



State Employees Association of New Hampshire, Inc.

Local 1984, Service Employees International Union
AFL-CIO, CLC

93-T-040

June 24, 1993

HAND DELIVERED

Ms. Mary Ann Steele
Executive Secretary
NH PERSONNEL APPEALS BOARD
State House Annex
Concord, NH 03301

RE: Steven Clark v. NH Department of Corrections
DOCKET #92-T-30

Dear Ms. Steele:

Please be advised that the above termination appeal has been settled. On behalf of Mr. Clark, I hereby withdraw the termination appeal, PAB Docket #92-T-30, with prejudice.

Thank you for your attention to this matter.

Sincerely,

Michael C. Reynolds
General Counsel

MCR/ba

cc: Steven Clark
John Vinson, Esq.

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State Employees Association of New Hampshire, Inc.

Local 1984, Service Employees International Union
AFL-CIO, CLC

March 25, 1993

HAND DELIVERED

Ms. Mary Ann Steele
Executive Secretary
NH PERSONNEL APPEALS BOARD
State House Annex
Concord, NH 03301

RE: Steven Clark v. Department of Corrections
DOCKET #92-T-30

Dear Ms. Steele:

This is to confirm my understanding that the termination hearing on the above captioned case is scheduled for Wednesday, May 5, 1993 at 9:00 a.m. at the State House Annex, Room 411, before the Personnel Appeals Board; and that the hearing is scheduled for a full day.

Please let me know, in writing, if my understanding is not correct.

Sincerely,

Michael C. Reynolds
(Ba)

Michael C. Reynolds
General Counsel

MCR/ba

cc: Steven Clark
John Vinson, Esq., DOC

**NEW HAMPSHIRE PERSONNEL APPEALS BOARD MEETING
WEDNESDAY, MAY 5, 1993
STATE HOUSE ANNEX - ROOM 411
CONCORD, NEW HAMPSHIRE**

**Chairman: Patrick J. McNicholas
Commissioners: Mark J. Bennett, Robert J. Johnson**

9:00 a.m.

Steven Clark
Docket #92-T-30
New Hampshire Department of Corrections

Mr. Clark, represented by SEA General Counsel Michael Reynolds, appears appealing his termination from employment effective June 5, 1992 for allegedly refusing a valid order of a superior and violation of Department of Corrections Policy and Procedure Directives 2.3.31 (A)(3) and (7), 2.2.16 IV (c) and 2.2.16 IV (P) (17). The specific charges are as follows: becoming unduly familiar with persons under departmental control, failure to obey a lawful order of a superior, failure to obey a written order, regulation or directive, failure to support all policies and programs of the department, failure to devote entire time and attention to duties, dereliction of duty, unauthorized use of State telephone(s).

Attorney John Vinson appears on behalf of the State.

The Board has schedule a full day to hear this matter.

State of New Hampshire



JUDD GREGG
GOVERNOR

DEPARTMENT OF CORRECTIONS

OFFICE OF THE COMMISSIONER
105 PLEASANT ST., MAIN BLDG., 3D FLOOR
P.O. BOX 769
CONCORD, N.H. 03302-0769
603/271-5600

RONALD L. POWELL
COMMISSIONER

N. E. PISHON
ASSISTANT COMMISSIONER

November 24, 1992

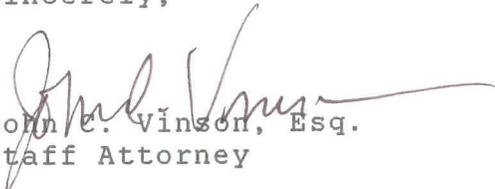
Mary Ann Steele, Executive Secretary
Personnel Appeal Board
Division of Personnel
State House Annex
Concord, NH 03301

RE: Appeal of Steven Clark
Docket #92-T-30

Dear Mary Ann:

Respectfully request a continuance of the hearing scheduled for December 16, 1992 in the above captioned matter. Appellant concurs and joins in this request. There is a possibility of this matter being settled before a new hearing date is established.

Sincerely,


John C. Vinson, Esq.
Staff Attorney

JCV/st

cc: Michael Reynolds, Esq.
State Employee's Association

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State of New Hampshire



PERSONNEL APPEALS BOARD

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

October 20, 1992

The New Hampshire Personnel Appeals Board, under the authority of RSA 21-I:58, has scheduled hearings in the following termination appeals on Wednesday, December 16, 1992, beginning at 9:00 a.m. in Room 411, State House Annex, Concord, New Hampshire:

Docket #92-T-30 Steven Clark

Department of Corrections

Alleged violation of Departmental policy and procedure directives relative to: becoming unduly familiar with persons under departmental control; failure to obey a lawful order of a superior; failure to obey a written order, regulation or directive; failure to support all policies and programs of the department; failure to devote entire time and attention to duties; dereliction of duty; unauthorized use of a State telephone.

For the appellant: Michael C. Reynolds, SEA General Counsel

For the State: Michael K. Brown, Esq., Commissioner's Office

Docket #92-T-31 James Seraiva

Department of Transportation

Alleged failure to successfully complete probationary period due to absenteeism, lack of dependability, inability to work cooperatively with other crew members

For the appellant: Michael C. Reynolds, SEA General Counsel

For the State: Karen A. Levchuk, Asst. Attorney General

Docket #92-T-32 Norma Scheerer

Environmental Services

Alleged excessive absenteeism

For the appellant: Appellant appears without representation

For the State: John Roller, Human Resource Administrator

Docket #93-T-2 Dominick F. Tarallo, Sr. Department of Corrections

Alleged violation of Departmental policy and procedure directives relative to: becoming unduly familiar with persons under departmental control; failure to devote entire time and attention to duties; dereliction of duty; failure to support all policies and programs of the department; failure to obey a lawful order of a superior

For the appellant: Michael C. Reynolds, SEA General Counsel

For the State: Michael K. Brown, Esq., Commissioner's Office

Docket #93-T-2a Richard Inman

Department of Corrections

Alleged violation of policy and procedure directives by continuing to be personally involved with an inmate and fugitive from justice

For the appellant: Michael C. Reynolds, SEA General Counsel

For the State: Michael K. Brown, Esq., Commissioner's Office

All persons involved in these matters should be present for the hearing.

Docket #92-T-30 Steven Clark
Docket #92-T-31 James Seraiva
Docket #92-T-32 Norma Scheerer
Docket #93-T-2 Dominick F. Tarallo, Sr.
Docket #93-T-2a Richard Inman

The Board has scheduled **mandatory** prehearing conferences in each of these matters on Wednesday, November 4, 1992, at 9:00 a.m. in Room 411, State House Annex, Concord, New Hampshire. Only the representatives of the parties are expected to appear for the prehearing conferences, and each party shall assure a representative is present to address any pre-hearing motions, special scheduling requests or outstanding discovery issues at that time.

The hearings and all prehearing activities shall be conducted in strict compliance with the Rules of the Personnel Appeals Board. Failure to comply with those Rules may result in sanctions as outlined in Per-A 206, up to and dismissal of an appeal.

FOR THE PERSONNEL APPEALS BOARD



Mary Ann Steele, Executive Secretary

cc: Virginia A. Vogel, Director of Personnel
State House Annex, 25 Capitol St., Concord, NH 03301
Michael K. Brown, Esq., Commissioner's Office, Dept. of Corrections
State Office Park South, 105 Pleasant St., Concord, NH 03301
Warden Michael Cunningham, New Hampshire State Prison,
North Main Street, Concord, NH 03301
Lisa Currier, Human Resource Administrator, Dept. of Corrections
105 Pleasant Street, Concord, NH 03301
Michael C. Reynolds, SEA General Counsel
P.O. Box 1403, Concord, NH 03302-1403
John Scott, Human Resource Administrator, Dept. of Transportation
John O. Morton Building, Hazen Drive, Concord, NH 03301
Karen A. Levchuk, Assistant Attorney General, Transportation Bureau
State House Annex, 25 Capitol St., Concord, NH 03301
Norma Scheerer, RFD 2, Box 496, Epsom, NH 03234
John Roller, Human Resource Administrator, Dept. of Environmental Services
Hazen Drive, Concord, NH 03301

State of New Hampshire



PERSONNEL APPEALS BOARD

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

DATE: July 20, 1992

Maryann Steele
FROM: MARY ANN STEELE
Executive Secretary

TO: Michael C. Reynolds, General Counsel
State Employees' Association of N.H., Inc.
P.O. Box 1403
105 North State Street
Concord, New Hampshire 03301

SUBJECT: Appeal of Steven Clark (Termination from employment
from New Hampshire Department of Corrections)

Your notice of appeal dated June 18, 1992 was received by the Personnel Appeals Board on June 18, 1992. That matter has been assigned docket number 92-T-30. Please be advised that such marking is **FOR IDENTIFICATION PURPOSES ONLY** and should not be considered notice that the appeal has been accepted for review by the Board. Please identify any further communication with the Board concerning this matter with the above docket number. If the Board accepts this appeal, you will be notified in writing of a scheduled hearing date.

Parties to the appeal shall comply with all applicable portions of the "Rules of the Personnel Appeals Board", as amended, effective March 25, 1988. Copies of the Board's procedural rules are available for review at the Division of Personnel, State House Annex, Concord, New Hampshire.

NOTE: All parties to this appeal will be expected to familiarize themselves with the Board's rules, and to conduct themselves in accordance with the provisions therein. Inexperience shall not be deemed an acceptable excuse for violation of any pre-hearing, or hearing procedures.

Any motions, exhibits or documents filed with the Board in this matter shall be filed in an original and three copies. Further, copies of any correspondence with or submissions to the Board shall be forwarded simultaneously to the other party(s) to this appeal.

cc: Virginia A. Vogel, Director of Personnel
Michael Brown, Esq., Commissioner's Office, Dept. of Corrections



State Employees Association of New Hampshire, Inc.

Local 1984, Service Employees International Union
AFL-CIO, CLC

92-T-30

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June 18, 1992

HAND DELIVERED

Mary Ann Steele
Executive Secretary
NH PERSONNEL APPEALS BOARD
State House Annex
Concord, NH 03301

**RE: Appeal of Steven Clark (Termination from employment
from New Hampshire Department of Corrections)**

Dear Ms. Steele:

Please be advised that this office represents the above-named Steven Clark relative to his June 5, 1992 termination from employment from New Hampshire Department of Corrections (DOC). Mr. Clark was a permanent employee working as a Corporal on the date of termination. Enclosed please find a copy of the June 5, 1992 letter of termination from N.E. Pishon, Assistant Commissioner.

Mr. Clark at no time refused a valid order and denies violation of any of the rules or directives cited in the June 5, 1992 termination letter.

Mr. Clark denies the appointing authority's charge of violation of P/PDS 2.3.31 (A) (3) and (7), 2.2.16 IV (C) and 2.2.16 IV (P) (17). In the termination letter dated June 5, 1992, it is alleged that Mr. Clark used State telephones for other than official business. Although these conversations referred to in

Mary Ann Steele
June 18, 1992
Page 2

the termination letter may have involved personal statements by each party, all conversation was essentially professional. Furthermore, many of the assumptions and allegations in the letter of termination regarding the use of State telephones are wrong.

In reference to the alleged personal relationship with a former shock incarceration convict, Mr. Clark also denies that he violated the P/PDS's enumerated in the June 5, 1992 termination letter, including P/PD's 2.2.16 IV (P) (1), 2.2.16 IV (P) (19), 2.2.16 IV (E) and 2.2.16 IV (D).

Even if Mr. Clark was in violation of the above-mentioned P/PD's, it was not egregious enough to require or permit an immediate termination pursuant to PER 1001.08 (b) (1). Consequently, Mr. Clark should have received three letters of warning for the same offense pursuant to PER 1001.08 (e) (1).

The rules and directives cited are either invalid or invalid as a basis of discharge.

Mr. Clark has been employed by DOC since April 1989. Since that time he has gotten favorable evaluations; in addition, he has not had any disciplinary action taken against him. Mr. Clark has been an excellent, loyal DOC employee. He has acted professionally, despite being attacked professionally and personally by DOC for reasons that appear more of an unlawful order than expressions of rational management concerns.

Mary Ann Steele
June 18, 1992
Page 3

Additionally, even if this were a permissible termination, Mr. Clark believes that the Board would choose to exercise its authority to overturn it in light of his favorable work record and all the facts surrounding the allegations against him.

Therefore, on behalf of Mr. Clark I request a full hearing before the Personnel Appeals Board on this termination. Five hours is requested for this hearing.

Thank you for your attention to this matter. I look forward to hearing from you.

Sincerely,

Michael C. Reynolds
Michael C. Reynolds (BA)
General Counsel

MCR/ba
Enclosure

cc: Steven Clark
N.E. Pishon
Michael Brown, Esq.

State of New Hampshire



JUDD GREGG
GOVERNOR

DEPARTMENT OF CORRECTIONS

OFFICE OF THE COMMISSIONER
105 PLEASANT ST., MAIN BLDG., 3D FLOOR
P.O. BOX 769
CONCORD, N.H. 03302-0769
603/271-5600

RONALD L. POWELL
COMMISSIONER

N. E. PISHON
ASSISTANT COMMISSIONER

June 5, 1992

Corporal Steven Clark
New Hampshire State Prison
Concord, NH 03301

Dear Corporal Clark:

This is a Letter of Termination in accordance with Personnel Rule PER 1001.08(b).

On 21 May 1992 an investigation was initiated to determine the facts and circumstances surrounding allegations that you were having a personal relationship with a former Shock Incarceration convict who is currently under Departmental supervision.

During the course of this investigation you admitted to the allegations being true. This relationship is in violation of NH Department of Corrections P/PD 2.2.16 IV (P) (1) which states "Employees shall not become unduly familiar with persons under Departmental control or their families or shall not permit persons under Departmental control to become unduly familiar toward them. Employees will not maintain off duty contact with persons under Departmental control or their families without written permission from the Commissioner."

In the statement you provided on 21 May 1992 you acknowledged that you had suspected that this relationship was against Departmental policy but that you were going to continue the relationship anyway.

When ordered to cease having contact with this person by Administrator of Security Viola Lunderville and Chief Investigator Lieutenant Don McGill you related that you would continue to see her. Failure to obey this order was in violation of NH Department of Corrections P/PD 2.2.16 IV (E) "Failure to Obey a Lawful Order of a Superior."

Also disclosed during the investigation was that during an eight (8) day period, from April 2, 1992 to April 9, 1992, you spent over 217 minutes talking on the telephone with this individual while you were on duty at the Lakes Region Facility. Using a State telephone for personal business is in violation of NH Department of Corrections P/PD 2.3.3 IV (A) (3) & (7) which states that State telephones are for official business only. The time you spent talking on the telephone while you were on duty was in violation of NH Department of Corrections P/PD 2.2.16 IV (C)

Corporal Steven Cla.
June 5, 1992
Page Two

"Dereliction of Duty" and P/PD 2.2.16 IV (P) (17) which states "Employees are required to give their entire time and attention to their duties during their hours of employment. No distracting amusement or occupation shall be engaged in by employees while on duty."

Intentionally failing to follow Departmental policies and procedures is in violation of NH Department of Corrections P/PD 2.2.16 IV D, and failing to support Departmental policies is in violation of NH Department of Corrections P/PD 2.2.16 IV (P) (19).

Effective the date of this letter your employment with the Department of Corrections is terminated based on your violation of the following P/PDs:

- 2.2.16 IV (P) (1) Becoming unduly familiar with persons under Departmental control.
- 2.2.16 IV (E) Failure to obey a lawful order of a superior.
- 2.2.16 IV (D) Failure to obey a written order, regulation or directive issued by appropriate authority.
- 2.2.16 IV (P) (19) Failure to support all policies and programs of the Department.
- 2.2.16 IV (P) (17) Failure to devote your entire time and attention to your duties.
- 2.2.16 (IV (C) Dereliction of Duty.
- 2.3.3 IV (A) (3)&(7) Unauthorized use of a State telephone.

You have in your possession certain uniform articles belonging to the State of New Hampshire which you are to return in a reasonable amount of time, not to exceed one (1) month, or legal action will be taken to ensure the return of said articles.

In accordance with Personnel Rule PER 1001.08 (g) (2) you have fifteen (15) calendar days in which to appeal your Termination to the Personnel Appeals Board. If such action is not taken it will be assumed that you feel this termination is justified.

Sincerely,



N. E. Pishon
Assistant Commissioner

NEP/pd
cc: Lisa Currier
Virginia Vogel

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VPishon