

COMMONWEALTH OF PENNSYLVANIA

Lisa M. Jackson : State Civil Service Commission
v. :
Department of Labor and Industry : Appeal No. 30135

Lisa M. Jackson : Jaclyn M. Day
Pro Se : Attorney for Appointing Authority

ADJUDICATION

This is an appeal by Lisa M. Jackson challenging her removal from regular Unemployment Compensation Claims Intake Interviewer employment with the Department of Labor and Industry. A hearing was held on April 19, 2019, at the State Civil Service Commission's Western Regional Office, in Pittsburgh, Pennsylvania before Hearing Officer Odelfa Smith Preston.

The Commissioners have reviewed the Notes of Testimony and exhibits introduced at the hearing. The issue before the Commission is whether there is just cause for the removal.

FINDINGS OF FACT

1. By letter dated January 7, 2019, appellant was notified of her removal from regular Unemployment Compensation Claims Intake

Interviewer employment with the Department of Labor and Industry, effective January 8, 2019. Comm. Ex. A.

2. The appointing authority charged appellant with failure to follow policy and procedures and poor customer service. The letter provided:

Specifically, during a phone call with a claimant on September 18, 2018, you failed to follow proper call-handling procedures in addressing the claimant's inquiry. You provided inaccurate information regarding their benefit payments, improperly instructed the claimant to call the "Overpayment Department" and further, provided an incorrect phone number to the claimant. During a fact-finding meeting held with you on October 29, 2018, to address this matter, you acknowledged that you did not conduct a thorough review of the claim while speaking with the claimant. Additionally, you admitted that you did not utilize reference material provided to you and you acknowledged that you are familiar with Manual of Operations and Procedures (MOP) and Treasury Offset Program (TOP) procedures, however, you failed to provide a reasonable explanation for your actions.

As an employee of the Office of UC Service Centers, you are entrusted with the responsibility of interviewing and

assisting claimants with the processing of their claims for UC benefits to which they may be entitled. Your actions, as stated above, fall below the standard we expect of our employees and show a disregard to the claimants you are expected to serve.

You were previously issued multiple disciplinary actions for similar infractions, including a three-day suspension on March 18, 2016, a five-day suspension with a final warning on May 5, 2017, and a five-day suspension with a final warning on August 24, 2017, that advised you if any future incidents of a same or similar nature occurred, it would result in your dismissal. As such, we have no alternative but to take this action.

Comm. Ex. A.

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 was previously employed by the appointing authority as an Unemployment Compensation Claims Intake Interviewer (hereinafter "Claims Intake Interviewer") since 2003. N.T. pp. 72-73.

5. Appellant's disciplinary history includes the following: on March 18, 2016 appellant received a three-day suspension for inappropriately handling numerous calls and failing to annotate claims; on May 5, 2017, appellant received a five-day suspension with final warning for having over thirty unprocessed claims within her desk drawer; and on August 24, 2017, appellant received a five-day suspension with final warning for inappropriately annotating a Unemployment Compensation (hereinafter "UC") claim record by referencing Treasury Offset Program (hereinafter "TOP"). N.T. pp. 64-66; AA Ex. 6.
6. On September 18, 2018, a claimant called the claims unit regarding her income tax refund in relation to her being selected to be part of the TOP. N.T. pp. 27-28; AA Ex. 4.
7. During the twelve-minute conversation with the claimant, appellant provided inaccurate information by referring the claimant to an "Overpayment Department" that does not exist, and she also provided a phone number for the non-existing "Overpayment Department." N.T. pp. 38-39, 40-41; AA Exs. 1, 4.

8. During the conversation, appellant directed the claimant to call the number for the non-existing “Overpayment Department,” which resulted in a disclosure officer receiving the claimant’s phone call. N.T. pp. 15, 39; AA Exs. 1, 4.
9. During the conversation, appellant told the claimant that her benefit payments are being used to offset her overpayment, which was incorrect benefit information about the claimant’s benefit payments. N.T. p. 33; AA Exs. 1, 4.
10. During the conversation, appellant placed the claimant on hold for over seven minutes to find a supervisor but did not speak to any of the five available supervisors. N.T. pp. 39-40, 47, 48-49; AA Exs. 1, 3, 4.
11. Appellant failed to utilize the reference materials and tools available, such as the Manual of Operations and Procedures, to gather the correct information for the claimant. Instead, appellant utilized the internet to provide an inaccurate phone number to the claimant. N.T. pp. 41-42, 80; AA Ex. 1.

12. After appellant's phone conversation with the claimant, a disclosure officer complained to Site Administrator Lisa Huggins about receiving a call from a claimant directed to him by appellant. N.T. pp. 14-15.
13. Huggins requested Operations Manager William Taylor review appellant's phone conversation with the claimant. N.T. pp. 16, 26-27.
14. Taylor reviewed appellant's phone conversation with the claimant and completed a Call Monitoring Evaluation Sheet evaluating appellant's conduct. N.T. pp. 27-28, 33; AA Exs. 1, 4.
15. Appellant's fact-finding meeting occurred on October 29, 2018, where Taylor conducted the meeting. N.T. pp. 17, 47; AA Ex. 2.
16. Based upon the fact-finding meeting notes, the appointing authority's "progressive disciplinary system," and appellant's prior progressive disciplinary history, Huggins and Taylor forwarded their recommendation for appellant's removal to Administrative Officer 1 Jennifer Walters. N.T. pp. 18, 50.

17. After reviewing Huggins' and Taylor's recommendation and appellant's history of progressive discipline, Walters recommended appellant's removal and created the Personnel/Position Action Request recommending appellant's removal. N.T. pp. 62-63; AA Ex. 5.

DISCUSSION

The issue in the present appeal is whether there is just cause for appellant's removal. The appellant is challenging her removal from regular Unemployment Compensation Claims Intake Interviewer (hereinafter "Claims Intake Interviewer") employment with the appointing authority. The appointing authority charges appellant with failure to follow policy and procedures and poor customer service. Comm. Ex. A.

The appointing authority bears the burden of proving just cause for removal of a regular status employee and must prove the substance of the charges underlying the removal. *Long v. Commonwealth of Pennsylvania Liquor Control Board*, 112 Pa. Commw. 572, 535 A.2d 1233 (Pa. Commw. 1988). Factors supporting the just cause removal of a civil service employee must be related to the employee's job performance and touch in some logical manner upon the employee's competency and ability to perform his job duties. *Woods v. State Civil Service Commission*, 590 Pa. Commw. 337, 912 A.2d 803 (2006).

In support of its action, the appointing authority presented the testimony of Site Administrator Lisa Huggins, Operations Manager William Taylor, and Administrative Officer 1 Jennifer Walters. In response, appellant testified upon her own behalf.

As Site Administrator, Huggins oversees the operations within the Duquesne UC Service Center in order to ensure UC claims are timely and accurately processed through adhering to the appointing authority's policies and procedures. N.T. pp. 14-15. Huggins discovered an issue regarding appellant's conduct when a disclosure officer complained to her about receiving a call from a claimant who was directed to him from a Claims Intake Interviewer. N.T. p. 15. After receiving the disclosure officer's complaint, Huggins asked Taylor to review appellant's phone conversation with the claimant to discover what occurred. N.T. pp. 16, 26-27.

A Claims Intake Interviewer is trained on how to interact with a claimant who is selected to participate in the Treasury Offset Program (hereinafter "TOP"). This training consists of emails, discussions with supervisors, and a Manual of Operations and Procedures. N.T. pp. 28-29. Taylor reviewed appellant's phone conversation with the claimant on September 20, 2018. N.T. pp. 27-28; AA Ex. 4. On September 18, 2018, the claimant called the claims unit regarding her income tax refund in relation to her being selected by the appointing authority to be part of the TOP. N.T. pp. 27-28. TOP is a program where the state can submit a request to the Federal Government to withhold an individual's income tax refund if certain criteria are met. N.T. p. 28. The Manual of Operations and Procedures is an online shared folder containing searchable files categorized by topic, where one of the searchable topics is TOP. N.T. pp. 30-31. The TOP file contains instructions for staff on how to interact with a selected claimant during a phone conversation.

N.T. pp. 31-32. Appellant had access to the Manual of Operations and Procedures. N.T. p. 31. When a claimant calls the claim unit regarding his or her TOP case, the Manual of Operations and Procedures directs the Claims Intake Interviewer to provide a toll-free number and to answer general questions regarding TOP. N.T. p. 31. If unable to find the correct information within the Manual of Operations and Procedures, a Claims Intake Interviewer must seek assistance from an available manager or supervisor. N.T. p. 32. During the twelve-minute phone conversation, appellant did not provide the claimant with the toll-free number and provided the claimant with the wrong phone number. Appellant also provided incorrect information regarding the claimant's benefit payments. N.T. p. 33.

After reviewing the phone conversation, Taylor completed a Call Monitoring Evaluation Sheet regarding appellant's conduct. N.T. p. 33; AA Ex. 1. First, Taylor rated appellant's job knowledge and problem-solving skills as "unsatisfactory" because she provided inaccurate information by referring the claimant to a "Overpayment Department" that does not exist, and she provided a phone number for the non-existing "Overpayment Department." Appellant also told the claimant that her benefit payments are being used to offset her overpayment, which was incorrect benefit information about the claimant's benefit payments. N.T. p. 33; AA Exs. 1, 4. Second, Taylor rated appellant's work results as "unsatisfactory" because she provided inaccurate information to the claimant and directed the claimant to call the phone number for the non-existing "Overpayment Department," which resulted in poor performance. N.T. p. 39; AA Ex. 1. Third, Taylor rated appellant's communication skills as "needs improvement" because she placed the claimant on hold for over seven minutes. N.T. pp. 39-40; AA Ex. 1. Fourth, Taylor rated appellant's work habits as "unsatisfactory" because not only did she place the claimant on hold for over seven minutes, but also, she failed to

utilize the reference materials and tools available to gather the correction information for the claimant. N.T. pp. 41-42; AA Ex. 1. Taylor rated appellant's conduct overall as "unsatisfactory" citing all the reasons outlined above. N.T. p. 43; AA Ex. 1.

After completing appellant's Call Monitoring Evaluation Sheet, Taylor consulted with Huggins and decided that a fact-finding meeting was necessary, where Taylor, Huggins, and Walters created the fact-finding questions. N.T. pp. 17, 44, 46, 57. Taylor conducted appellant's fact-finding meeting on October 29, 2018. N.T. pp. 17, 47; AA Ex. 2. During appellant's fact-finding meeting, Taylor played a recording of the claimant's phone conversation and asked questions regarding appellant's conduct. N.T. pp. 46-47; AA Exs. 2, 4. According to Taylor, appellant believed she acted properly during the phone conversation and insisted that she placed the claimant on hold for over seven minutes because she was seeking a supervisor for assistance but could not find one that was available. N.T. p. 47; AA Ex. 2. Pursuant to the Activity Report, which lists the available supervisors on September 18, 2018, Taylor testified that there were five supervisors available during the appellant's phone conversation with the claimant. N.T. pp. 48-49; AA Ex. 3.

After the fact-finding meeting, Huggins and Taylor reviewed the fact-finding meeting notes and appellant's responses. N.T. pp. 17, 49-50; AA Ex. 2. Huggins explained that appellant's prior disciplinary history placed appellant in progressive discipline. N.T. p. 18. Appellant's disciplinary history began on March 18, 2016 when she received a three-day suspension for inappropriately handling numerous calls and failing to annotate claims. N.T. pp. 64-65; AA Ex. 6. On May 5, 2017, appellant received a five-day suspension with final warning

because during a Legislative Inquiry, the appointing authority discovered over thirty unprocessed UC claims within appellant's desk drawer. Additionally, the appointing authority's investigation revealed appellant failed to post claims, established fraudulent claims, disregarded eligibility information, and provided poor customer service. N.T. p. 65; AA Ex. 6. On August 24, 2017, appellant received a five-day suspension with final warning for inappropriately annotating a UC claim record by referencing TOP. N.T. pp. 65-66; AA Ex. 6. Appellant's progressive discipline advised her "if any future incidents of a same or similar nature occurred, it would result in your dismissal." Comm. Ex. A. After reviewing appellant's prior progressive disciplinary history, the fact-finding meeting's notes, and the appointing authority's "progressive disciplinary system," Huggins and Taylor forwarded their recommendation for appellant's removal to Walters. N.T. pp. 18, 50.

Walters received correspondence from Huggins and Taylor regarding their recommendation to remove appellant, which included the fact-finding meeting notes and a copy of the recorded phone conversation between the claimant and appellant. N.T. p. 57. As an Administrative Officer 1, Walters provides guidance to the managers and supervisors within the UC Service Centers and provides recommendations on employee discipline to the Bureau of Human Resources' employee relations division. N.T. p. 56. After reviewing Huggins' and Taylor's recommendation along with the included materials, Walters recommended appellant's removal based upon the appointing authority's "progressive disciplinary system," appellant's prior progressive disciplinary history, and appellant's continued poor customer service resulting in violations against the appointing authority's policies and procedures. N.T. pp. 57-58. Walters created the Personnel/Position Action Request recommending appellant's removal. N.T. pp. 62-63; AA Ex. 5.

In response, appellant testified upon her own behalf. Prior to her removal, appellant was employed by the appointing authority as a Claims Intake Interviewer since 2003. N.T. pp. 72-73. Appellant explained that personal family matters she was experiencing had affected her ability to properly handle the claimant's phone call. N.T. pp. 73-74. Appellant asserted that the Manual of Operations and Procedures was difficult to navigate. N.T. pp. 74-75. Appellant acknowledged that her training guides her toward the Manual of Operation Procedures. N.T. pp. 80-81. Appellant admitted to acquiring the incorrect phone number from an online source. N.T. p. 80. Regarding the phone conversation with the claimant, appellant admitted "[i]t was a bad call. I understood that." N.T. pp. 78-79. Appellant emphasized that "at this point I'm just seeking empathy and compassion for the fact that I have been a dedicated employee for the last fifteen years." N.T. p. 79.

Having carefully reviewed the record, the Commission finds that the appointing authority met its burden to show just cause to remove appellant. In support of our conclusion, we find credible the testimonies of Huggins, Taylor, and Walters.¹

The appointing authority emphasized that a Claims Intake Interviewer is neither trained nor instructed to give inaccurate information to a Claimant. N.T. p. 32. On September 18, 2018, appellant not only provided inaccurate information to the claimant by referring to an "Overpayment Department" that does not exist,

¹ 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).

but also, provided the claimant with a phone number for the non-existing “Overpayment Department”. Appellant admitted to not utilizing the Manual of Operations and Procedures, which references the correct toll-free phone number to call, but instead, acquired the incorrect phone number from the internet. Appellant also provided inaccurate information regarding the claimant’s benefit payments. Appellant’s failures to provide the toll-free number, to utilize the available reference tools, and to provide accurate information to the claimant negatively reflect upon her job performance and her competency and ability to perform her job duties. *Woods, supra*. Accordingly, we enter the following:

CONCLUSION OF LAW

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

ORDER

AND NOW, the State Civil Service Commission, by agreement of its members, dismisses the appeal of Lisa M. Jackson challenging her removal from regular Unemployment Compensation Claims Intake Interviewer employment with

the Department of Labor and Industry and sustains the action of the Department of Labor and Industry in the removal of Lisa M. Jackson from regular Unemployment Compensation Claims Intake Interviewer employment effective January 8, 2019.

State Civil Service Commission

Teresa Osborne
Chairman

Gregory M. Lane
Commissioner

Bryan R. Lentz
Commissioner

Mailed: August 22, 2019