

State of New Hampshire



PERSONNEL APPEALS BOARD

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APPEAL OF JADE TOBINE

Docket #97-D-2

New Hampshire Hospital

March 13, 1997

The New Hampshire Personnel Appeals Board (Miller, Bennett and Barry) met Wednesday, January 8, 1997, under the authority of RSA 21-I:58, to hear the appeal of Jade Tobine, an employee of New Hampshire Hospital. Mr. Tobine, who was represented at the hearing by SEA Field Representative Margo Steeves, was appealing a February 22, 1996, second letter of warning, revised and reissued May 8, 1996, for failure to meet the work standard and failing to complete his assignments within the time allotted for their completion. Marie Lang, Human Resources Administrator, appeared on behalf of New Hampshire Hospital. The appeal was made on offers of proof. The record in this matter consists of the audio tape of the hearing, documents submitted by the parties prior to the hearing and argument and offers of proof made by the parties at the hearing.

New Hampshire Hospital argued that on January 9, 1995, Mr. Tobine received a first written warning for poor work performance, and that since that date, there had been no improvement in his work. Donna Genest, Supervisor of Environmental Services, who issued the warning wrote that while conducting a tour of his work area on January 15, 1996, she had observed that he had left his equipment unattended, and failed to complete his daily assignments by failing to wash the floors in patient rooms. She also wrote that on January 17, 1996, he again failed to complete his assignments by not cleaning the corners and edges in the day area. She wrote that on January 25, 1996, he again failed to complete his assignments by not completing cleaning of the day area and patient rooms. Ms. Genest wrote that on January 30, 1996, she had met with him to discuss a letter of complaint from one of the Mental Health Workers alleging that he had needed to remind the appellant several

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times to work instead of socializing with patients and staff. She also noted a verbal altercation with a Certified Nursing Assistant in Thayer building, and a report that he had failed to properly mop the floors on February 21, 1996.

Ms. Steeves argued that Mr. Tobine did not appeal the first written warning. She argued that he took the corrective action required of him, and had improved his performance. She argued that he had never been denied an annual salary increment and had been promoted three times, most recently to the position of a full-time 3rd shift Certified Nursing Assistant.

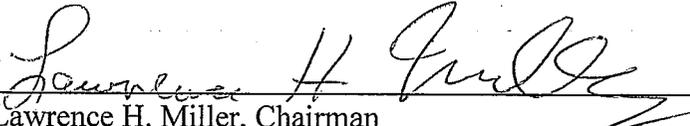
Ms. Steeves argued that the imposition of additional duties, shortage of supplies and shortage of staff had sometimes hindered Mr. Tobine in the timely completion of his assigned tasks. She argued that when a new management team had taken over, they began cross-training, often requiring individuals to work assignments with which they were unfamiliar. Ms. Steeves also argued that Mr. Tobine did not leave his cart unattended, although he had left it in the hallway when he assisted a co-worker who was on light duty move some furniture. She argued that when that incident occurred, all the patients were in bed and therefore were not at risk because of cleaning supplies in the hallway.

Ms. Steeves argued that before a hiring freeze was imposed at the hospital, Mr. Tobine had been responsible for cleaning three large rooms. As his assignments changed, he was required to clean smaller rooms but was not provided the proper equipment, including a smaller broom. She also argued that Mr. Tobine's failure to clean the day room a second time in one instance was because the room was occupied at the time. Finally, Ms. Steeves argued that contrary to the Hospital's assertion, Mr. Tobine did make his supervisors aware of difficulties he was having by asking for additional help. Ms. Steeves argued that there had been consistent improvement, and that a second warning was not justified.

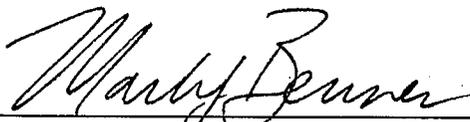
The Board found that staffing shortages and the imposition of additional assignments, as well as the interruptions caused by cross-training, were the likely cause of his failure to complete his assignments on schedule. The Board noted that Mr. Tobine has received regular salary increments,

and also was promoted after the letter was issued. It appears that Mr. Tobine has taken sufficient corrective measures to warrant the agency having some confidence in his ability to properly perform his required duties. Therefore, in consideration of the evidence, arguments and offers of proof, the Board voted unanimously to grant Mr. Tobine's appeal

THE PERSONNEL APPEALS BOARD



Lawrence H. Miller, Chairman



Mark J. Bennett, Commissioner



James J. Barry, Commissioner

cc: Virginia A. Lamberton, Director of Personnel
Marie Lang, Human Resources Administrator, New Hampshire Hospital
Margo Steeves, SEA Field Representative
