

State of New Hampshire

PERSONNEL APPEALS BOARD
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APPEAL OF SUSAN LITTLEFIELD

FEBRUARY 19, 1988

On January 12, 1988, the Personnel Appeals Board, Commissioners Cushman and Platt sitting, heard the appeal of Susan Littlefield, a former employee of the Department of Safety, Division of Motor Vehicles. Ms. Littlefield had been discharged from her employment with the Division of Motor Vehicles on August 27, 1987, for allegedly allowing her son to enter the Department of Safety building after hours after having been informed not to do so. Ms. Littlefield was represented by Attorney Robert Woodward. Attorney Robert Dunn represented the Department of Safety.

As grounds for her appeal, Ms. Littlefield alleged that she had not allowed her son to come into the building after hours, as she was not responsible for operating the security system controlling the door. She further contended that she had not been given any warning prior to her discharge for allowing her son to come into the building after hours after having been instructed not to do so.

After considering all of the evidence presented, the Board made the following findings and rulings. On August 26, 1987, Susan Littlefield, a permanent employee of the Department of Safety, was working her regularly assigned 4-11 shift. During that shift, she was notified by intercom that someone was waiting at the door of the building to see her. She knew her son, Bucky, was coming to pick up her car keys, so she went downstairs to give him the keys. While both were outside, Bucky also asked his mother for some money. She rang the buzzer for access back into the building and Bucky came in with her, at which time Bucky told his mother he wanted to talk to her. Ms. Littlefield said she wanted to finish her break and have a cigarette. Bucky then accompanied his mother to the lobby near the back door of the building. Bucky, then said he saw a former co-worker¹ with whom he began chatting.

It was in this area that Trooper Hurley, the individual in charge of the building security on that shift, found Bucky. Trooper Hurley became angry, and ordered Bucky to leave the building. Trooper Hurley then proceeded to complete a security check in the compound near the cleaning area and returned to discuss with Ms. Littlefield Bucky's presence in the building. Trooper Hurley and Ms. Littlefield then had a brief, heated discussion with Trooper Hurley then leaving the area.

In her testimony, Ms. Littlefield admitted that she been previously instructed by both her supervisor, Mr. Newland, and by Trooper Hurley that her son was not to be allowed into the building. She contended that she had not actually let him into the building, that access was permitted by the individual controlling the front door. The Board found, however, that Bucky came to the building to see his mother, that she allowed him to come in with her and that she had allowed him to accompany her to another part of the building so she could finish her break and have a cigarette. Bucky remained in this back area chatting with a former co-worker while his mother was on break.

Ms. Littlefield also contended that other individuals permitted access to the building by non-employees and further that she should have received a formal warning prior to her discharge for allowing Bucky into the building after having been instructed not to do so. The Board did not find the examples of other individuals permitting access to the building relevant, particularly where no testimony was presented that those individuals had been specifically instructed not to. Finally, the Board concluded that Ms. Littlefield's discharge was justified, as she had been instructed by two individuals, both her supervisor and the individual in charge of building security, not to allow her son access to the building after hours; and that Ms. Littlefield had received clear instructions that her son was not permitted access, but that she ignored those instructions. Therefore, the Board found Ms. Littlefield's discharge was justified.

For the foregoing reason, the Board voted to uphold the action of the Department of Safety in discharging Ms. Littlefield from employment.

The Board ruled as follows on the Appellant's Requests for Findings of Fact and Rulings of Law.

Paragraph 1: Granted

Paragraph 2: Granted in part. The Board, noted that Ms. Littlefield had received two oral warnings for other offenses during the two years prior to her discharge.

Paragraph 4: First sentence granted. Second and third sentence denied to extent they indicate Bucky remained in lobby area. Fourth sentence granted, with the word "an" deleted.

Paragraph 5: First sentence granted. Remainder of paragraph denied.

Paragraph 6: First, second, third sentences granted. Fourth sentence denied.

Paragraph 7: Granted.

Paragraph 8: First sentence granted to extent applicable to this incident. Second sentence denied. Third sentence granted.

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Paragraph 9: Denied. The letter of termination sets forth the entire incident as the cause of termination.

Rulings of Law:

Paragraph 1: Granted

Paragraph 2,3,4: Denied

¹ Bucky had been previously employed for 4 months by the cleaning service responsible for cleaning the Department of Safety building until he was fired.

FOR THE PERSONNEL APPEALS BOARD



MARY ANN STEELE

Executive Secretary

Robert V. Woodward, Esquire
Attorney at Law
Robert E. Dunn, Jr., Esquire
Office of the Attorney General - Civil Bureau
Edwin J. Goodrich, Personnel Officer
Department of Safety
Richard M. Flynn
Commissioner of Motor Vehicles
Virginia A. Vogel
Director of Personnel

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88-T-106

APPEAL OF SUSAN LITTLEFIELD

May 17, 1988

The Personnel Appeals Board, Commissioners Cushman and Platt sitting, reviewed the Motion for Rehearing filed by the appellant on March 8, 1988, in the termination appeal of Susan Littlefield. The Motion presents three issues as grounds for rehearing, which this opinion will address in the order in which they appear in the Motion.

The appellant first asserts that only two members of the Board heard her appeal thereby "denying her the opportunity to have the full Board hear her appeal." The appellant, however, did not raise this issue at the time of the hearing, nor object to the hearing going forward. Moreover, RSA 21-I:46, II provides, "Two members of the board shall constitute a quorum." (Supp. 1987)

The appellant next contends that the Board erroneously failed to grant the second sentence of paragraph 8 of the appellant's Request for Findings of Fact and Rulings of Law. Upon review of the language contained therein, the Board found no reason to grant a rehearing. The Board was not convinced by the evidence presented at the hearing that the appellant satisfied her burden of proof in establishing the existence of all aspects of the negative contained in that sentence.

Finally, the appellant argues that the seriousness of her offense did not support her discharge prior to receipt of a written warning. This argument, which the appellant addressed at the hearing, was considered by the Board and, for reasons cited in its opinion, rejected. No new grounds for this argument are presented in the Motion for Rehearing and the Board upholds the appellant's discharge.

For the foregoing reasons, the Motion for Rehearing is hereby denied.

FOR THE PERSONNEL APPEALS BOARD

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

MARY ANN STEELE
Executive Secretary

cc: Robert P. Woodward, Esquire
Robert E. Dunn, Jr., Esquire
Virginia Vogel, Director of Personnel
Edwin Goodrich, Human Resource Coordinator

MAILING DATE - 5/18/88