

OFFICE OF STATE ADMINISTRATIVE HEARINGS
STATE OF GEORGIA



FILED
OSAH
AUG 5 2013

BARBARA HOWARD,
Petitioner,

v.

JUDSON H. TURNER, DIRECTOR,
ENVIRONMENTAL PROTECTION DIVISION,
DNR,
Respondent.

K. Westray
Kevin Westray, Legal Assistant

Docket Number:
OSAH-SPB-SWB--1345417-60-Malihi

INITIAL DECISION

A hearing was held on August 5, 2013, for the purpose of reviewing the Petitioner's disciplinary suspension without pay for one week. Based on the following Findings of Fact and Conclusions of Law, Petitioner's suspension without pay is upheld.

Findings of Fact

1.

Petitioner is an employee of the Environmental Protection Division (EPD), Department of Natural Resources, within the classified service of the State of Georgia.

2.

On June 13, 2013, Petitioner received a written notice of EPD's intent to take adverse action against her on the grounds of insubordination and misconduct. Petitioner timely responded to the charges. Upon review, the Commissioner's Designee for Adverse Action, Homer Bryson, affirmed the decision to suspend Petitioner. Mr. Bryson notified Petitioner on June 27, 2013. Petitioner requested a hearing which was held on August 5, 2013 before this Court.

3.

On or about the morning of June 3, 2013, Petitioner contacted Ms. Kimberly East, a payroll supervisor employed by Respondent, by telephone to request help in correcting Petitioner's recent pay check of zero dollars (\$0.00). During this call, Petitioner and Ms. East determined the zero paycheck was the result of Petitioner's May 21, 2013 change to her state tax withholdings in Employee Self-Service, an online employment pay and benefit management service.

4.

During the afternoon of June 3, 2013, Ms. East left a voicemail for Petitioner at the telephone number provided by Petitioner advising that her office was working on the issue and that someone will be in touch with her.

5.

On or about the morning of June 4, 2013, Petitioner telephoned Ms. East again. Ms. East informed Petitioner that her office was still working on Petitioner's pay check problem and that the issue was very complicated. During this conversation Petitioner was frustrated, angry, accusatory, threatening and hostile despite every effort by Ms. East to explain the complexity of the issue created by Petitioner.

6.

During the morning of June 4, 2013, Petitioner attempted to contact Ms. East's supervisor, Mr. Jim Laine, at least three times.

7.

Mr. Laine determined that Petitioner's conduct was hostile, abusive and disruptive to his staff and the operation of the Human Resources Office. He contacted Petitioner's managers who instructed Petitioner not to contact the Human Resources Office.

8.

Despite the direct order of the management, Petitioner contacted Ms. East again in the afternoon of June 4, 2013.

9.

Respondent imposed a one week salary suspension against Petitioner for misconduct, unprofessional behavior and insubordination. Petitioner does not deny that her behavior was unprofessional and hostile. She further stated that Ms. East was very helpful and professional on the telephone.

Conclusions of Law

1.

The undersigned is authorized to resolve this appeal. O.C.G.A. Sections 45-20-8(e); 45-20-9; State Personnel Board Rules.

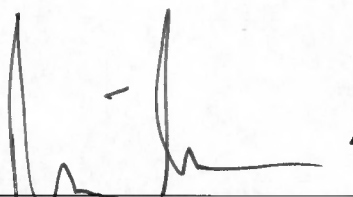
2.

Respondent is authorized to suspend Petitioner without pay on the basis of her misconduct, unprofessional behavior and insubordination. State Personnel Board Rules; Respondent's Standard Operating Procedure, HR SOP #204.

3.

Based on the findings of fact above, the Court finds that on or about June 4, 2013, Petitioner engaged in misconduct, unprofessional behavior and insubordination. Accordingly, it is the decision of the undersigned that the disciplinary suspension of Petitioner for one week without pay affirmed.

August 5, 2013.

A handwritten signature in black ink, appearing to read 'Michael Malihi', is written above a horizontal line. The signature is stylized with a large initial 'M' and a long horizontal stroke.

MICHAEL MALIHI
Administrative Law Judge