

COMMONWEALTH OF PENNSYLVANIA

Robert D. Clay : State Civil Service Commission
v. :
Department of Labor and Industry : Appeal No. 29972

Robert D. Clay : Peter Von Getzie
Pro Se : Attorney for Appointing Authority

ADJUDICATION

This is an appeal by Robert D. Clay challenging his one-day suspension from regular Unemployment Compensation Claims Examiner employment with the Department of Labor and Industry. A hearing was held on August 23, 2018, at the State Civil Service Commission's Western Regional Office, in Pittsburgh, Pennsylvania before Commissioner Odelfa Smith Preston.¹

The Commissioners have reviewed the Notes of Testimony and exhibits introduced at the hearing. The issue before the Commission is whether the appointing authority has established good cause for a one-day suspension.

¹ Commissioner Odelfa Smith Preston resigned from the Commission effective March 21, 2019, before this adjudication was issued.

FINDINGS OF FACT

1. By letter dated June 12, 2018, appellant was advised that he would be suspended without pay for a one-day period from regular Unemployment Compensation Claims Examiner employment with the appointing authority, effective at the close of business on June 13, 2018. The June 12, 2018 one-day suspension letter stated that appellant's suspension was due to his inappropriate behavior and poor customer service. The letter provided the following reasons supporting the one-day suspension:

Specifically, a review of a call on April 12, 2018, revealed that you failed to provide appropriate customer service to a Spanish-speaking claimant. When you received a telephone call from this particular claimant, you were unable to connect the call with a Spanish-speaking interpreter. You advised the claimant that you were unable to connect with an interpreter and that you would call him back. However, you failed to return the phone call and connect the claimant with an interpreter. Further you did not annotate the claim record after you ended the call. During a fact-finding held to discuss this matter, you indicated that you lost the claimant's phone number; however, you obtained his social security number and you verified his phone number before you

ended the call. Additionally, you failed to provide an acceptable explanation for your actions. The Department considers your actions both serious and unacceptable. Be advised that future issues of a same or similar nature will result in additional disciplinary action up to and including termination, if warranted.

Comm. Ex. A.

2. The appeal was properly raised before this Commission and was heard under Section 951(a) of the Civil Service Act, as amended.
3. Appellant has worked as an Unemployment Compensation (hereinafter “UC”) Claims Examiner for the appointing authority in the Duquesne UC service center for approximately ten to eleven years. N.T. pp. 123-124.
4. On April 12, 2018, a non-English speaking claimant called the Duquesne UC service center. N.T. p. 28.
5. An interviewer received the non-English speaking claimant’s phone call at 10:36 a.m. The phone conversation between the interviewer and the non-English speaking claimant ended at 10:46 a.m., at which time the interviewer transferred the non-

English speaking claimant's phone call to appellant.
N.T. p. 28; AA Ex. 2.

6. Appellant answered the non-English speaking claimant's transferred phone call at 10:46 a.m. N.T. p. 28; AA Exs. 2, 5.
7. The recorded phone conversation reveals the non-English speaking caller provided appellant with his telephone number and social security number, and appellant confirmed both by repeating them back to the caller.
8. A UC claims examiner must complete Limited English Proficiency (hereinafter "LEP") training in order to provide equal services to a non-English speaking claimant. N.T. pp. 56-57, 74-77, 89-90.
9. After completing LEP training, a UC claims examiner would know how to connect a non-English speaking claimant to an interpreter and know how to reconnect to the claimant to provide equal services. N.T. pp. 57, 75-77, 89-90.

10. Appellant completed his LEP training in December 2017. N.T. pp. 56, 75; AA Exs. 7, 10.
11. Appellant informed the non-English speaking claimant that he was having difficulties connecting him with an interpreter. N.T. p. 120.
12. Appellant promised that he would reconnect with the non-English speaking claimant. N.T. pp. 120, 132.
13. Appellant obtained the non-English speaking claimant's phone number during the phone conversation. N.T. p. 131; AA Ex. 3.
14. Appellant obtained the non-English speaking claimant's social security number during the phone conversation. N.T. p. 132; AA Ex. 3.
15. Appellant disconnected the call at 10:52 a.m. N.T. p. 43; AA Ex. 5.
16. A UC claims examiner is trained on annotating the claim record in order to preserve what occurred during a phone conversation with a claimant. N.T. pp. 40, 43, 50, 77-79, 91, 93.

17. Appellant failed to annotate the claim record. N.T. pp. 27, 50, 69-70, 98, 135; AA Exs. 3, 4.
18. After disconnecting with this claimant, appellant should have either contacted his supervisor to address any issues during the phone conversation or contacted the claimant again. N.T. p. 44.
19. Appellant did not contact his supervisor. N.T. p. 132.
20. Appellant failed to connect the non-English speaking claimant with an interpreter. N.T. pp. 50, 70, 120, 133; AA Ex. 2.
21. Appellant did not call the non-English speaking claimant back. N.T. pp. 50, 70, 120, 133; AA Ex. 2.
22. On May 23, 2018, a fact-finding interview was scheduled with appellant. N.T. p. 46; AA Ex. 6.
23. After the fact-finding interview, Administrative Officer Jennifer Walters reviewed the completed interview, the record phone conversation, and all supporting documentation relating to appellant's conduct. N.T. p. 99.

24. Based upon appellant's conduct, Walters recommended appellant's one-day suspension. N.T. pp. 105,106; AA Ex. 18.

DISCUSSION

The issue in the present appeal is whether the appointing authority has established good cause under Section 803 of the Civil Service Act, as amended. The appellant is challenging his one-day suspension without pay from regular UC Claims Examiner with the appointing authority. The appointing authority charges appellant with inappropriate behavior and poor customer service. Comm. Ex. A.

Under Section 803 of the Act, a regular employee may only be suspended for good cause. *Hargrove v. Pennsylvania State Civil Service Commission (Department of Corrections)*, 851 A.2d 257, 260 (Pa. Commw. 2004); 71 P.S. § 741.803; 4 Pa. Code §§ 101.21, 105.15. In an appeal challenging the suspension of a regular 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 addition, the criteria must be job-related and in some rational and logical manner touch upon

competence and ability. *Shade v. Pennsylvania State Civil Service Commission (Pennsylvania Department of Transportation)*, 749 A.2d 1054, 1057 (Pa. Commw. 2000).

In support of its burden, the appointing authority presented the testimony of Toy Johnson, Lisa Huggins, Marc Smith, Jennifer Walters, and Rhonda Brown. In response, appellant testified on his own behalf.

Toy Johnson is employed by the appointing authority as UC Claims Supervisor. N.T. p. 20. During April 2018, Johnson's title was operations manager. N.T. p. 20. As operations manager, Johnson supervised appellant's supervisor. N.T. p. 21. Before reviewing a case, a UC claims examiner is assigned to a case. N.T. p. 23. Johnson explained a UC claims examiner reviews unemployment claims to determine eligibility and reviews unemployment claims based upon an employer's request in reference to their charges. N.T. p. 22.

Regarding appellant's conduct, Johnson received an employer's notice of application stating a claimant had been separated from work. N.T. p. 23; AA Ex. 1. When she received the employer's notice of application, Johnson reviewed the computer system to see which UC claim examiner annotated the claim. N.T. p. 24. The claim record illustrates the record for the claimant who called for services and who was associated with the employer's notice of application. N.T. p. 26; AA Ex. 4.

Johnson explained a Supervisor and a UC claims examiner use the computer system to retrieve phone records between a claimant and an appointing authority's employee. N.T. 28; AA Ex. 2. According to the computer system, the

interviewer received a call from the non-English speaking claimant on April 12, 2018 at 10:36 a.m. N.T. pp. 24, 28; AA Ex. 5. According to the computer system, the interviewer's call with the non-English speaking claimant ended at 10:46 and was transferred to the appellant at 10:46 a.m. N.T. p. 28; AA Exs. 2, 5. The phone call between the claimant and the appellant ended at 10:52 a.m. N.T. p. 28; AA Exs. 2, 5. According to the claim record, on April 12, 2018, an interviewer transferred the phone call to appellant, but appellant did not annotate the claim record. N.T. p. 27; AA Ex. 4.

After reviewing the claim record and computer system, Johnson retrieved and listened to the recorded phone conversation between the non-English speaking claimant and appellant from the Inspiration Pro system. N.T. p. 29. All phone conversations with a claimant are recorded by this system. N.T. p. 29. If a UC claims examiner experiences any difficulty during a phone conversation with a claimant, he should notify his supervisor, annotate the claim regarding the difficulty, and call the claimant back. N.T. p. 40. After listening to the recorded phone conversation, Johnson discovered that appellant was able to acquire the claimant's social security number and phone number. N.T. p. 40; AA Ex. 3. Johnson testified appellant did not call the claimant back. N.T. p. 40; AA Ex. 3.

The user activity report is the phone system that a UC claim examiner would use to log on and off. N.T. p. 41; AA Ex. 5. Appellant's user activity report reveals whenever he initiates a phone call, disconnects a phone call, and receives a phone call through the computer system's transfer. N.T. pp. 41-42; AA Ex. 5. According to appellant's user activity report, the non-English speaking claimant's phone call was transferred to him and he answered the call at 10:46 a.m. N.T. p. 42; AA Ex. 5. Appellant disconnected the call at 10:52 a.m. and chose the post

processing option, as a separation issue. N.T. p. 43; AA Ex. 5. Johnson explained when a call is disconnected, the post processing option allows a UC claims examiner to describe the call's purpose. N.T. p. 43. Additionally, after disconnecting with this claimant, appellant should have either contacted his supervisor to address any issues during the phone conversation or contacted the claimant again. N.T. p. 44. Johnson testified appellant's post processing description was left blank. N.T. pp. 43-44. Johnson confirmed that appellant initiated a new call at 11:03. N.T. pp. 43-44. AA Ex. 5.

Johnson testified a UC claims examiner is also required to complete LEP training. N.T. p. 56; AA Ex. 7. In LEP training, a UC claims examiner learns to provide the same services to a non-English speaking claimant that would be provided to an English-speaking claimant. N.T. p. 57. A UC claims examiner would also learn additional services available for a non-English speaking claimant and would be required to provide these services pursuant to his training. N.T. p. 57.

Johnson emphasized a UC claims examiner would provide an interpreter for a non-English speaking claimant. N.T. p. 57. Johnson testified appellant completed the LEP training in December 2017. N.T. p. 56; AA Ex. 7. Also, a UC claims examiner must take the claimant's name and contact information if a UC claims examiner does not have time to retrieve the claimant's information. N.T. p. 60; AA Ex. 9. Johnson testified appellant received the procedure for how to proceed if he does not have enough time to retrieve a claimant's information. N.T. pp. 60-61.

After she reviewed the recorded phone conversation, Johnson contacted Site Administrator Lisa Huggins and determined that a fact-finding interview was necessary. N.T. pp. 44-45. A fact-finding interview occurs when a supervisor and site administrator compile questions and ask an employee about his reasons for his conduct. N.T. p. 45. After she created the fact-finding interview questions, Johnson sent them to Administrative Officer Jennifer Walters for approval. N.T. p. 46. After Walters approved the fact-finding interview questions, a fact-finding interview was scheduled for appellant on May 23, 2018. N.T. p. 46.

During a fact-finding interview, a member from management and a supervisor handwrite the employee's answers in order to ensure accuracy. N.T. pp. 48-49. During appellant's fact-finding interview, Johnson typed appellant's answers to the fact-finding questions verbatim. N.T. pp. 48-49; AA Ex. 6. Johnson testified the during the fact-finding interview, appellant did not claim he returned the claimant's phone call or annotated the claim record. N.T. pp. 50; AA Ex. 6. Johnson indicated appellant understood that every call should be annotated. N.T. p. 50; AA Ex. 6. Appellant had an opportunity to review and change his responses to the fact-finding interview questions. N.T. pp. 53-54. Johnson testified appellant did not change any of his responses.

During the fact-finding interview, appellant expressed that he experienced technological issues when making a call while using the SnapShot system, where the system would delete the phone call. N.T. p. 51; AA Ex. 6. Johnson explained the SnapShot system is a condensed version of the computer system that a UC claims examiner utilizes. N.T. p. 52. If a phone call was lost in the SnapShot system, then a UC claims examiner would go to his supervisor to retrieve the phone call's information in order to call the claimant back, even without

possessing the claimant's social security number. N.T. p. 55. Johnson testified she had not heard from any employee or from appellant before the fact-finding interview that SnapShot was experiencing technical difficulties. N.T. pp. 51-52.

Lisa Huggins is employed by the appointing authority as a Site Administrator and has held the position for over four years. N.T. p. 66. Huggins explained appellant reports to Johnson. N.T. p. 68. A UC claims examiner receives online training courses throughout the year. N.T. pp. 74-75. After completing an online training course, a UC claims examiner receives a training transcript that is accessible to supervisors and management staff. N.T. p. 75.

LEP training provides a UC claims examiner the proper protocol to assist non-English speaking claimants. N.T. pp. 76-77. After LEP training, a UC claims examiner would know how to contact an interpreter and how to find someone within the non-English speaking claimant's home to translate for the claimant. N.T. pp. 76-77. Most importantly, after LEP training, a UC claims examiner must ensure that a non-English speaking claimant receives the same level of services as an English-speaking claimant. N.T. p. 77. According to appellant's training transcript, appellant completed LEP training on December 20, 2017. N.T. p. 75; AA Ex. 10. Huggins testified appellant did not call the non-English speaking claimant after he promised he would. N.T. p. 70.

A UC claims examiner receives training on annotating the claim record from his standard of work instructions. N.T. p. 77. Huggins emphasized that annotating the claim record describes who is assigned to the case. N.T. p. 78. Annotating the claim record allows an employer to contact a UC claims examiner in order to provide additional information for determining eligibility. N.T. p. 78.

Huggins testified appellant did not annotate the claim record based upon her review of the recorded phone conversation. N.T. pp. 69-70. Huggins concluded that appellant's conduct during the recorded phone conversation did not reflect the level of service expected from a UC claims examiner. N.T. p. 79.

In response to appellant's assertion that the appointing authority's monitoring caused the echo during the phone conversation with the non-English speaking claimant, Huggins testified a phone conversation to a UC Center is monitored. N.T. p. 69. Huggins explained the monitoring does not take place live during a UC claims examiner's phone conversation. N.T. p. 69. Additionally, Huggins stated that she is not aware that the appointing authority can tap into a phone conversation while it is taking place. N.T. p. 69. The SnapShot system has been distributed throughout the Duquesne UC service center for at least a year and is not mandatory for a UC claims examiner. N.T. p. 81.

Marc Smith is employed by the appointing authority as the Head of Training and has held the position for approximately two years. N.T. p. 86. As the Head of Training, Smith develops and delivers training throughout the service centers, including a UC claims examiner's training. N.T. p. 87. Smith emphasized that the expectations for a UC claims examiner is to provide equal customer services to all claimants. N.T. p. 89. When a UC claims examiner is assigned to a non-English speaking claimant, he would call the Propio system. N.T. p. 89. The Propio system is the line for Spanish speaking interpreters. N.T. pp. 89-90. Smith explained if a UC claims examiner has difficulty understanding a non-English speaking claimant, he should connect the claimant with an interpreter from the Propio system and reconnect with the claimant. N.T. p. 90.

Smith testified a UC claims examiner receives training on annotating claims. N.T. p. 91. Annotating the claim record describes what has occurred in the case. N.T. p. 91. Smith emphasized that every claim must be annotated. N.T. p. 91. An annotation section of the UC training handbook is available to a UC claims examiner. N.T. p. 93; AA Ex. 14.

When a UC claims examiner receives a phone call from a claimant, he must answer it as the UC service center and state his name. N.T. p. 93. Smith testified during the recorded phone conversation; appellant did not state his name to the non-English speaking claimant. N.T. p. 93. Smith indicated that although there was an echo during the phone conversation, appellant was able to acquire the non-English speaking claimant's social security number and phone number. N.T. pp. 93-94. According to a UC claims examiner's training, if he loses a claimant's social security number or phone number, he must contact his supervisor and explain what occurred. N.T. p. 94.

In response to appellant's assertions regarding the SnapShot system causing his inappropriate behavior and poor customer service, Smith explained the SnapShot system is an Excel spreadsheet that interacts with the mainframe. N.T. p. 90. The Snapshot system is not a mandatory system for a UC claims examiner. N.T. p. 90. Smith emphasized if a UC claims examiner has difficulty with the SnapShot system, then he should close the SnapShot system and use the mainframe by itself. N.T. p. 90.

Jennifer Walters is employed by the appointing authority as an Administrative Officer and has held the position for over eight years. N.T. p. 96. Walters acts as the liaison between the UC service centers and human resources.

N.T. p. 96. As an Administrative Officer, Walters provides guidance to managers and supervisors regarding recommendations for employee discipline. N.T. p. 97. Walters listened to the recorded phone conversation, reviewed the supporting documentation, and assisted with the fact-finding interview's questions. N.T. p. 98.

Walters stated that based upon her review, appellant failed to annotate the claim. N.T. p. 98. After Supervisor Johnson conducted the fact-finding interview, Walters reviewed the completed interview. N.T. p. 99. After her review, Walters contacted Employee Relations Analyst Rhonda Brown in order to review similar discipline cases and to determine the appropriate level of discipline for appellant's conduct. N.T. p. 99. Walters recommended a one-day suspension for appellant's conduct. N.T. p. 105. Pursuant to her recommendation for appellant's one-day suspension, Walters completed a personnel action request and sent the request to the Bureau of Human Resources for approval of the recommended discipline. N.T. p. 106. Walters testified along with the personnel action request, she attached AA Exs. 1-13. N.T. pp. 107-108; AA Ex. 18. Walters testified appellant did not have any previous discipline on his record. N.T. p. 108.

Rhonda Brown is employed by the Employment Banking and Revenue Delivery Center serving the appointing authority as an Employee Relations Analyst and has held the position for two years. N.T. p. 112. As an Employee Relations Analyst, Brown provides guidance to program areas assigned to her. N.T. pp. 112-113. Duquesne UC service center is one of Brown's assigned program areas. N.T. p. 113.

Brown explained whenever there is an incident leading to a personnel action, Walters provides her with the supporting documentation for her review and

the disciplinary recommendation. N.T. p. 113. Brown received Walters' personnel action request with attachments. N.T. p. 114; AA Ex.18. Brown reviewed the fact-finding information, all supporting documentation, and the recorded phone conversation. N.T. p. 114. Brown testified during the recorded phone conversation, appellant was able to obtain the non-English speaking claimant's social security number and phone number before disconnecting the phone call. N.T. p. 120. Brown testified appellant informed the non-English speaking claimant that he was having difficulty connecting him with an interpreter and that he would call the claimant back. N.T. p. 120. Brown indicated appellant did not call the non-English speaking claimant back. N.T. p. 120. Based upon her review, Brown concluded that appellant's one-day suspension was appropriate and sent the recommendation for disciplinary action to her supervisor. N.T. pp. 114-115; AA Ex. 15. Brown created appellant's one-day suspension letter after her supervisor approved the recommendation. Comm. Ex. A; N.T. pp. 118-119; AA Ex. 16.

In response to the appointing authority's presentation, appellant testified on his own behalf. Appellant is employed by the appointing authority as a UC claims examiner in the Duquesne UC service center. N.T. pp. 123-124. Appellant has held the position for approximately ten to eleven years. N.T. p. 124. Appellant stated that he only received training on the SnapShot system weeks before the non-English speaking claimant's phone call. N.T. pp. 125-126. Appellant explained when he receives a claimant's phone number, he prefers to type it into the computer system. N.T. p. 126. Appellant stated that he does not remember needing to call the non-English speaking claimant back. N.T. p. 128.

Appellant contended that the technical difficulties arising from his use of the SnapShot system caused his inappropriate customer service, his poor work

performance, and his failure to acquire the non-English speaking claimant's information. Comm. Ex. B; N.T. pp. 124, 130. Appellant asserted that due to his training being so close to the non-English speaking claimant's phone call, he was inadequately prepared to use the SnapShot system. N.T. pp. 125-126. Appellant testified he never had a chance to talk to the non-English speaking claimant over the phone because of the echo in the background. N.T. p. 124. Appellant asserted that his difficulty in connecting the non-English speaking claimant to an interpreter created the circumstances leading to his inappropriate behavior. N.T. p. 124. Appellant asserted that he could not obtain the non-English speaking claimant's social security number and could not connect him with an interpreter. N.T. pp. 130. Appellant contended that he did not neglect the caller on purpose. N.T. p. 127.

Appellant acknowledged that when something unusual or abnormal occurs during a phone conversation with a claimant, he should contact his supervisor. N.T. p. 129. Appellant admitted to not contacting his supervisor in relation to the asserted technical difficulties during the phone conversation. N.T. p. 129. Appellant admitted to obtaining the non-English speaking claimant's phone number during the phone conversation. N.T. p. 131; AA Ex. 3. Appellant acknowledged that if he did not have the correct phone number, then the claim record would provide the claimant's correct phone number. N.T. p. 131. Appellant admitted not checking the claim record. N.T. pp. 131-132. Appellant admitted obtaining the claimant's social security number. N.T. p. 132; AA Ex. 3. Appellant agreed he was required to contact his supervisor if he could not obtain the claimant's social security number or phone number. N.T. p. 132. Appellant admitted he did not contact his supervisor. N.T. p. 132. Appellant acknowledged he promised the non-English speaking claimant that he would call him back with an interpreter. N.T. p. 132. Appellant admitted to not calling the non-English speaking claimant back.

N.T. p. 133. Appellant agreed that as a UC claims examiner, he must annotate the claim record. N.T. p. 133. Appellant acknowledged that if there was an annotation, then it would be on the claim record. N.T. p. 134. Appellant admitted that an annotation was not on the claim record. N.T. p. 134; AA Ex. 4. Appellant admitted to not annotating the claim record on April 12, 2018. N.T. p. 135.

Having carefully reviewed the record, the Commission finds that the appointing authority met its burden to show good cause to suspend appellant for one day. In support of our conclusion, we find credible the testimonies of Toy Johnson, Lisa Huggins, Marc Smith, Jennifer Walters, and Rhonda Brown.²

As to the appointing authority's charges of appellant's inappropriate behavior and poor customer service, there are multiple instances where appellant failed to execute his job duties properly.

The appointing authority established that a UC claims examiner must annotate the claim record in order to preserve what occurred during a phone conversation with a claimant. Appellant admitted to not annotating the claim record. Appellant's failure to annotate the claim record constitutes a violation of appellant's job duties as a UC claims examiner and supports the appointing authority's charges of his inappropriate behavior and his poor customer service.

The appointing authority established that a UC claims examiner, after completing LEP training, would know how to connect a non-English speaking claimant to an interpreter and know how to reconnect the claimant. The appointing

² It is within the purview of the Commission to determine the credibility of the witnesses. *State Correctional Institution at Graterford, Department of Corrections v. Jordan*, 95 Pa. Commw. 475, 478, 505 A.2d 339, 341 (1986).

authority established that appellant failed to connect the non-English speaking claimant with an interpreter and did not call the claimant back. Appellant's failure to connect the non-English speaking claimant with an interpreter and appellant's failure to call back the non-English speaking claimant after promising he would reconnect him constitute a violation of appellant's job duties as an Unemployment Compensation claims examiner and supports the appointing authority's charges of his inappropriate behavior and his poor customer service.

Appellant alleges the appointing authority's monitoring caused his inappropriate behavior and poor customer service. However, the appointing authority explained the monitoring does not take place live during a UC claims examiner's phone call with a claimant. Therefore, appellant's attempt to blame phone monitoring is not a credible defense to the charges.

Appellant's also alleges that the SnapShot system's technical difficulties and his training being too close to the incident caused his inappropriate behavior, and poor customer service. However, the appointing authority explained if a phone call was lost in the SnapShot system, then a UC claims examiner can go to his supervisor to retrieve the claimant's information in order to call the claimant back, even without possessing the claimant's social security number.

Additionally, the appointing authority explained if a UC claims examiner has difficulty with the SnapShot system, then he could simply close the SnapShot system and use the mainframe by itself. Appellant acknowledged that when something unusual or abnormal occurs during a phone conversation with a claimant, he should contact his supervisor. Therefore, appellant's attempt to blame

technical difficulties with the Snapshot System and the timing of his training for his negligent conduct is not persuasive.

Appellant's final defense is that he did not neglect this caller on purpose. N.T. p. 127. Yet, it is established that "[t]he appointing authority in a Civil Service case has no burden to prove that the employee who has been disciplined for failure to follow an important work rule has done so intentionally or with prurient motive unless it has charged the employee with having such intention or motive." *Pennsylvania Liquor Control Board v. Smith*, 86 Pa. Commw. 128, 484 A.2d 201, n. 2 (1984). The appointing authority has not charged appellant with having such intention or prurient motive. Comm. Ex. A. Thus, proof of intention or motive is not required, and appellant's argument does not persuade the Commission.

Appellant's failure to annotate the claim record, failure to connect the non-English speaking claimant with an interpreter, and failure to call back the non-English speaking claimant after promising he would reconnect with him reinforces the appointing authority's charges of inappropriate behavior and poor customer service, which negatively reflect upon appellant's competency and ability to execute his 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,³ dismisses the appeal of Robert D. Clay challenging his one-day suspension from regular Unemployment Compensation Claims Examiner employment with the Department of Labor and Industry and sustains the action of the Department of Labor and Industry in the one-day suspension of Robert D. Clay from regular Unemployment Compensation Claims Examiner employment effective June 13, 2018

State Civil Service Commission

Gregory M. Lane
Commissioner

Bryan R. Lentz
Commissioner

Officially Mailed: July 24, 2019
Emailed: July 24, 2019

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