

State of New Hampshire



PERSONNEL APPEALS BOARD
State House Annex
Concord, New Hampshire 03301
Telephone (603) 271-3261

RESPONSE TO MOTION FOR RECONSIDERATION Maureen Adams - Docket #89-T-16 New Hampshire Liquor Commission

DATED: January 2, 1990

A quorum of the New Hampshire Personnel Appeals Board (McNicholas and Johnson) met Wednesday, December 6, 1989, to hear oral argument on Appellant's September 7, 1989 Motion for Reconsideration of the Board's August 18, 1989 order dismissing her appeal of termination. SEA General Counsel Michael C. Reynolds appeared on behalf of the appellant. George Liouzis, Human Resource Coordinator, represented the Liquor Commission.

In its decision of August 18, the Board dismissed Ms. Adam's appeal under the provisions of Per-A 207.04 (d), finding that Appellant had been duly notified of deficiencies in her performance and could not, therefore, support a claim that her termination was either arbitrary or capricious.

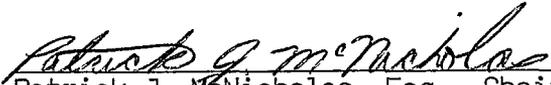
In her Motion for Reconsideration, and oral argument by her representative at the December 6 hearing, Appellant argued that the Liquor Commission, by its own evaluation, had considered her performance "passable" and that "by definition, a rating of 'passable' is sufficient for Ms. Adams to retain her employment." Appellant also argued that she had met her burden to plead a prima facie case by alleging "that she was in fact meeting the 'work standards'."

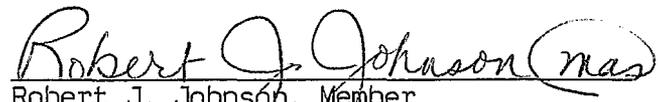
The Board does not agree. Both employee evaluations (submitted as attachments to Appellant's Motion for Reconsideration) were signed by the employee without written comment. Both notified her that her work did not warrant a recommendation for permanent appointment. In the light of these evaluations, the specific reference in the letter of termination to Appellant's failure to meet the position requirements for store operating procedures, and the single argument that Appellant believe she was meeting the work standard, the Board found that Appellant failed to meet her burden by alleging facts sufficient on their face to support a claim that the agency violated the applicable standard in terminating her employment.

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Based upon the foregoing, the Board voted to affirm its original decision, thereby denying the Motion for Reconsideration.

THE PERSONNEL APPEALS BOARD


Patrick J. McNicholas, Esq., Chairman


Robert J. Johnson, Member

cc: Michael C. Reynolds, SEA General Counsel
George E. Liouzis, Human Resource Coordinator, NH Liquor Commission
Virginia A. Vogel, Director of Personnel
David S. Peck, Assistant Attorney General

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APPEAL OF MAUREEN ADAMS - N.H. LIQUOR COMMISSION Docket #89-T-16

August 18, 1989

At its meeting of June 28, 1989, the New Hampshire Personnel Appeals Board, Commissioners McNicholas and Scott sitting, reviewed the letter of appeal filed June 26, 1989, by SEA General Counsel Michael C. Reynolds on behalf of Maureen Adams, a former employee of the New Hampshire Liquor Commission.

In her request for hearing, Ms. Adams alleges that her termination prior to completion of her probationary period was arbitrary and capricious, arguing that "her performance was meeting any reasonable expectations of the job specification/work standard, especially considering her length of service" and that "Although Ms. Adams' performance was meeting the work standards, her work performance improved significantly in roughly one month's time."

Attached to Ms. Adams' request for hearing was a copy of the June 12, 1989 letter of termination from the New Hampshire Liquor Commission which stated, "You became a permanent employee on January 27, 1989, and during this probationary period you have received two unsatisfactory evaluations." The Board finds that given notification of deficiencies in performance, the termination can not be deemed either arbitrary or capricious.

Based upon the foregoing, the Board (Commissioners McNicholas and Scott) voted to dismiss the appeal pursuant to the provisions of Per-A 207.04 (d)..

THE PERSONNEL APPEALS BOARD


Patrick J. McNicholas, Chairman


Peter C. Scott, Alternate

cc: Michael C. Reynolds, SEA General Counsel
George E. Liouzis, Human Resource Coordinator
New Hampshire Liquor Commission
Virginia A. Vogel, Director of Personnel