CITY OF ATLANTA CIVIL SERVICE BOARD

FINDINGS OF FACT AND ORDER

APPEAL NO. 2018-020AP

Department of Public Works

Effective Date: January 19, 2018

Hearing Date: April 21, 2021

APPELLANT:

Albert Hardy

HEARING OFFICERS:

Suzanne W. Ockleberry, Chair

Herman Sloan

Robert D. Hawkins, DWB

ACTION:

Dismissal

APPEARANCES

City of Atlanta (City)

Counsel/Representative:

Mohammed Nielson

City of Atlanta's Witnesses:

Byron Gibson

Allen Smith

Appellant:

Albert Hardy

Counsel/Representative:

Stephanie Mutti

Appellant's Witnesses:

Anna Avato

Albert Hardy

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 conference in the above-referenced case was held virtually via Zoom Webinar, facilitated by the City, pursuant to Mayor Andre Dickens' 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.

ATLANTA CIVIL SERVICE BOARD MISSION STATEMENT

The Board's sole purpose is to examine the issues of adverse employment action(s) in accordance with Code. More specifically, the Board is not charged with determining if the Appellant's actions were criminal in nature nor will it make any reference thereto.

EXHIBITS

City of Atlanta: See List in the Official Records

Appellant: See List in the Official Records

CHARGES

Appellant was dismissed for violating Section 114-528(b)(12) of the Code: Willful making of false statements to the public, supervisors, officials, boards, department heads or agencies or the willful making of false statements on an employment application within the City.

FINDINGS OF FACTS

The Appellant was employed by the City of Atlanta's Department of Public Works in the Transportation Unit for four and one-half (4 ½) years. He was terminated on January 19, 2018.

The City's action to dismiss the Appellant stemmed from him making false statements and unsubstantiated allegations that a former supervisor spoke to him in a hostile and an aggressive manner and making false statements about completing various work assignments.

The "City" submitted video evidence showing that on October 2, 2017, Appellant was resting on a bench at a facilities site after being directed to assist fellow co-workers with filling and loading propane tanks and tying down equipment on trailers tin preparation for the following day's work schedule. Conversely, the Appellant alleged that he was never asked to assist with loading propane

tanks; however, most importantly, his testimony and assertions were not credible and were not corroborated by any witnesses.

As previously noted, the Appellant alleged, on October 11, 2017, that a former supervisor, the late JoAnn Henderson, spoke to him in a belligerent and combative manner while employees gathered in a meeting room. According to the Appellant, Ms. Henderson conveyed displeasure with the Appellant's work performance while expressing her desire to have him removed from her unit. Video evidence provided by the City showed the Appellant walking by Ms. Henderson, with no indication that the two parties engaged in any conversation.

On October 9, 2017, Director Allen Smith met with the Appellant, Dwight Wyatt, and JoAnn Henderson and he agreed to launch an investigation surrounding the chain of events that ultimately led to the Appellant's dismissal. After the meeting, the Appellant was asked to prepare a written statement recounting the events that occurred on October 2, 2017. The Appellant provided a written document as requested, but the content did not coincide with the City's evidence, specifically videos, timelines, and statements made by several of the Appellant's crew chiefs who directed the Appellant to perform clearly defined tasks. In his written report of investigation, Director Smith indicated that the Appellant's acts of insubordination could be addressed and progressively coached. However, he concluded the Appellant's attempt to falsely accuse others of engaging in prohibited conduct was irreparable and dismissal was warranted.

On January 5, 2018, the City issued Appellant a Notice of Proposed Adverse Action (NPAA) which contained a recommendation for dismissal, for making false statements about a supervisor. Subsequently, a Notice of Final Adverse Action (NFAA) was issued with an effective date of January 19, 2018.

DISCUSSION

During his testimony, the Appellant acknowledged sitting on a bench outside of the carpenter shop for a period of time on October 2, 2017, even though he was previously directed to complete a specific task. He further stated that at the time he was anguished because of a phone call he received from a family member. After the phone call ended, he proceeded to go to the restroom to gather his composure; however, when he returned outside, the crew truck had gone to another job site. Allegedly, he called the crew chief and the shift supervisor to let them know what had just transpired, but, reportedly, neither party answered their phone.

The Appellant's witness list contained seven (7) names; however, only one of the witnesses appeared at the hearing. When questioned about this, the Appellant said, because those who were scheduled to appear on his behalf are City employees, they feared retribution from supervisors and officials. The Board strongly encourages officials and supervisors to remind staff that punitive actions are not to be taken against anyone who agrees to testify at a Civil Service Board hearing.

As noted, the Appellant was employed by the City for roughly four and one-half (4 ½) years. There was no evidence presented during the hearing suggesting that the Appellant's tenure was marked by oral admonishments or reprimands because of unsatisfactory work performance or

inappropriate behavior. Therefore, the Board had to determine whether the City's decision of dismissal for making a false statement was merited. The Board members firmly believe that City should continue to engage in progressive discipline for work rule violations.

In spite of the foregoing, in this instance, the City offered sufficient evidence that the Appellant made false statements about a supervisor and that he failed to carry out directives issued by those serving in managerial positions. Therefore, the City's action in dismissing the Appellant was warranted.

ORDER

Based upon the evidence presented, the Board affirms the dismissal of Appellant for violation the City of Atlanta Code Section 114-528(b)(12) of the Code. Accordingly, Appellant's **Appeal** is **Dismissed**.

This 21st day of April 2022.

Suzanne Wynn Ockleberry

Suzanne W. Ockleberry, Chair

Herman Sloan

Herman Sloan

Robert Hawkins

Robert D. Hawkins, DWB