

State of New Hampshire



PERSONNEL APPEALS BOARD

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

APPEAL OF KENNETH ROTHWELL

April 3, 1989

On November 22, 1988, the Personnel Appeals Board, Commissioners Cushman, Brickett and Platt sitting, reviewed the Motion to Reconsider filed in the above-captioned matter. After reviewing the record, the Board voted to deny the Motion to Reconsider.

In so doing, the Board found that it was not required to grant a Motion to Continue if no objection was made by other parties. The Board further found that appellants have an obligation to keep the Board or their representative before the Board informed of current addresses. In this case, the appellant's representative told the Board at the hearing that the SEA had been unable to contact the appellant for some time. The Board informed the parties at the hearing that the case would be dismissed without prejudice for 10 days and the SEA would be given that period of time within which to file appropriate pleadings if Mr. Rothwell could be found, failing which, the case would be dismissed with prejudice.¹ The appellant's representative did not indicate that he wished to proceed with the hearing in the absence of his client.

For the foregoing reasons as well as those set forth in the Board's October 14, 1988 decision, the Board voted to deny the Motion to Reconsider.

¹ Given this decision, the Board did not review the case on the merits. See Per-A 202.04

FOR THE PERSONNEL APPEALS BOARD

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

MARY ANN STEELE
Executive Secretary

cc: Shawn J. Sullivan, Legal Intern
State Employees Association
Michael C. Reynolds, SEA General Counsel
Martha Pyle Farrell, Attorney
Civil Bureau - Office of the Attorney General
Lisa Currier, Human Resource Coordinator
Laconia Developmental Services
Virginia A. Vogel, Director of Personnel

State of New Hampshire

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Gerald Allard
Loretta Platt



EXECUTIVE SECRETARY
Mary Ann Steele

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APPEAL OF KENNETH ROTHWELL LACONIA DEVELOPMENTAL SERVICES

October 14, 1988

On Tuesday, September 27, 1988, the Personnel Appeals Board, consisting of Commissioners Cushman and Platt, convened to hear the appeal of Kenneth Rothwell, formerly a permanent employee of Laconia Developmental Services. The appellant had been discharged effective June 30, 1988 upon receipt of a third letter of warning for abuse of "unrequested annual" leave.

By order of notice dated September 13, 1988, the parties were notified of the scheduled date and time of hearing. Representing the appellant was the State Employees' Association. Attorney Martha Pyle Farrell of the Attorney General's Office represented Laconia Developmental Services.

By letter dated September 23, 1988, Legal Intern Shawn J. Sullivan of the State Employees' Association, on behalf of the appellant, filed a Motion to Continue, stating that the State Employees' Association "forwarded copies of the 9/13/88 hearing notice to Mr. Rothwell and have made numerous attempts to contact him within the past few weeks. However, we have not heard from him and do not know if he has been notified of his 9/27/88 hearing. Since we have received no returns from the correspondence sent by Certified Mail, it is likely that he has not received any of our letters." Mr. Sullivan then requested that the hearing on the merits "be continued until Mr. Rothwell can be notified of the status of his appeal.."

Upon inquiry from the Board regarding the attempts to contact the appellant, Mr. Sullivan indicated that three letters to the appellant had been returned and marked "addressee unknown." Two other letters were forwarded by the SEA to the appellant at his last known address via certified mail. Mr. Sullivan informed the Board that there had been no attempt by the appellant to contact his representative.

The Board voted unanimously to dismiss the appeal without prejudice and to allow the State Employees' Association ten calendar days in which to locate the appellant and to refile the appeal. The Board further voted that appellant's failure to contact the Board by the close of business on Friday, October 7, 1988, would result in dismissal with prejudice of Mr. Rothwell's termination appeal.

At its meeting of October 12, 1988, the Personnel Appeals Board, Commissioners Cushman and Platt sitting, noted that no correspondence had been received from the State Employees' Association or the appellant by the October 7, 1988 deadline, nor had the Board received notification on intent to pursue the appeal by the date of the October 12, 1988 hearing.

Kenneth Rothwell
Page 2
October 14, 1988

Therefore, the Board voted unanimously to dismiss with prejudice the appeal of Kenneth Rothwell.

FOR THE PERSONNEL APPEALS BOARD

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

MARY ANN STEELE, Executive Secretary

cc: Lisa A. Currier
Laconia Developmental services
Michael C. Reynolds, SEA
Janice DeAngelis, Facility Administrator
Laconia Developmental Services