

BEFORE THE PERSONNEL BOARD OF THE STATE OF ALABAMA
IN THE MATTER OF THE APPEAL OF
ROBERT A. JOINER

ORDER

February 19, 2020

This matter came before the Board upon the dismissal of the Employee from his employment with the Alabama Onsite Wastewater Board ("AOWB"). The Employee was dismissed from employment on September 20, 2019, based upon charges contained in a letter dated the same. This matter was assigned to Administrative Law Judge James Jerry Wood and a hearing was held on November 8, 2019. The Administrative Law Judge's Recommended Order is now before the Board for consideration.

AOWB charges that the Employee violated State Personnel Board ("SPB") Rules: 670-X-19-.01(1)(a)(1) – (Unreported absence); 670-X-19-.01(1)(a)(3) – (Inattention to job); 670-X-19-.01(1)(a)(4) – (Failure to perform job properly); 670-X-19-.01(1)(b)(2) – (Insubordination – Failure to follow an order, disobedience); 670-X-19-.01(1)(b)(5) – (Use of abusive or threatening language); 670-X-19-.01(1)(b)(12) – (Disruptive conduct of any sort); 670-X-19-.01(1)(b)(13) – (Conduct unbecoming a state employee); and 670-X-19-.01(2) – (Not reporting whereabouts, skipping work, intimidation and threatening of a

witness in regard to a disciplinary hearing, false accusations against fellow staff members, other sufficient reasons).

A review of the Employee's recent work history shows: one (1) fourteen-day Suspension in May 2019 for continued violations of SPB Rules; one (1) Written Reprimand in June 2017 for improper protocol; and one (1) Written Warning in June 2019 for violations of SPB General Work Rules.

The Employee was employed by AOWB as a Licensing/Regulatory Compliance Field Officer. In 2017, the Employee began demonstrating a lack of respect for the Executive Director of AOWB. The Employee's disdain for authority was reflected during a staff meeting to discuss professional conduct and maintaining confidentiality. During this meeting, the Employee commented that "he was a grown man and the Executive Director could not tell him whom he could talk to and what he could say." The Employee's conduct intimidated the Executive Director on several other occasions. Additionally, several Alabama Department of Public Health ("ADPH") employees stated they found the Employee to be loud, unprofessional, argumentative, disruptive, and disrespectful. Specifically, the Employee overtly involved himself in the closure of a restaurant by ADPH by inappropriately commenting and "badmouthing" the owner and business. This particular action led to the owner threatening to sue the AOWB. The Employee was also disruptive and unprofessional during AOWB meetings in January 2019 and July 2019. The

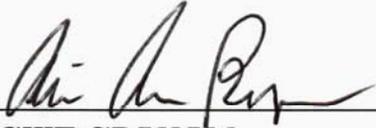
Employee was also overheard being loud, unprofessional, and disruptive to an ADPH employee on a phone call. The Employee was routinely insubordinate and non-compliant with department policies. The Employee failed to comply with direct instructions, failed to submit his weekly schedule or whereabouts, and was disrespectful to AOWB employees and Board Members. The Employee was afforded progressive discipline for prior violations of SPB General Work Rules, yet the Employee's behavior did not improve, and he continued to violate these Rules.

The AOWB concluded that the cumulative events observed by numerous State employees, AOWB Board Members, and AOWB licensees established that the Employee violated numerous SPB Rules and that the Employee's conduct warrants dismissal.

The Administrative Law Judge found the totality of the evidence does warrant dismissal in this cause and recommended that the Employee's dismissal be upheld. The Board hereby adopts by reference the findings of fact and conclusions of law as found by the Administrative Law Judge as part of this Order as if fully set forth herein.

The Board has carefully considered the Administrative Law Judge's Recommended Order and is of the opinion that the decision of the appointing authority to dismiss the Employee is supported by the evidence and that the termination is warranted.

It is therefore the Order of this Board that the decision of the appointing authority to dismiss the Employee is hereby affirmed.



JACKIE GRAHAM
SECRETARY

FAYE NELSON
CHAIR



MYRON PENN
MEMBER



EVAN M. THORNTON
MEMBER

DAVID R. MELLON
MEMBER



RACHEL ADAMS
MEMBER