No. 8: Leaving Work Station Without Authorization.

Responding to query by Mr. Walker, Chair Davis indicated that the Chair may second a motion; and that his interest in doing so is to move the discussion forward; whereupon, Mr. Walker stated that he would second the motion, and Chair Davis agreed to withdraw and accept Mr. Walker's second.

Ms. Vecchioli indicated that she did not feel the Appointing Authority met the burden of proof with regard to the charge, and Chair Davis stated that while he believes the Appellant did leave his workstation, there is no rule or procedure within the department that requires formal authorization to do so. Discussion ensued; whereupon, Mr. Dates withdrew his earlier motion, and Mr. Walker concurred.

Upon the Chair's call for a new motion, Mr. Dekle moved, seconded by Ms. Vecchioli and carried unanimously, that the Appointing Authority did not prove its case that the employee left his workstation without authorization.

Chair Davis indicated that the final issue is whether the disciplinary action taken by the Appointing Authority was appropriate. Mr. Walker moved, seconded by Ms. Vecchioli, that the disciplinary action was appropriate, and discussion ensued.

Mr. Dekle asked the Board to consider delaying a final decision while directing the department to consider other alternatives, and having the department return to the Board at another time with a recommendation other than terminating the employee, indicating that there may be precedent for such action; and Chair Davis noted that the Board would first need to dispose of the motion on the floor.

Following discussion and upon call for the vote, the motion carried by a vote of 5 to 2, with Messrs. Dekle and Schulz dissenting.

A digital recording of the proceeding has been made a part of the record.

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ADJOURNMENT

The meeting was adjourned at 12:01 A.M.

Chair