BEFORE THE PERSONNEL BOARD OF THE STATE OF ALABAMA
IN THE MATTER OF THE APPEAL OF
RICK THOMAS

ORDER

July 19, 2022

This matter came before the Board based upon the dismissal of the Employee from his employment with the Alabama Department of Public Health ("ADPH"). The Employee was dismissed from his employment on February 1, 2022, based upon charges contained in a letter dated the same. This matter was assigned to Administrative Law Judge Randy Sallé and a hearing was held on April 19, 2022. The Administrative Law Judge's Recommended Order is now before the Board for consideration.

ADPH charges that the Employee violated State Personnel Board (SPB) Rules: 670-X-19-.01(1)(b)(10) – (Serious violation of any other department rule); and 670-X-19-.01(1)(b)(13) – (Conduct unbecoming a state employee). Additionally, the Employee violated ADPH’s Drug-Free Workplace Policy.

A review of the Employee's recent work history shows two (2) Counselings in September 2016 and July 2020 for using state equipment in an unsafe manner and inappropriate and offensive language; and one (1) Written Reprimand in October 2021 for violating ADPH’s Policy against Workplace Threats and Violence, ADPH Employee Handbook, and ADPH Professional Conduct Policy.
The Employee was employed by ADPH as a Warehouse Superintendent. On or about December 15, 2021, the ADPH Director of the Bureau of Information Technology met with a warehouse worker and asked him, among other things, if marijuana was being used on warehouse property. The warehouse worker responded that marijuana was being used on warehouse property and that he had also witnessed the Employee smoking marijuana on warehouse property. Later that day, the ADPH Director of the Bureau of Professional and Support Services and a Health Services Administrator met with the Employee and told him there was an allegation that he was seen smoking marijuana on warehouse property. The Employee denied the accusation and consented to a drug test. The Employee’s test results showed that he was positive for Cannabinoid and THC.

The Employee made two arguments in his defense. He testified that he had not smoked marijuana within the last several years and that he used an over-the-counter CBD oil. The packaging of the CBD oil read, “Full Spectrum Blend with no THC!” Secondly, the Employee testified that the warehouse worker that alleged he was smoking marijuana on warehouse property did so out of retaliation for the Employee reporting him for damaging warehouse property and other disagreements between them.

ADPH has a zero-tolerance policy for employees that test positive for drugs. The Employee presented no evidence that he was treated any differently
than other employees who also tested positive for illegal drugs. It was the
Employee's responsibility to make sure he was not under the influence of
illegal drugs while at work, especially since he drives state vehicles and
machinery.

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.

Jackie Graham
JACKIE GRAHAM
SECRETARY

Faye Nelson
FAYE NELSON
CHAIR

Myron Penn
MYRON PENN
MEMBER

Rick Thomas
Page 3 of 4