

BEFORE THE PERSONNEL BOARD OF THE STATE OF ALABAMA
IN THE MATTER OF THE APPEAL OF
AELLIS HOWARD

ORDER

March 9, 2016

This matter came before the Board upon the dismissal of the Employee from his employment with the Alabama Department of Corrections ("DOC"). The Employee was dismissed from his employment on September 30, 2015, based on charges contained in a letter to the Employee dated September 23, 2015. This matter was assigned to Administrative Law Judge Randy C. Sallé and a hearing was held on January 5, 2016. The Administrative Law Judge's Recommended Order is now before the Board for consideration. The Board has also had the benefit of oral argument.

DOC charges that the Employee violated Administrative Regulation 208: V(A)(1) – (Report for work on time and in a condition to perform their job properly); V(A)(3) – (Render full, efficient, and industrious service); V(A)(7) – (Observe all laws, rules and regulations); and V(A)(18) – (Obtain approval for any absence from work. Tardiness, failure to follow proper call-in procedures, and unexcused absences shall subject the employee to disciplinary action); Annex H, Number 7 – (Late for work (tardiness)/Failure to follow proper call-in procedure); and Annex H, Number 27 – (Failure to report to work (unexcused absence)).

A review of the Employee's recent work history shows: One (1) Written Reprimand in February of 2010 for taking an unauthorized item into the facility; One (1) Written Reprimand in January of 2015 for disagreeable behavior; One (1) Warning in March of 2010 for non-compliance with policies; One (1) Warning in June of 2014 for failure to follow proper call-in procedures; One (1) two-day Suspension in August of 2010 for sleeping or giving the appearance of sleeping; and Three (3) Pending Suspensions between May of 2015 and June of 2015 for unexcused absences.

The Employee was employed by DOC in the classification of Correctional Officer and assigned to Ventress Correctional Facility in Clayton, Alabama. On April 1, 2015, the Correctional Warden began implementing a mandatory overtime policy for all employees for the safety and security of officers and inmates. The Employee and his coworkers were all required to work a minimum of three (3) days of overtime per month according to the new policy. The Employee and his coworkers were allowed to apply for certain dates during the month to work the overtime and were required to sign the forms acknowledging the assignments.

The Employee was scheduled to work mandatory overtime for three (3) separate dates and failed to report to work for those dates. The Employee did not use the proper call-in procedures and did not respond to a supervisor when they called him during the shift. The Employee was assigned another date to

work his mandatory overtime and also did not call-in or respond to his supervisor during that shift.

The Employee admitted to failing to report to work on any of the mandatory overtime days, although the Employee said that if his supervisor had met with him after his first violation, he would not have missed the other overtime dates. However, the Application for Employee Overtime clearly states that all employees may be required to work a minimum of three (3) days of overtime per month and that corrective action may be pursued if an employee fails to work on any assigned day. Having previously been disciplined for not following proper call-in procedures, the Employee was aware that unexcused absences were a violation of DOC rules and that failure to report to work could result in disciplinary action.

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 a part of this Order as if fully set forth herein.

The Board has carefully considered the Administrative Law Judge's Recommended Order and the oral argument presented in this matter 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



JOE N. DICKSON
CHAIRMAN

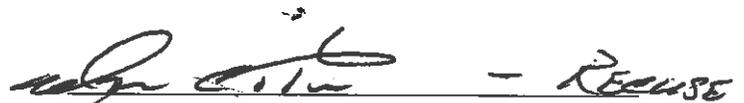


FAYE NELSON
MEMBER

JOHN CARROLL
MEMBER



LIANE KELLY
MEMBER

 - REUSE

MYRON PENN
MEMBER