

COMMONWEALTH OF PENNSYLVANIA

Desiree C. Johnson : State Civil Service Commission  
 :  
 v. :  
 :  
 Delaware County Assistance Office, :  
 Department of Human Services : Appeal No. 29707

Desiree C. Johnson James S. Marshall  
*Pro Se* Attorney for Appointing Authority

ADJUDICATION

This is an appeal by Desiree C. Johnson challenging her three-day suspension from regular Income Maintenance Caseworker employment with the Delaware County Assistance Office, Department of Human Services. A hearing was held on February 26, 2018 at the State Civil Service Commission's Eastern Regional Office, in Philadelphia, Pennsylvania before Commissioner Bryan R. Lentz.

The Commissioners have reviewed the Notes of Testimony and exhibits introduced at the hearing. The issue before the Commission is whether there is good cause for appellant's suspension.

## FINDINGS OF FACT

1. By letter dated July 11, 2017, appellant was notified she was being suspended for three days from her regular Income Maintenance Caseworker employment with the appointing authority, effective July 18, 2017. Comm. Ex. A.
  
2. The July 11, 2017 three-day suspension letter provides appellant's charge as follows:

**Failure to Follow General Instructions or Procedures (as defined by DHS Human Resources Policy 7174).**

Specifically, on July 3, 2017 you accessed and viewed eCIS records not assigned to your caseload without a legitimate operational need. The eCIS records belonged to your sister Leslie S. Your actions also violated:

- a. The Statewide Procedure Manual Employee Code of Conduct Related to Client Information and Case Processing (2112 Code of Conduct)
- b. Management Directive 205.34, Amended, Commonwealth of Pennsylvania Information Technology Acceptable Use Policy
- c. The OIM terminal Security System Form.

Comm. Ex. A (emphasis in original).<sup>1</sup>

3. The appeal was properly raised before this Commission and was heard under Section 951(a) of the Civil Service Act, as amended.
4. Appellant is an Income Maintenance Caseworker employed by the appointing authority. N.T. p. 85.
5. On April 27, 2015, appellant signed, acknowledged, and agreed to abide by the appointing authority's Employee Code of Conduct Regarding Client Information and Case Processing (hereinafter "Code of Conduct"), which prohibits an Income Maintenance Caseworker to access her relative's case information. N.T. pp. 30, 37, 46, 63-64, 89; AA Exs. 2, 3.
6. On July 3, 2017, appellant accessed her sister's case record. N.T. p. 85.

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<sup>1</sup> Before testimony was presented in the hearing, the appointing authority indicated it was going to present its case in chief, "based on violation of the statewide manual employee Code of Conduct **exclusively**." N.T. p. 14 (emphasis added). Since the appointing authority has elected to present its case in chief "exclusively" on the alleged violation of the Statewide Procedure Manual Employee Code of Conduct Relating to Client Information and Case Processing, the appointing authority has waived the Management Directive 205.34 and the OIM Terminal Security System Form elements from the charge. Consequently, the only violation asserted by the appointing authority to support the "Failure to Follow General Instructions or Procedures" charge is whether appellant's conduct violated the Statewide Procedure Manual Employee Code of Conduct Relating to Client Information and Case Processing.

7. On July 10, 2017, Income Administrator 1 Susan O'Hara and Income Administrator 1 Patricia Weldon participated in appellant's Pre-Disciplinary Conference (hereinafter "PDC"). N.T. pp. 25, 45; AA Ex. 1.
8. During her PDC, appellant admitted to accessing her sister's case record. N.T. pp. 31-32, 47.
9. After appellant's PDC, O'Hara and Weldon recommended to Field Resource Officer 1 Linda Davis that the appropriate level of discipline be administered based upon appellant accessing her sister's case record. N.T. pp. 33, 47-48.
10. Davis received and reviewed O'Hara's and Weldon's PDC notes for appellant's PDC and the appointing authority's Table of Disciplinary/Corrective Action regarding the charge of "Failure to Follow General Instructions or Procedures." N.T. pp. 70, 71-72; AA Ex. 4.
11. Based upon her review, Davis prepared appellant's three-day suspension letter. N.T. p. 69.

## DISCUSSION

The issue in the present appeal is whether the appointing authority established good cause for appellant's suspension. Appellant was suspended for three days from her regular Income Maintenance Caseworker employment on the charge of "Failure to Follow General Instructions or Procedures (as defined by DHS Human Resources Policy 7174)." Comm. Ex. A.

In an appeal challenging the suspension of a regular status employee, the appointing authority bears the burden of establishing good cause for the personnel action. *White v. Commonwealth, Department of Corrections*, 110 Pa. Commw. 496, 532 A.2d 950 (1986); 71 P.S. §§ 741.803, 741.951(a); 4 Pa. Code § 105.15. Good cause must be based upon meritorious criteria and be related to one's competency and ability to execute job duties properly. *White*, 110 Pa. Commw. at 498, 532 A.2d at 951.

In support of its charge, the appointing authority presented the testimony of Income Administrator 1 Susan O'Hara, Income Administrator 1 Patricia Weldon, and Field Resource Officer 1 Linda Davis. In response, appellant testified on her own behalf.

As an Income Administrator 1, O'Hara and Weldon oversee the daily functions of the Delaware County Assistance Office and supervise, among various other personnel, Income Maintenance Caseworkers, including appellant. N.T. pp. 20-21, 43, 44-45. The Delaware County Assistance Office delivers public assistance benefits to Delaware County residents and administers the Supplemental Nutrition Assistance Program, the Low-Income Home Energy Assistance Program, cash

assistance, and medical assistance. N.T. pp. 22-23. O'Hara testified how an Income Maintenance Caseworker is vital for the appointing authority to serve the Commonwealth's citizens, whom are in need, because he or she administers the public assistance benefits and ensure timely delivery of the benefits. N.T. pp. 23, 24.

On July 10, 2017, O'Hara and Weldon participated in appellant's PDC. N.T. pp. 25, 45; AA Ex. 1. A PDC provides an employee an opportunity to respond to the disciplinary charge against her. N.T. pp. 26, 45. The PDC addressed appellant's charges of "failure to follow general instructions or procedures, specifically [appellant] accessing her sister's case record." N.T. p. 26.

O'Hara and Weldon identified the appointing authority's Code of Conduct. N.T. pp. 29, 45; AA Ex. 2. According to the appointing authority's Code of Conduct, which was in effect in 2015, "[a]ll client information is considered 'confidential.' This means OIM staff and all other users will: [u]nder no circumstances access information of friends, relatives, neighbors, coworkers or anyone who you know on a personal basis."<sup>2</sup> N.T. pp. 30, 37, 46; AA Ex. 2. This provision's purpose is to maintain confidentiality and prevent conflicts of interest. N.T. pp. 30-31, 46-47. O'Hara and Weldon explained this provision of the Code of Conduct is reviewed by an Income Maintenance Caseworker during her initial orientation. After reviewing the Code of Conduct, an Income Maintenance Caseworker signs and agrees to abide by the appointing authority's Code of Conduct. N.T. pp. 31, 46. On April 27, 2015, appellant signed, acknowledged, and

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<sup>2</sup> The term "OIM" is defined as the "Office of Income Maintenance." AA Ex. 2.

agreed to abide by the appointing authority's Code of Conduct as an Income Maintenance Caseworker. N.T. pp. 63-64; AA Ex. 3.

O'Hara and Weldon testified that during the PDC, appellant admitted to accessing her sister's case record but asserted it was not a "big issue" because she did not act on her sister's case record. N.T. pp. 31-32; 47. Weldon explained if appellant acted on her sister's case record, then appellant's conduct would be a conflict of interest and she could have been removed from her employment with the appointing authority. N.T. p. 48. Based upon appellant's PDC, O'Hara and Weldon concluded appellant violated the appointing authority's Code of Conduct because she accessed her sister's case record, resulting in a very serious infraction. N.T. pp. 32, 47. After appellant's PDC, O'Hara and Weldon recommended to Field Resource Officer 1 Linda Davis that the appropriate level of discipline be administered based upon appellant's infraction. N.T. pp. 33, 47-48.

As a Field Resource Officer 1, Davis oversees human resource functions, which includes labor relations, and prepares disciplinary letters. N.T. pp. 61, 69. Davis received O'Hara's and Weldon's PDC notes from appellant's PDC. The PDC notes reflected how appellant admitted to accessing her sister's case record and how appellant asserted she did not act on her sister's case record. N.T. p. 70. After reviewing the PDC notes, Davis concluded appellant violated the appointing authority's Code of Conduct regarding case processing. N.T. p. 71. Based upon her conclusion, Davis reviewed the appointing authority's Table of Disciplinary/Corrective Action regarding the charge of "Failure to Follow General Instructions or Procedures." N.T. pp. 71-72; AA Ex. 4. Davis testified "for an employee who is past their probationary period such as [appellant], the penalty is either a one to three-day suspension." N.T. p. 72; AA Ex. 4. Additionally, Davis

has issued three-day suspensions for similar incidents within the appointing authority. N.T. p. 75. As a result, Davis prepared appellant's three-day suspension letter. N.T. p. 69.

In response to the appointing authority's presentation, appellant testified on her own behalf. Appellant is an Income Maintenance Caseworker employed by the appointing authority. Comm. Ex. A; N.T. p. 85. Appellant admitted that she accessed her sister's case record on July 3, 2017. N.T. p. 85. According to appellant, her sister texted her and asked what the status of her case was because "our food stamp benefit wasn't available on her card." Appellant explained her sister had been calling the change center multiple times. Appellant asserted it was normal practice to access the comments in case records to see who the assigned caseworker was for her sister's case. N.T. p. 85. Appellant acknowledged she knew her sister had a caseworker assigned to her case and admitted to accessing her sister's case record's comments to figure out who was her sister's caseworker. N.T. pp. 85, 90. Appellant acknowledged there are other methods to find out who the assigned caseworker is to a person's case without accessing the individual's case record. N.T. pp. 90-91.

Appellant explained how the comments indicated there was a discrepancy with her sister's income, which was holding up her food stamp benefit. After finding her sister's assigned caseworker, appellant thought she was doing the right thing by going to her sister's caseworker, telling him the documents were there, and asking him to review the documents. N.T. p. 86. Appellant emphasized she thought she was doing the right thing trying to "move things forward." N.T. pp. 86-87. Appellant further contended that the penalty is too harsh, particularly for



someone living paycheck to paycheck. N.T. p. 87. Appellant expressed her remorse for looking at her sister's case record. N.T. pp. 86-87.

Appellant contended that at the time appellant viewed her sister's case, she did not know viewing the files was a violation of the Code of Conduct, where appellant thought only processing or altering the case record in any manner was a violation, not just viewing it. N.T. p. 89. Appellant acknowledged reviewing the Code of Conduct on April 27, 2015, as part of her initial orientation, and again on November 20, 2017. N.T. p. 89.

Having carefully reviewed the record, the Commission finds that the appointing authority met its burden to show good cause to suspend appellant. In support of our conclusion, we find credible the testimonies of Susan O'Hara, Patricia Weldon, and Linda Davis, including especially the numerous references to appellant's admissions to the truth of the charges against her during the PDC.

The appointing authority credibly established how an Income Maintenance Caseworker is prohibited from accessing a relative's case record in order to prevent conflicts of interest and to preserve confidentiality. We find the appointing authority met its burden to show good cause to suspend appellant based on appellant's admitted access into her sister's case record on July 3, 2017. Appellant's volitional access into her sister's case record in derogation of the Code of Conduct negatively reflects upon appellant's competency and ability to execute her job duties properly. *White, supra*. Accordingly, we enter the following:

CONCLUSION OF LAW

The appointing authority has presented evidence establishing good cause for suspension under Section 803 of the Civil Service Act, as amended.

ORDER

AND NOW, the State Civil Service Commission, by agreement of two of its members,<sup>3</sup> dismisses the appeal of Desiree C. Johnson challenging her three-day suspension from regular Income Maintenance Caseworker employment with the Delaware County Assistance Office, Department of Human Services and sustains the action of the Delaware County Assistance Office, Department of Human Services in the three-day suspension of Desiree C. Johnson from regular Income Maintenance Caseworker employment effective July 18, 2017.

State Civil Service Commission

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Gregory M. Lane  
Commissioner

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Bryan R. Lentz  
Commissioner

Mailed: August 22, 2019

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<sup>3</sup> Commission Chairman Teresa Osborne, who took office March 22, 2019, did not participate in the discussion of or decision for this appeal.