

State of New Hampshire



PERSONNEL APPEALS BOARD

25 Capitol Street

Concord, New Hampshire 03301

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Appeal of Robert Carr – Docket #2010-T-010

Department of Transportation

January 5, 2011

The New Hampshire Personnel Appeals Board (Wood, Bonafide, Johnson and Casey) met in public session on Wednesday, December 15, 2010, for a final prehearing conference in the appeal of Robert Carr. Attorney John Vinson appeared on behalf of the Department of Transportation. Neither Mr. Carr nor anyone representing Mr. Carr appeared for the prehearing conference as scheduled.

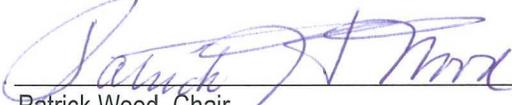
The Appellant, a former employee of the Department of Transportation, was appealing his January 20, 2010, removal for non-disciplinary reasons based upon the agency's determination that he had a physical or mental condition that created a direct threat or hazard for him and his co-workers, which could not be eliminated except by removing him from employment, and that his presence in the workplace, because of his medical condition, would be deleterious to his health. The Board has scheduled a series of prehearing conferences, including May 5, 2010, September 1, 2010, and October 28, 2010, in an effort to schedule this matter for a hearing on the merits of the appeal. At the last prehearing conference, the Board and the parties agreed to schedule one final prehearing conference in order to determine how to proceed with this appeal, as the Appellant had not yet provided the medical assessment he had agreed to provide.

On November 3, 2010, Attorney Vinson filed with the Board a Motion to Dismiss, setting forth the Department's position that throughout the prehearing process, the Appellant had not alleged facts that would entitle him to any relief, and the Appellant had refused to provide any medical assessment that would contradict the assessment performed prior to the Appellant's initial removal for non-disciplinary reasons. Attorney Vinson argued that the Appellant had not provided any response or objection to the Department's Motion. Attorney Vinson said that the Appellant had not contacted him at all since the October 28, 2010, prehearing conference. Attorney Vinson also said that he had been following Mr. Carr on "Facebook," noting that Mr. Carr had posted entries in the preceding 30 days.

The Board's executive secretary confirmed that she had not heard from Mr. Carr at any time after the October 28, 2010, prehearing conference, and had received no correspondence from the Appellant or from anyone representing the Appellant.

Commissioner Bonafide moved to grant the State's Motion to Dismiss, as it was unobjected to. Commissioner Johnson seconded the motion. The Board then voted unanimously to DISMISS the Appeal of Robert Carr.

FOR THE PERSONNEL APPEALS BOARD



Patrick Wood, Chair

cc: Karen Hutchins, Director of Personnel, 25 Capitol St., Concord, NH 03301
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