

**BEFORE THE PERSONNEL BOARD OF THE STATE OF ALABAMA**  
**IN THE MATTER OF THE APPEAL OF**  
**PHILLIP H. BAKER**

**ORDER**

**December 13, 2018**

This matter came before the Board upon the dismissal of the Employee from his employment with the Alabama Department of Revenue (“ADOR”). The Employee was dismissed from his employment on September 19, 2018, based upon charges contained in a letter dated the same day. This matter was assigned to Administrative Law Judge James Jerry Wood and a hearing was held on this matter on November 5, 2018. The Administrative Law Judge’s Recommended Order is now before the Board for consideration.

ADOR charges that the employee violated the following standards under State Personnel Board General Work Rules: 670-X-18-.02(1) – (Dismissal for the good of the service); 670-X-19.01(1)(a)(8) – (Violation of specific department rules); 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); and 670-X-19-.01(1)(b)(13) – (Conduct unbecoming a state employee). The Employee also violated the following rules under the ADOR Employee Handbook: Disruptive conduct of any sort; Violations of specific department rules; Use of abusive or threatening language; Serious violation of any other department rules; and Misconduct or Violence in the Workplace.

A review of the Employee's recent work history shows: one (1) Written Reprimand for Unprofessional Conduct in May 2002; one (1) Warning and Action Plan for disruptive conduct and use of abusive or threatening language in March 2010; one (1) Action Plan for failure to cooperate with co-workers in June 2011; and one (1) Warning and Action Plan for failure to cooperate with co-workers and inappropriate behavior in November 2015.

The Employee was employed by ADOR as an IT Systems Specialist. The Employee has a long history of using abusive or threatening language in the workplace. The Employee was referred to the Employee Assistance Program ("EAP") in an effort to help correct his behavior. Between March 2010 and June 2011, the Employee was issued two (2) Action Plans for his behavior around his co-workers. Once again, in 2015, the Employee was issued an Action Plan citing his difficulty working along with others. On Monday, August 6, 2018, at the beginning of the work day, the Employee's co-workers arrived at ADOR and found cryptic printed messages that had been left at their work stations. Everyone concerned believed the messages had been placed by the Employee since no message had been left at his desk and he was the last person to leave work the prior work day. When asked, the Employee did not deny leaving the messages. These actions disrupted the ADOR workplace and caused safety concerns among the affected employees. The Employee's co-workers interpreted these messages as threats and were concerned for their safety.

Multiple employees went on record stating that they feared for their lives while the Employee worked among them. The Employee continually made inappropriate comments of a sexual nature to co-workers, bullied co-workers, made escalating threats of violence against co-workers, and threatened to kill a co-worker because of work-related issues.

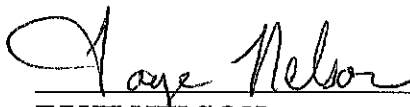
The Employee violated rules by engaging in constant verbal harassment of his co-workers. The Employee created a situation in which his co-workers felt threatened and in fear for their lives. Despite the continued assistance from ADOR to correct this behavior, the Employee went on to further cause distress among his co-workers. ADOR cannot condone this behavior and the dismissal for the good of the service is warranted.

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 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.

  
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JACKIE GRAHAM  
SECRETARY

  
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FAYE NELSON  
CHAIR

  
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LIANE KELLY  
MEMBER

  
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MYRON PENN  
MEMBER

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EVAN M. THORNTON  
MEMBER

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DAVID R. MELLON  
MEMBER