

State of New Hampshire



PERSONNEL APPEALS BOARD

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

APPEAL OF **THOMAS** BLACK
New Hampshire Port Authority
Docket #89-T-30

February 1, 1990

The New Hampshire Personnel Appeals Board (McNicholas, Cushman and Johnson) met on Wednesday, January 10, 1990, to review the appeal of Thomas R. Black, a former employee of the New Hampshire Port Authority. Mr. Black, by letter dated November 28, 1989, received by the Board on November 30, 1989, requested a hearing before the Board to appeal his termination from employment. Mr. Black's notice of appeal gave no indication that a copy had been forwarded to the appointing authority.

By letter dated December 4, 1989 from the Board, the appellant and the appointing authority were notified that the matter had been assigned docket #89-T-30, and that the parties would receive written notification of a scheduled hearing date if the Board decided to accept the appeal.

On December 6, 1989, Port Director Ernest Connor filed with the Board a request that Mr. Black's appeal be dismissed for failure to timely file and for failure to provide notice to the appointing authority of his appeal. Attached to his request was a copy of the November 6, 1989 letter of termination issued to Thomas Black, signed by Director Connor, with the notation that it had been served in hand by Thomas Orfe, Chief. Also attached was a statement by Thomas Orfe, Chief Harbormaster, dated December 6, 1989, concerning the manner in which Mr. Black had been notified of his discharge, and apprised of his rights to appeal. The November 6th letter of termination stated, in pertinent part,

"In accordance with Per 308.04 of the Rules of the Division of Personnel, you have fifteen calendar days in which to appeal this termination to the New Hampshire Personnel Appeals Board, State House, Concord, New Hampshire".

Mr. Black wrote to the Board again on December 12, 1989, objecting to the Port Authority's request, arguing that the Port Authority sought to deny the "legitimacy" of his appeal. The Board noted that appellant did not address the issue of timely filing or failure to provide timely notice of his appeal to the Port Authority.

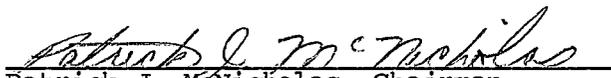
By letter dated December 29, 1989, received by the Board on January 3, 1990, Mr. Black forwarded a copy of a certified mail receipt, noting that he had forwarded a copy of correspondence between himself and the Board to the Port Authority, as he had been verbally directed by the Board's executive secretary. Again, Appellant made no reference to the timeliness of his appeal.

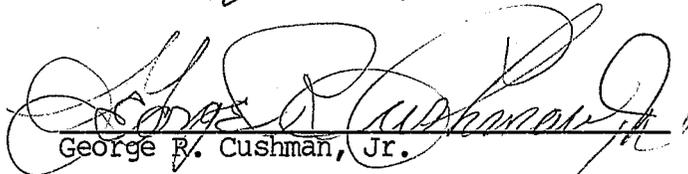
On January 8, 1990, Port Authority Director Connor hand delivered to the Board a second request that Mr. Black's appeal be dismissed under the provisions of Per 308.04 and Per-A 206.02.

Upon review of the record before it, in light of the relevant statutes and administrative rules, the Board found that Mr. Black's letter of appeal should have been received by the Board not later than November 21, 1989 to be considered timely filed. [See RSA 21-I:58 I., Per 308.04, and Per-A 202.01(a)]. Appellant's letter of appeal was dated seven days after the deadline established by statute and administrative rule, and was received by the Board nine days after such deadline.

Based upon the foregoing, the Board voted unanimously to dismiss the appeal of Thomas R. Black pursuant to the provisions of Per-A 206.03.

THE PERSONNEL APPEALS BOARD


Patrick J. McNicholas, Chairman


George R. Cushman, Jr.


Robert J. Johnson (mas)

cc: Thomas Black
121 Bow Street
Portsmouth, New Hampshire 03801

Ernest Connor, Director, New Hampshire Port Authority

Virginia A. Vogel, Director of Personnel

David S. Peck, Esq., Assistant Attorney General