

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

TERRESA WEST,)	
)	
Appellant,)	
)	
v.)	Case No. 16-28-JJW
)	
ALCOHOLIC BEVERAGE)	
CONTROL BOARD,)	
)	
Appellee.)	

**RECOMMENDATION TO
THE STATE PERSONNEL BOARD**

Terresa West (“West”) was discharged from her employment at the Alcoholic Beverage Control Board (“ABC”) on June 30, 2016, and timely appealed her dismissal. A hearing was scheduled for September 8, 2016, but was continued based on West’s Unopposed Motion to Continue. A status conference was held *via* telephone on December 13, 2016, during which both parties requested additional time prior to the matter being reset for hearing.

On February 3, 2017, counsel for West notified the undersigned that the above case had been settled. Counsel produced a proposed settlement document on February 13, 2017. The provisions of the proposed settlement were rejected by the State Personnel Board on March 15, 2017. The case was remanded to the undersigned for a hearing. On April 27, 2017, a hearing was held. West was

represented by Jason Manasco, Esq. ABC was represented by Robert L. Martin III, Esq.

At the hearing the parties offered a “Joint Stipulation of Facts,” which is attached hereto as Exhibit A and made a part hereof.¹ West was the only witness at the hearing. The ABC attorney represented that West was re-employed by ABC on December 16, 2016.²

ISSUES

The issues to be determined are: (1) the amount of back pay, if any, to which West is entitled; and (2) the amount of annual and sick leave restoration, if any, to which West is entitled.

RECOMMENDATION

Based on the testimony of West and the representations of ABC’s attorney during the hearing,³ they suggest gross back pay for West to be \$12,430.00. West had no off-setting income from any other source.⁴ West applied for, but did not receive, unemployment compensation.⁵ Assuming West would have worked until her child was born on September 7, 2016, and then remained off-work for six weeks

¹ Transcript, p. 7.

² Transcript, p. 6.

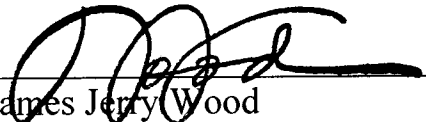
³ Transcript, p. 23.

⁴ Transcript, p. 25.

⁵ Transcript, p. 26.

after the child's birth, West arguably would be entitled to have the State Personnel Board consider restoring to her 46.2 hours of annual leave and 46.2 of sick leave.⁶ Based on the testimony and the documentary evidence, the undersigned recommends the State Personnel Board consider back pay for West, less interim earnings, if any, plus benefits.

Done this the 10th day of May, 2017.


James Jerry Wood
Administrative Law Judge
State Personnel Department
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Montgomery, Alabama 36130
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Via E-Mail and First Class U.S. Mail:

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⁶ Transcript, p. 23.

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BEFORE THE ALABAMA STATE PERSONNEL BOARD

IN THE MATTER OF:

TERRESA WEST,
Appellant,

vs.

THE ALABAMA ALCOHOLIC
BEVERAGE CONTROL (ABC) BOARD,
Appellee.

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Case No. 16-28-JJW

JOINT STIPULATIONS OF FACT

Comes now Robert Lester Martin III, attorney for the Alabama Alcoholic Beverage Control Board, together with Jason Manasco, attorney for employee Teresa West, who hereby stipulate and agree as follows:

1. Teresa West became employed by the Alabama Beverage Control Board (ABC Board) on February 17, 2014, as an ABC Sales Associate I.
2. West was promoted to an ABC Sales Associate II on September 1, 2015.
3. West's supervisors, Manager Joe Watson and Manager Rita Greene, learned West was pregnant from co-employees. On April 5, 2016 Manager Watson told West that she would need a fully executed Fitness for Duty Certification before she could return to work. Manager Greene repeated this request on April 6, 2016 in Manager Watson's absence.
4. West provided a Fitness for Duty Certification dated April 6, 2016, wherein her physician, Dr. Leon Lewis, stated she had an uncomplicated pregnancy, but at the same time placed physical lifting restrictions on her that rendered her unable to perform the essential functions of her job.
5. West remained on leave from April 6, 2016 and exhausted all FMLA protection as well as all Annual and Sick Leave.
6. West was terminated from her job as an ABC Sales Associate II effective June 30, 2016 due to her inability to perform all of the essential functions of the job.
7. In a letter dated June 24, 2016, West gave her notice of appeal to State Personnel.
8. West was re-hired as a Sales Associate II (Class Code 11709) in Position No. 0108400 in Store No. 77, the ABC Store in which she was previously employed, effective December 16,


2016.


9. During the time period from June 30, 2016 through December 15, 2016, West earned no interim wages or unemployment compensation.

10. During the time period from June 30, 2016 through December 15, 2016, West would have earned gross pay in the amount of \$12,430.00, as well as accruing annual and sick leave.

Respectfully submitted this 26th day of April 2017.


Terresa West, Employee


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CERTIFICATE OF SERVICE

I certify that on this 26th day of April 2017, I served a copy of the foregoing document on the individuals listed below via electronic mail, facsimile or by placing the same in the United States Mail, first class postage prepaid and addressed:

Mr. James Jerry Wood, Esq.
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