

State of New Hampshire



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

APPEAL OF DENISE BAILAT

Department of Regional Community Colleges

Docket #97-D-1

December 12, 1996

The New Hampshire Personnel Appeals Board (Miller, Johnson and Rule) met Wednesday, October 23, 1996, under the authority of RSA 21-I:58, to hear the appeal of Denise Bailat. Ms. Bailat, whose appeal was filed *pro se*, had appealed a suspension with pay and a follow-up notice of counseling which she received after an investigation into allegations that she had threatened and/or intimidated a co-worker. Sara Sawyer, Human Resources Administrator for the Department of Regional Community Colleges, appeared on behalf of the State. Neither Ms. Bailat nor any person representing Ms. Bailat appeared on the appellant's behalf.

Ms. Sawyer submitted to the Board a Motion to Dismiss. Ms. Sawyer asserted that on October 22, 1996, one day before the scheduled hearing, Ms. Bailat had sent a facsimile transmission dated October 21, 1996, to the Board requesting that the Board reschedule the hearing. Ms. Sawyer argued that the request should be denied and the appeal dismissed for the following reasons:

1. Per-A 206.02 (c) of the Rules of the Personnel Appeals Board states, "Copies of all papers filed by any party shall, at or before the time of filing, be served by a party or person acting for him on all other parties to the case. Service on a party represented by another shall be made on such representative." Ms. Bailat failed to serve a copy of her request to postpone on the agency, thereby violating Per-A 206.02 (c) of the Board's rules.
2. Per-A 204.01 (d) of the Rules of the Personnel Appeals Board requires that, "All motions to continue any scheduled hearing shall state that concurrence in the motion has been sought from the opposing party and whether the opposing party objects, consents or takes no

from the opposing party and whether the opposing party objects, consents or takes no position on the motion. If the movant is unable to contact the opposing party, the motion shall state in detail all attempts that were made to contact the opposing party." Ms. Bailat failed to seek concurrence from the opposing party.

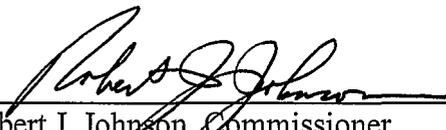
3. The Board's September 24, 1996 notice of scheduling informed the parties that requests to postpone or continue would only be considered for the most exceptional circumstances and that untimely requests for continuance would be denied.. Ms. Bailat's request stated that she was in a training program from 10/15/96 to 2/21/97 and would be unable to attend a hearing until after the program had concluded. If the appellant was aware on October 15, 1996, that she would be unable to attend the hearing, she failed to offer any reasonable explanation for waiting until the day before the scheduled hearing to request a continuance.

The Board voted to grant the State's Motion to Dismiss, finding that the appellant failed to make a timely request to postpone her hearing, and failed to appear as scheduled.

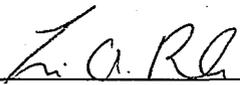
THE NEW HAMPSHIRE PERSONNEL APPEALS BOARD



Lawrence H. Miller, Chairman



Robert J. Johnson, Commissioner



Lisa A. Rule, Commissioner

cc: Virginia A. Lamberton, Director of Personnel
Denise Bailat, Appellant
Sara Sawyer, H.R. Administrator