

BEFORE THE PERSONNEL BOARD OF THE STATE OF ALABAMA
IN THE MATTER OF THE APPEAL OF
RANDALL CONWELL

ORDER

June 21, 2017

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 employment on March 10, 2017, based upon charges contained in a letter to the Employee dated March 6, 2017. This matter was assigned to Administrative Law Judge James Jerry Wood and a hearing was held on May 11, 2017. 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 State Personnel Board Rules: 670-X-19-.01(1)(a)(1) – (Absenteeism – Unexcused absence, unreported absence, a pattern of absences, or excessive absences); and 670-X-19-.01(1)(a)(2) – (Tardiness – Not on the job ready to work at the beginning of the shift). DOC also charges that the Employee violated DOC Administrative Regulation 208: V.A.1. – (Report for work on time and in a condition to perform their job properly); V.A.2. – (Render full, efficient, and industrious service); V.A.7. – (Observe all laws, rules and regulations); 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 procedures); and Annex H, Number 27 – (Failure to report to work (unexcused absence)).

A review of the Employee's recent work history shows: two (2) Warnings in October 2015 and September 2016 for being late for work and non-compliance with policies and procedures; and three (3) Suspensions in March, August, and September of 2016 for failure to report to work and failure to follow the supervisor's instructions.

The Employee was hired by DOC in January 2015, serving most recently as a Correctional Officer. The basis for the Employee's dismissal is the fact that on or about August 4, 2016, the Employee was scheduled to work the B-Day Shift, 6:00 a.m. to 2:00 p.m., at the Bibb Correctional Facility. The Employee did not report for duty. At approximately 6:15 a.m., he called the facility and stated to the Sergeant that he would not be reporting to work because he did not have his vehicle. The Employee was given advance notification of the dates he was scheduled to work, but failed to report for duty and did not utilize proper call-in procedures.

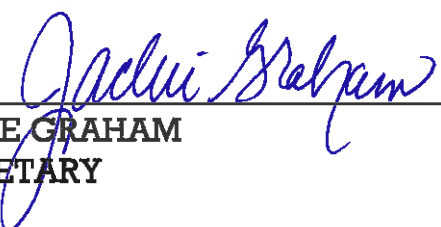
The Correctional Warden testified that during the Employee's relatively short tenure with DOC, he had a pattern of unexcused absences and

tardiness. The incident on August 4, 2016, was his fourth unexcused absence in a 12-month period. The Warden said that during the pre-dismissal conference, the Employee mentioned problems with his transportation and with his mother's situation (i.e., surgery and hospice). However, the Employee's file was subsequently checked for any documentation (e.g., doctor's excuses, etc.) and there was nothing in the file. DOC Administrative Regulation 208, Annex H, No. 27, which addresses unexcused absences, mandates that the level of discipline for a fourth offense is 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 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.



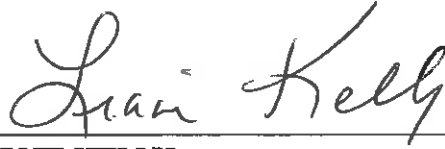
JACKIE GRAHAM
SECRETARY



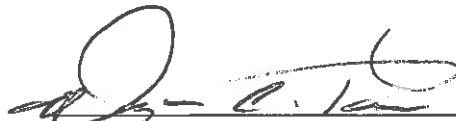
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