

State of New Hampshire



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

Appeal of Steven Lavery

Docket #2008-T-007

Department of Health and Human Services

Order of the Board to Show Cause for Failure to Appear as Scheduled

May 29, 2008

The New Hampshire Personnel Appeals Board (Bonafide, Johnson and Casey) met in public session on Wednesday, May 14, 2008, under the authority of RSA 541-A, RSA 21-I:58, and Chapters Per-A 100-200 of the New Hampshire Code of Administrative Rules, for a scheduled mandatory prehearing conference in the above-titled appeal. Although the appeal was filed initially by SEA General Counsel Michael Reynolds, the Board received notice by letter dated March 31, 2008 that the State Employees Association no longer represented Mr. Lavery, and that all future correspondence should be directed to Mr. Lavery himself.

The Board notified Mr. Lavery at his last known address that it had scheduled a mandatory prehearing conference at 10:30 a.m. on May 14, 2008, to facilitate scheduling a hearing on the merits of his appeal. Attorney Lynne Mitchell appeared on behalf of the State. Neither Mr. Lavery nor anyone representing him appeared on Mr. Lavery's behalf.

The Board's Executive Secretary checked her voice mail messages and email messages, and queried staff in the reception area of the Division of Personnel to determine whether or not Mr. Lavery had attempted to contact anyone to indicate that he would be unable to attend the prehearing conference for some reason. Finding that there were no messages from Mr. Lavery, the Board asked Ms. Mitchell if Mr. Lavery had contacted her to

discuss postponing the prehearing conference. Ms. Mitchell indicated that she had not had any contact with Mr. Lavery.

The order of notice sent to the appellant advised him that, "Except for good cause shown, failure of an appellant to appear as scheduled shall result in dismissal of the appeal." The Chair, with the concurrence of the other two commissioners, advised Ms. Mitchell that the Board would allow the appellant ten days in which to show good cause for his failure to appear. Otherwise, within ten days of the date of the Board's order, the appeal would be dismissed for lack of prosecution.

Mr. Lavery shall have ten days in which to submit a written explanation, showing good cause for his failure to appear for the scheduled prehearing conference. A copy of that response shall be submitted simultaneously to Ms. Mitchell at the address below. If the Board does not receive a written response from Mr. Lavery on or before June 9, 2008, the appeal will be considered dismissed and the file will be closed.

FOR THE PERSONNEL APPEALS BOARD



MARY ANN STEELE, SPHR

Executive Secretary to the NH Personnel Appeals Board

cc: Steven Lavery, 240 Huse Rd., Manchester, NH 03103

Karen D. Hutchins, Director, Division of Personnel, 25 Capitol St., Concord NH
03301

Lynne S. Mitchell, Attorney, Department of Health and Human Services, 29 Pleasant
St., Concord, NH 03301

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June 23, 2008

Mr. Steven Lavery
240 Huse Road
Manchester, NH 03103

Re: Appeal of Steven Lavery, Docket #2008-T-007

Dear Mr. Lavery:

On May 29, 2008, the New Hampshire Personnel Appeals Board issued a "show cause" order, notifying you that you had ten days in which to submit a written response explaining why you failed to appear for a scheduled prehearing conference on May 14, 2008 (copy attached). You were advised that if you did not respond to the Board's order by June 9, 2008, your appeal would be dismissed for lack of prosecution and your file would be closed.

Having received no response from you, I am writing to advise that your file has been closed and your appeal has been marked as "dismissed."

FOR THE PERSONNEL APPEALS BOARD

A handwritten signature in cursive script that reads "Mary Ann Steele".

MARY ANN STEELE, SPHR
Executive Secretary to the NH Personnel Appeals Board

cc: Karen Hutchins, Director, Division of Personnel, 25 Capitol St., Concord NH 03301
Lynne S. Mitchell, Attorney, Department of Health and Human Services, 29 Pleasant St., Concord, NH 03301