CITY OF ATLANTA CIVIL SERVICE BOARD
FINDINGS OF FACT AND ORDER

APPELLANT: **SEDRIK YOUNG**
Department of Public Works (DPW)
City of Atlanta (City)

APPEAL NO. 2018-046AP
Effective Date: March 4, 2019
Hearing Date: May 27, 2021

ACTION:
DISMISSAL

HEARING OFFICER
Sterling P. Eaves, Chair
Herman Sloan
Mary Ann S. Phyall, DWB

APPEARANCES

City of Atlanta Representative:
Kimberly Myers, Esq.

City Witnesses:
Jenelle Bonds, Benefits Rep, DHR
Dr. Stephen Dawkins, Medical Director, Caduceus
Cotena Alexander, Deputy Comm TIM of ATL DOT

Appellant Representative:
Rita Cherry, Esq.

Appellant's Witnesses:
Sedrik Young, Appellant
Gina Pagnotta Murphy, Fleet Part Sup. & Pres. of local PACE

STATEMENT OF AUTHORITY

Under the authority and provisions of Chapter 114, Article VI, Division 3, Sections 114-546 through 556 of the Atlanta City Code ("Code"), a hearing in the above-referenced case was held virtually via Zoom Webinar, facilitated by the City, pursuant to Mayor Keisha Lance Bottoms Executive Order regarding COVID-19, and before the above-named hearing officers of the Atlanta Civil Service Board ("Board") on the date set forth above.

EXHIBITS

City of Atlanta:

C-1 Safety Preliminary Investigation Report
C-2 Caduceus Patient Visit Report
C-3 Quest Lab Report
C-4 Federal Chain Form
C-5 Memo from Jenelle Bonds – Dept of Employee Relations Report (DER)
C-6 Bio of Dr. Stephen Dawkins
C-7 Unusual Collection Form
C-8 Federal Control Form/Quest
C-9 Appellant's list of medications
C-10 Notice of Final Adverse Action (NFAA)
C-11 Notice of Proposed Adverse Action (NPAA)
C-12 City of Atlanta Codes Sections 114.569 and 114.570
C-13 Page 2 of Exhibit C-3 - Quest Lab Report

Appellant:

A-1 – City of Atlanta Safety Preliminary Investigation Report 2.
A-2 – Caduceus USA Drug Testing documents
A-3 – Quest Diagnostics Lab Testing documents
A-4 – Sedrik Young prescribed medications
A-5 – City of Atlanta Memo to Janelle Bonds
A-6 – Notices of Proposed Adverse Action
A-7 – Notices of Final Adverse Action
A-8 – City Ordinance 114-571 Supervisors responsibilities and guidelines
A-9 – City Ordinances 114-572 Drug Analysis and 114-573 Results
A-10 – City Ordinance 114-574 Disclosures

STIPULATIONS

None

CHARGES

DISMISSAL- for violation of the City of Atlanta Municipal Code of Ordinances(s):
114-573 *Results of drug/alcohol analysis – A positive test result of the drug/alcohol analysis made under this division shall constitute cause for which disciplinary action may be imposed, up to and including dismissal.*
114-528 (b) (20) *Any other conduct or action of such seriousness that disciplinary action is considered warranted.*

INFRACTION

See City of Atlanta Notice of Final Adverse Action (NFAA) (Exhibit C-10)

FINDINGS OF FACT

1. The Appellant, Sedrik Young, was an employee with the city of Atlanta Department of Public Works (DPW) and held the position of Electrician I. He began his employment March 8, 2018 and had worked seven (7) months when he was dismissed for testing positive for cocaine following a work accident that resulted in damage to a city vehicle.

2. On September 17, 2018, the Appellant and a co-worker were ending the day's work assignment and returned to the city vehicle, a bucket truck, and found that the Appellant's key would not unlock the front driver's door.

3. The Appellant contacted his supervisor, Rawle Gibbs of the situation who, in turn, dispatched Fleet Services to assist the employees. Mr. Gibbs advised him that the arrival of Fleet Services would be delayed. The Appellant stated in an Employee Response report that he was scheduled to pick up his daughter and couldn't wait for Fleet to get there. (Exhibit A-7) So, in an effort to open the door with a screw driver, the Appellant admitted that the driver's side quarter/vent window "was accidently broken" by him.

4. Upon arrival, Fleet opened a Safety Preliminary Investigation. Listed below are the first on-site findings recorded by management (Exhibit A-1):
    - Employee failed to apply the proper training provided by the DPW safety team.

- Injuries: none
- Damage: broken window
- Preventable
- Drug/alcohol analysis – yes

5. Kevin Billups transported the Appellant from the work site to Caduceus Occupational Health Clinic for a drug and alcohol analysis.

6. A Post-Accident Drug/Alcohol Screen was completed. The clinic offered split specimen testing to the Appellant and he accepted. Caduceus tested the sample September 25, 2018. The result of the first test confirmed positive for cocaine. (Exhibit C-2)

7. On October 3, 2018, using the split specimen from the Appellant, a second test was completed by another lab and the result re-confirmed positive for cocaine. (Exhibit C-3)

8. In a memo dated October 15, 2018, the city recommended that the Appellant be removed from his safety sensitive position. (Exhibit C-5)

DISCUSSION

The appeal of Sedrik Young was called virtually at 10:00am via the internet platform of Zoom. Mr. Young (the Appellant) was appealing his dismissal which was effective March 4, 2019. He presented the following reasons:

1. Medications taken for a back injury caused a 'false positive' result for cocaine in his drug test.
2. He was wrongfully transported to drug testing because a *moving* violation had not occurred.
3. The reported September 17, 2018 work mishap was an incident not an accident, disqualifying it for a drug/alcohol analysis of an employee.

City witness, Dr. Stephen Dawkins, Medical Director of the testing clinic, Caduceus, provided what the Board found to be credible testimony regarding the testing process from sample submission to test results. Dr. Dawkins provided a detailed explanation - in layman terms - the progress made in the field of drug/alcohol testing programs as it relates to their accuracy and dependability. He continued his testimony explaining that testing is completed in a controlled setting. In this case, the donor sample (the Appellants) tested positive for cocaine. The clinic contacted the Appellant and the

City of the results. Jenelle Bonds, a City Benefits Representative recommended the Appellant's removal from his safety sensitive position. (Exhibit C-5)

It is a routine procedure that the second vial sample is sent to another testing site for re-confirmation. That test re-confirmed positive for cocaine. (Exhibit C-7)

It was disclosed that the Appellant, on occasion, took medications prescribed to him for a 2015 surgery on his back. Some of the meds taken were, IB 800, Percocet, hydrocodone, Lidocaine cream/patch and naproxen. (Exhibit A-4 and C-9) However, the Appellant testified during the hearing that he had not ingested a controlled substance within a week prior to September 17, 2018 and had no idea why his test was positive for cocaine.

Dr. Dawkins was questioned by the City, the Appellant's representative and the Board. In question was the possibility that the Appellant's prescribed medications interfered with his drug test results. The doctor explained that the re-confirmation test, a GC-MS (Gas chromatography-mass spectrometry) is a 100% accurate specific test. Also called the molecular fingerprint test. It verifies what was confirmed positive in the first vial tested. In this case, cocaine. And, the components/molecules of cocaine are different from opiates and therefore, have a different fingerprint. To end his testimony, Dr. Dawkins stated that a false positive cannot happen on a re-confirmation test.

The Appellant argued citing Sec. 114-571 (b)(2) *Reasonable suspicion* that all of the elements were not followed to warrant the Appellant being drug tested. In the same section it reads…*Observations which may constitute a factual basis for determining reasonable suspicion may include but not be limited to the following, alone or in combination*… therefore, the Board believes that the City had the authority to request a drug/alcohol test in this case. Additionally, in consideration of the Appellant's job assignment, the following section of the above code applies and would have merited a request for the test. Sec. 114-571(c)(1) *Employees…being safety-sensitive in accordance with section 114-575 are subject to random drug and/or alcohol analyses…*

The Appellant also contended that employees involved in damage to city vehicles are routinely tested for drugs/alcohol *only* if it is a moving violation. There was no evidence presented to support the statement. Also disputed was if the charges involved were an accident or an incident. Ms. Pagnotta Murphy testified that the Appellant should not have been sent for a drug test because what occurred was an incident and didn't qualify. According to Oxford Languages, "*accident*- an unfortunate incident, that happens unexpectedly and unintentionally, typically resulting in damage or injury." The Board

found the discussion had no practical value in the above case.

In conclusion, after careful consideration of all of the testimony and the evidence presented by the parties, the Board upholds the City by affirming that the dismissal was for proper cause under the City of Atlanta Code of Ordinances. The Appellant failed to follow the City of Atlanta Drug-free policy and violated *Sec 114-573 Results of drug/alcohol analysis* with a positive test result. The second charge, violation of Sec. 114-528(b)(20), was not considered in the Board's decision.

ORDER

The appeal of Sedrik Young is Denied.

This the 10th day of June 2021.

Respectfully submitted,

Sterling P. Eaves
Sterling P. Eaves, Chair

Herman Sloan
Herman Sloan

Mary Ann Phyall
Mary Ann S. Phyall, DWB