

**BEFORE THE PERSONNEL BOARD OF THE STATE OF ALABAMA
IN THE MATTER OF THE APPEAL OF**

TINA ZACHER

ORDER

August 19, 2020

This matter came before the Board upon the Employee filing a complaint of falsification of records and conduct unbecoming a state employee while she was employed with the Alabama Department of Transportation (“DOT”). This matter was assigned to Administrative Law Judge Randy Sallé, as Hearing Officer for the State Personnel Board and a hearing was held on July 30, 2020. The Administrative Law Judge’s Recommended Order is now before the Board for consideration.

The Employee charges that DOT violated State Personnel Board (SPB) Rule 670-X-19-.01(b)(6) – (Falsification of records) and 670-X-19-.01(b)(13) – (Conduct unbecoming a state employee).

The Employee filed a complaint as a citizen, taxpayer on July 7, 2020, alleging falsification of records and conduct unbecoming a state employee against her Supervisor and an Administrative Support Assistant II (“ASA”). On May 23, 2020, the Employee received a phone call from MainStreet Urgent Care (“Urgent Care”), stating she had tested positive for COVID-19. The Employee informed Urgent Care this was impossible since she was never tested for COVID-19. The Employee was informed later that day that Urgent Care had made a

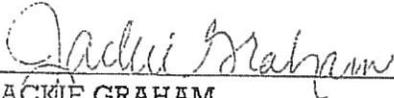
mistake. When the Employee arrived at work on May 26, 2020, she informed her Supervisor about the incident that took place on May 23, 2020. The Supervisor immediately sent her home and told her to get written confirmation from Urgent Care. The Employee submitted written confirmation later that day to her Supervisor. The Employee was told to return to work the next day.

When the Employee arrived back at work on May 27, 2020, the Employee was placed on mandatory annual leave and sent home pending an investigation. On June 3, 2020, the Employee received a notice of proposed dismissal and at this point she believed relevant facts pertaining to her case were omitted and the events of May 26, 2020, were fabricated up the chain of command. The Employee believed her punishment was harsh for something outside her control and that she did not jeopardize anyone's safety by her actions. Ultimately, the Employee was allowed to return to work on June 15, 2020, her annual leave was restored, and her personnel file has no record of any disciplinary action related to this situation.

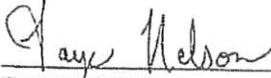
The problem regarding this case is the lack of pertinent testimony. The Supervisor did not testify at the hearing and therefore there is no evidence on the record regarding what the Supervisor said or heard. It appears there was a miscommunication, but without hearing from more witnesses, it is impossible to tell where the miscommunication occurred. At the hearing, the Employee failed to prove, by a preponderance of the evidence, that her Supervisor and the ASA violated SPB General Work Rules.

The Administrative Law Judge found that the Employee failed to state a claim to demonstrate that DOT engaged in falsification of records and conduct unbecoming a state employee against the Employee. Thus, the Employee failed to establish a claim of falsification of records and conduct unbecoming a state employee under State Personnel Board Rule 670-X-19-.01(b)(6)(13) and the complaint should be dismissed.

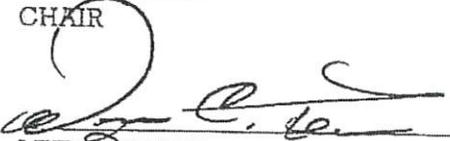
The Board has carefully considered the Administrative Law Judge's Recommended Order and it is therefore the Order of this Board that the decision to dismiss the complaint is hereby affirmed.



JACKIE GRAHAM
SECRETARY



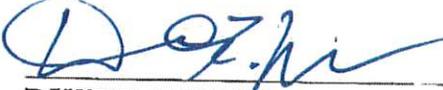
FAYE NELSON
CHAIR



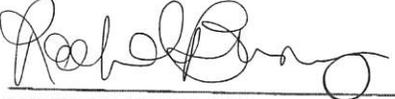
MYRON PENN
MEMBER



EVAN M. THORNTON
MEMBER



DAVID R. MELLON
MEMBER



RACHEL BUNNING
MEMBER