

# State of New Hampshire



## PERSONNEL APPEALS BOARD

25 Capitol Street  
Concord, New Hampshire 03301  
Telephone (603) 271-3261

### APPEAL OF PATRICIA BOOKER Docket #94-D-8

#### New Hampshire State Liquor Commission

August 15, 1994

The New Hampshire Personnel Appeals Board (McNicholas, Bennett and Rule) met Wednesday, July 13, 1994, to hear the appeal of Patricia Booker, an employee of the New Hampshire State Liquor Commission. Ms. Booker, who was represented at the hearing by SEA Director of Field Operations Thomas Hardiman, was appealing a September 9, 1993 letter of warning for tardiness and unsatisfactory work performance. The Liquor Commission was represented at the hearing by George Liouzis, Human Resources Administrator.

The appeal was made by offers of proof. Except for those documents submitted by the appellant as attachments to her original request for hearing, neither party offered additional documentary evidence for review by the Board.

The Liquor Commission has a legitimate interest in safeguarding its operation, monitoring and enforcing its handling procedures and inventory controls, and requiring its employees to adhere to established hours of work. The proffered evidence tends to support the State's contention that there was an inventory loss on July 16, 1993, by Ms. Booker. That finding was established by eye witness accounts, sales/inventory records, and a security videotape which was unavailable on the date of this hearing. It seems undisputed that there was also a certain amount of tardiness as well. Therefore, the Commission was authorized to use the letter of warning as the least severe form of discipline to correct an employee's unsatisfactory work performance.

Having considered the positions of the parties in this matter, the Board voted to sustain the warning. However, the Board also voted that the letter would cease to be effective as a basis for cumulative disciplinary action on the date of the hearing.

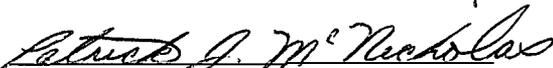
The Board's rationale for reducing the period of time for which the letter of warning would be effective includes the following factors. Ms. Booker has no apparent recollection of the incident in question, and it appears she may have made an honest mistake. Ms. Booker appeared to be credible. The proffered evidence in support of the warning went to the appellant's "usual procedures" in handling "unwanted" products, not any claim that she had intentionally allowed product to leave the premises without payment being made. Her error was considered unsatisfactory work performance.

Ms. Booker's admitted tardiness appears to have arisen, at least in part, from personal problems associated with her assignment to a new work location while she was taking care of her ailing mother. The appellant seems to have exceeded the bounds of the agency's accommodation. While exigent circumstances do not justify continued lateness, they do have bearing upon the

appropriate severity of the warning.

Therefore, the Board voted to sustain the warning, to have the warning remain on file in the appellant's record at the agency and the Division of Personnel, but to reduce the effective period of the warning so that it would expire as a basis for additional disciplinary action after July 13, 1994.

THE PERSONNEL APPEALS BOARD

  
Patrick J. McNicholas, Chairman

  
Mark J. Bennett, Commissioner

  
Lisa A. Rule, Commissioner

cc: Virginia A. Lamberton, Director of Personnel  
Thomas F. Hardiman, SEA Director of Field Operations  
George E. Liouzis, Human Resources Administrator, N.H. Liquor Commission