

# State of New Hampshire



## PERSONNEL APPEALS BOARD

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

### APPEAL OF DAVID NORMAND

January 27, 1989

On October 12, 1988, the Personnel Appeals Board, Commissioners Cushman and Platt sitting, heard the appeal of David Normand, formerly a Stock Clerk II at the Veterans' Home. Mr. Normand was discharged from employment on September 30, 1987, during his probationary period for failing to meet the work standard. Mr. Normand was represented by SEA General Counsel Michael Reynolds. Kenneth Tarr, Commandant, represented the Veterans' Home (hereinafter "the State").

As grounds for his appeal, Mr. Normand alleged that he was meeting any applicable work standard and that he did not receive a written statement of the reasons for his discharge. The State filed its response to the appellant's allegations on January 19, 1988.

After reviewing the evidence presented, the Board made the following findings of fact and rulings of law. Mr. Normand was hired on August 14, 1987 as a Stock Clerk II. He took the examination for Stock Clerk II after beginning employment and did not receive a passing score. Mr. Tarr then went to Concord to obtain materials for Mr. Normand to study in preparation for taking the test a second time.<sup>1</sup>

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<sup>1</sup> The Board concluded from the evidence presented that Mr. Normand's employment as a Stock Clerk II was a provisional appointment, requiring that he pass the examination for Stock Clerk II in order to remain in his position for longer than 6 months. See Per 302.01 (a).

When hired, Mr. Normand reviewed his duties with his interim immediate supervisor, Florence Rivers. He also worked daily for 2 weeks with 'another individual as orientation. Among Mr. Normand's duties were to order supplies, stock shelves and keep the food areas clean. Mr. Normand admitted that he had made errors in ordering food for the Veterans' Home, so that when the appropriate amount of food was not delivered, the Home was forced to substitute other items. He had also been in for med that cleaning the freezer was one of his duties and was advised to be more careful after his supervisor found that he had not done so.<sup>2</sup>

Based on the foregoing, the Board found that Mr. Normand's performance of his duties did not meet the work standard. In the approximately four and one half months after the completion of his orientation, Mr. Normand by his own account made errors in ordering meats twice and fruit once. He was also asked on at least one occasion to clean the freezer after he was found to have not performed that duty. The Board found that the position of Stock Clerk II required careful ordering of foods and supplies to avoid last minute substitutions on menus prepared by dietitians and to avoid emergency purchases of supplies. Keeping the areas of food preparation and storage clean was also an important function. Mr. Normand failed to perform these job responsibilities carefully and accurately.

Although Mr. Normand did not receive a written letter stating the reasons for his discharge, he had been advised of the errors and omissions in his job performance as they occurred. Indeed, the Board based many of its findings on Mr. Normand's testimony. The Board found that Mr. Normand was aware of his job performance deficiencies prior to being discharged.

Given the job performance of Mr. Normand, the Board found that the State's actions were not arbitrary, capricious, illegal, or made in bad faith. The Board therefore voted to deny the appeal.

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<sup>2</sup> Although the State also alleged that Mr. Normand had spent an excessive amount of time decorating a Christmas tree, the Board found that Mr. Normand had not been asked to stop working on the tree, nor had he been advised that such actions were inappropriate. The Board therefore did not consider this allegation in reaching its conclusion.

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January 27, 1989  
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FOR THE PERSONNEL APPEALS BOARD



MARY ANN STEELE  
Executive Secretary

cc: Michael C. Reynolds  
SEA General Counsel

Kenneth M. Tarr, Commandant  
N.H. Veterans' Home

Virginia A. Vogel  
Director of Personnel

# State of New Hampshire

PERSONNEL APPEALS BOARD

Edward J. Haseltine, Chairman  
Gerald Allard  
Loretta Platt



EXECUTIVE SECRETARY  
Mary Ann Steele

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### APPEAL OF DAVID NORMAND

June 15, 1988

By letter dated January 13, 1988, David Normand, through his representative Michael C. Reynolds, SEA General Counsel, appealed his December 30, 1987 termination from employment as a Stock Clerk II at the New Hampshire Veterans' Home. The appellant was a probationary employee at the time of his termination.

Per A-207.02 (a) of the Rules of the Personnel Appeals Board states, "The appeal shall allege facts sufficient on their face to establish that the appointing authority improperly dismissed the probationary employee under the applicable standard" (Emphasis added). Further, Per-A-207.02 (b) states, "Allegations that the employee does not know why he was dismissed or that he believes the appointing authority acted improperly are insufficient to comply with the above requirement."

The appellant alleges that the "employer has refused to put anything into writing regarding this termination" and he therefore is in the position of "not knowing what, if anything, the employer was basing the termination upon." Further, the appellant "believes that for personal reasons an employee at the Veterans' Home may have made statements against him."

By letter dated January 19, 1988, Kenneth M. Tarr, Commandant at the Veterans' Home, filed a request that the appeal be denied as a frivolous appeal. Commandant Tarr explained the circumstances surrounding the termination. Appeals Board records indicate that Commandant Tarr forwarded a copy of that correspondence to the appellant's representative.

At its meeting of June 14, 1988, the Board reviewed the correspondence submitted by both the appellant and the agency and found that the appellant's request fails to meet the standards for appeal by a probationary employee defined in Per-A-207.02 of the Rules of the Personnel Appeals Board. The Board voted to allow the appellant ten days from the date of this notice to show cause why the appeal should not be dismissed pursuant to the provisions of Per-A 207.04 (d) and (e) of the Rules of the Personnel Appeals Board.

FOR THE PERSONNEL APPEALS BOARD

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

MARY ANN STEELE  
Executive Secretary

cc: Kenneth Tarr, Commandant  
NH Veteran's Home  
Virginia A. Vogel  
Director of Personnel  
Michael C. Reynolds, SEA General Counsel