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THE DISTRICT OF COLUMBIA
BEFORE
THE OFFICE OF EMPLOYEE APPEALS

_____)	
In the Matter of:)	
)	
EMPLOYEE,)	
Employee)	OEA Matter No. 1601-0005-23
)	
v.)	Date of Issuance: April 8, 2025
)	
DISTRICT OF COLUMBIA)	
OFFICE OF UNIFIED)	
COMMUNICATIONS,)	
Agency)	ERIC T. ROBINSON, ESQ.
)	SENIOR ADMINISTRATIVE JUDGE
_____)	
Carisa B. Carmack, Esq., Employee Representative)	
Stephen F. Milak, Esq., Agency Representative)	

INITIAL DECISION

PROCEDURAL HISTORY

On October 21, 2022, Employee filed a Petition for Appeal with the Office of Employee Appeals (“OEA” or the “Office”) contesting the District of Columbia Office of Unified Communications (“OUC” or the “Agency”) action of removing her from service. Employee’s last position of record with the OUC was Telecommunication Equipment Operator (“TEO”). The effective date of her termination was September 30, 2022. On October 21, 2022, the Executive Director of the OEA sent a letter to the Acting Director of the OUC requiring it to provide an Answer to Employee’s Petition for Appeal by November 20, 2022. The OUC General Counsel sent an email to the OEA Executive Director requesting additional time in which to file its Answer. On December 5, 2022, the OEA Executive Director, via email, granted OUC’s request for additional time to file its Answer. OUC submitted its Answer on December 23, 2022. Thereafter, on January 10, 2023, this matter was assigned to the Undersigned Senior Administrative Judge. On January 19, 2023, an Order Convening a Prehearing/Status Conference was issued requiring the parties to appear, via WebEx, for a Prehearing/Status Conference on February 23, 2023. On February 15 and 16, 2023, both parties submitted a request for an extension of time for different reasons. The Prehearing/Status Conference was rescheduled for April 27, 2023. After this conference, the Undersigned issued an Order that same day wherein the parties were given additional leave to

conduct discovery; file updated prehearing statements; and instructed to appear for a Status Conference on June 8, 2023. Due to various concerns surrounding the poor health of the parties, press of business and coordinating the schedule of witnesses, the evidentiary hearing was not held until May 6, 2024. On May 20, 2024, the Undersigned issued an Order requiring the parties to submit their written closing arguments with a deadline of July 8, 2024. Both parties timely complied with that Order. After reviewing the record, the Undersigned has determined that no further proceedings are warranted. The record is now closed.

JURISDICTION

The Office has jurisdiction in this matter pursuant to D.C. Official Code § 1-606.03 (2001).

ISSUES

1. Whether the Agency's adverse action was taken for cause.
2. If so, whether the penalty was appropriate under the circumstances.

BURDEN OF PROOF

OEA Rule 631.1, 6-B DCMR Ch. 600 (December 27, 2021) states:

The burden of proof for material issues of fact shall be by a preponderance of the evidence. "Preponderance of the evidence" shall mean:

That degree of relevant evidence which a reasonable mind, considering the record as a whole, would accept as sufficient to find a contested fact more probably true than untrue.

OEA Rule 631.2 id. States:

For appeals filed under §604.1, the employee shall have the burden of proof as to issues of jurisdiction, including timeliness of filing. The agency shall have the burden of proof as to all other issues.

SUMMARY OF RELEVANT TESTIMONY

Agency Case-in-Chief

Calvin Vincent Williams, Jr. ("Williams") Transcript ("Tr.") pp. 18 – 117

Williams testified in relevant part that at the time of the Evidentiary Hearing his tenure with the OUC (or MPD) spanned approximately 30 years. His current job title is Operations Manager. Just prior to this, he was a Watch Commander. Presently, his duties include making sure that the Watch Commanders under his purview have the resources necessary to perform their

duties.¹ He elaborated that for each shift, the TEO team size is approximately 17 subordinates. Williams noted that his team must operate efficiently during what could be tense circumstances while obtaining the information necessary to alert and allocate the appropriate emergency resources.² The following excerpt is from Williams' testimony:

Q: What was [Employee's] position with OUC?

A: A telephone equipment operator.

Q: And as a telephone equipment operator, what are their typical duties and responsibilities?

A: Their typical duties and responsibility is to answer the phones, to retrieve pertinent information, to remain professional and courteous at all time... Try to keep the caller, or any individuals, calm as possible while obtaining the information and sending it to the radio zone to be dispatched...

Q: Prior to beginning employment, does a TEO, do they undergo any training?

A: Anybody that's hired for the D.C. government as a telephone equipment operator has to go through training.

Q: Okay. Can you describe what some of that training consists of?

A: Well, the training consists of ... instructional training is first. So in the instructional training, they learn the rules and regulations, policies and procedures. And then once they complete that, then they do the on-chairside training, which they sit side by side with someone who's certified to take -- a certified training officer. Once they do the -- finish completing the certified training officer, chairside, then they are released -- it's considered on-the-job training, and then they're released to the operation floor independently.³

Williams further noted that all TEO's received OUC's standard operating procedures with updates as they became available.⁴ Williams went on to explain that the Criteria Based Dispatch system ("CBD") is a guideline that OUC utilizes to ensure that all pertinent information is being captured so that the correct protocol is being used for efficient and effective emergency resource allocation.⁵ OUC has outfitted its emergency call intake team with multiple tools for ascertaining the pertinent information needed when they have received a service call including Smart911 and RapidSOS. Both tools are designed to streamline the intake request and response that TEO's must

¹ Tr. pp. 19 – 21.

² Tr. pp. 21 -22.

³ Pr. pp. 22 – 24.

⁴ See generally, Tr. pp 26 – 29. See also, Joint Exhibits No 14, 15 & 16.

⁵ Tr. pp. 29 – 31.

manage. Regarding OUC's guidelines, TEO's are required to have calm, courteous and professional dialogue and demeanor at all times with the people seeking emergency services.

Regarding the May 10, 2022, incident, Williams testified regarding Joint Exhibit No. 5, which was a recording of a dialogue that Employee had with a person seeking emergency services. Williams pointed out that Employee mishandled this call for help by not asking about the location of the fire within the dwelling and trying to ascertain whether there were other people present/trapped, her voice seemed agitated, she did not provide appropriate instruction to the caller and then she abruptly hung up on the caller.⁶ Employee failed to follow the script that has been provided that would have (hopefully) allowed her (as TEO) to get all of the information that responding emergency service personnel would need in order to ameliorate the outcome of the District's emergency response. Later, Williams met with Employee in order to debrief regarding this call and to note what went wrong. He recalls that he told her that she mishandled this situation. He recollected that Employee told him that she could have handled the call "more professionally."⁷ Williams explained that Joint Exhibit No. 8, was an email that he authored just after this meeting with Employee and her Union representative that detailed the crux of their conversation.

Regarding the May 27, 2022, incident, OUC introduced Joint Exhibit No. 6, which was another recording of an emergency call handled by Employee. During this interaction, it was apparent that Employee had issues ascertaining the location of the emergency. A person was in distress, drooling and apparently unconscious and the caller was trying to get emergency services to respond. Williams critiqued Employee's call by deriding that she did not use the tools provided to get an accurate address, including Google Maps and RapidSOS. He denoted that with the landmarks that the caller provided, the use of these tools would have provided a more accurate destination for the responding ambulance. Williams also noted that Employee's voice was elevated (not conducive to helping calm the customer) and she terminated the call without providing additional life preserving instruction (coaching CPR to be performed by the caller) and waiting for the responding ambulance to arrive. This was all something that Employee was trained to do and expected to do given this circumstance.⁸ According to Joint Exhibit No. 18, during this call, Employee failed to follow the interview questions that are necessary when routing services for someone who is unconscious/unresponsive. As a result of this interaction, emergency medical services ("EMS") were initially routed to the wrong location resulting in a delay of service.

As a result of the lackluster performance by Employee during these two incidents, Williams proposed that OUC remove Employee from service.⁹ As was previously noted, her demeanor, inability to follow instructions, and failure to carry out her duties all supported her proposed removal for failure/refusal to follow instructions and neglect of duty.¹⁰

On cross examination, Williams acknowledged that from time to time, TEO's were required to work mandatory overtime to address staffing shortages. He also noted that coaching Employee was considered as an option but when he considered that another incident happened in

⁶ Tr. 35 – 39.

⁷ Tr. p. 41.

⁸ Tr. pp. 50 – 53.

⁹ See, Joint Exhibit No. 2.

¹⁰ Tr. 60 – 62.

the recent past, he determined that disciplinary action was necessary. Williams had conducted a coaching session with Employee.¹¹ Williams noted that while Employee was supposed to be constantly apprised and updated with the various OUC process and regulations, he did not have firsthand knowledge that these updates were specifically given to Employee.¹² The following is another excerpt of Williams' testimony:

Q: Okay. And how would one be able to know whether the cross-streets are accurate? Would you be using one of the systems that we've talked about? The ANI/ALI, the RapidSOS?

A: So if -- okay. So if she utilized the RapidSOS or the ANI/ALI information and the caller gave her a different location, then she should have put in the chronology the CAD event that the caller gave her this address. However, the ANI/ALI or RapidSOS is showing that the caller is at another location... That should've been documented on that... event record.¹³

During redirect examination, Williams asserted that he agreed with the charges in the proposed removal notice and considering all of the circumstances involved with this matter, he also agreed with the discipline that was imposed.

Employee Case-in-Chief

Carolyn Marie Morris ("Morris") Tr. pp. 117 – 158

Morris testified in relevant part that she has worked with the OUC since 2002 in various positions. Presently she is a Police Dispatcher, and she is the Vice President of NAGE R3-07 ("the Union"). She was present for the training session that Williams conducted with Employee. During it, she admits that Employee noted that she could have performed better during the incident that they were reviewing.¹⁴ She further admitted that as a representative of the Union she represented Employee through the pre-termination process conducted by the OUC. During her research of this matter, she recalled that on one of the dates in question, the OUC call center was short staffed. However, during, cross-examination, she could not recollect which of those two dates that this occurred. The following excerpt from her recross examination is relevant to this matter:

Q: Okay. Further down and I highlighted it as well, under the same code of conduct, it says: Be courteous and professional in all interactions with the public. You would agree with me that the call that you listened to during the coaching session with Mr. Williams, [Employee's] demeanor on that call was not courteous, and it was not professional, correct?

A: Correct.

¹¹ Tr. pp. 76 – 79.

¹² Tr. pp. 81 – 84.

¹³ Tr. pp. 93 – 94.

¹⁴ Tr. pp. 121 – 122.

Q: Scrolling further down under prohibited acts, 5.2, it reads as follows: The following acts are unacceptable and will result in immediate disciplinary action. And then 5.2.1.7 specifically says: Discourteous treatment of the public, the supervisor, or other employees. I read that correctly, right?

A: Yes.¹⁵

Employee Tr. pp. 159 –250

Employee testified that she was previously employed by the OUC as a TEO. Her tenure as a TEO started in 2019. She recalled working 12 hour shifts usually from 6:00am to 6:00pm. She noted that when she was on duty, she would be in OUC's system as either ready, not ready, bathroom break or lunch status.¹⁶ When receiving an emergency call, it is automatically forwarded to her station by OUC's call taking system. For the May 10 incident, Employee noted that she did not receive a "precise" answer from the caller. During her direct, Employee admitted to disconnecting the call.¹⁷ She explained that in that moment, she was in a rush due to the high number of calls that were in her queue waiting for her to respond.¹⁸ When she reviewed the call with Williams and Morris, it was depicted as a coaching opportunity during which she acknowledged her mistake and seemingly was supposed to learn from it.¹⁹ At the time, Employee thought that the coaching session would be the extent of any corrective or adverse action.

Regarding the May 27 call, it was for a person that was in and out of consciousness. Employee asked the caller several questions to ascertain her exact location for the emergency ambulance response. She did not use the RapidSOS or Smart911 system during this call due to their being occasionally unreliable.²⁰ She could not recall if she alerted IT to a system problem on the date in question. She did recall that the OUC call center was short-staffed on both dates in question.²¹ For this call, she remembered that the caller said the person in distress was conscious. Had she indicated that the person was unconscious/not breathing, then the CBD system would have prompted her to stay on the line and coach the caller to perform CPR until medical assistance arrives. Employee did not realize that the responding ambulances went to the wrong location until she was notified by OUC management.

During cross examination, Employee reiterated that she took responsibility for hanging up on the caller on May 10 and that the tone of her voice was not in line with OUC policy.²² For the May 27 incident, she disagreed with the event chronology that indicated that she said the patient was unconscious. She asserted that the patient was conscious. This designation has a different

¹⁵ Tr. p. 157.

¹⁶ Tr. p. 161.

¹⁷ Tr. p. 163. *See also*, Tr. p. 192 – 194.

¹⁸ Tr. pp. 163 – 164.

¹⁹ Tr. p. 167.

²⁰ Tr. pp. 171 – 173.

²¹ Tr. p. 176.

²² Tr. pp. 192 – 199.

response tree. She admitted that she did not use RapidSOS or Smart911 during this call. She also admitted that this is not in line with OUC TEO procedures. However, she was unsure as to whether OUC policy required her to use these tools in every instance.²³ Employee could not recall whether these tools were malfunctioning (or reported to be malfunctioning) on the date in question.²⁴ Employee acknowledged that the address she initially entered for the May 27 incident was incorrect and medical services were delayed in responding to the situation.²⁵ Employee admitted that she did not tell OUC management that she felt overworked on either May 10 or 27, 2022.²⁶ Further, she admitted that with the May 27 incident, she should have talked directly to the patient if he was actually conscious.²⁷ However, after reviewing a recording of the incident, she was forced to acknowledge that the patient was not conscious.²⁸

FINDINGS OF FACT, ANALYSIS AND CONCLUSIONS OF LAW

The following findings of fact, analysis, and conclusions of law are based on the testimonial and documentary evidence presented by the parties during the course of Employee's appeal process with OEA. On July 28, 2022, Agency issued to Employee a Proposed Separation (Notice),²⁹ citing two causes of action for Failure/Refusal to Follow Instructions (6-B DCMR 1607.2(d)(1))³⁰ and Neglect of Duty (6-B DCMR 1607.2(e))³¹. This proposal stemmed from two incidents that happened in the month of May 2022.

Agency asserts that Employee's errors for the May 10 and May 27 incidents are inexplicable given that she has been thoroughly trained on how to handle these types of situations. Agency further asserts that the position of TEO anticipates that employees will be confronted with stressful situations and that they are required to meet this calamity with a calm demeanor while providing grace to the callers who are seeking varying degrees of emergency services. Employee's job training required Employee to *always* display a high degree of tactfulness and respect in the commencement of her duties. It is specifically contemplated that Employee, in the performance of her duties, would be continually subjected to rude, disrespectful, and bewildered 911 callers. According to the Agency, Employee was trained to rise above those circumstances in order to provide the tactful service that is required of all TEO operators. The Agency further contends that Employee failed to live up to her training during both instances in May 2022.

²³ Tr. pp. 200 – 212.

²⁴ *Id.*

²⁵ *Id.*

²⁶ Tr. pp. 213 – 215.

²⁷ Tr. pp. 224 – 226.

²⁸ Tr. pp. 233 – 239.

²⁹ The original Notice was sent to Employee on July 21, 2022. Employee objected to the assigned Hearing Officer, which OUC replaced and then reissued the Notice.

³⁰ "Failure/Refusal to Follow Instructions: Negligence, including the careless failure to comply with rules, regulations, written procedures, or proper supervisory instructions."

³¹ "Neglect of Duty: Failing to carry out official duties or responsibilities as would be expected of a reasonable individual in the same position; failure to perform assigned tasks or duties; failure to assist the public; undue delay in completing assigned tasks or duties; careless work habits; conducting personal business while on duty; abandoning an assigned post; sleeping or dozing on-duty or loafing while on duty."

To further buttress the legitimacy of its adverse action, the OUC presented the testimony of Williams. He has long-standing tenure with the Agency and was innately familiar with its rules and procedures. Williams testified that Employee was:

1. Rude and discourteous to a member of the public who was seeking service or information from the government (May 10 incident). And that,
2. For the May 27 incident, Employee failed to properly utilize all of the tools at her disposal (CBD, RapidSOS, Smart911, Google Maps) leading to a blown address and substantial delay in routing emergency medical services.
3. She did not follow the appropriate protocol when assessing the services required when she did not provide appropriate instruction to the caller for performing CPR for the May 27 incident but rather she terminated the call.

In making this determination, Williams listened to recordings of the interactions. He then sought to review the continuing errors with Employee in a failed attempt to correct her on-the-job behavior. During the course of the proceedings, I had the opportunity to observe the demeanor, poise, and credibility of Williams. I find his testimony relative to this matter to be credible and persuasive.

Employee asserts that the adverse action should be reversed and maintains that the OUC presented itself with a highly chaotic workplace that led to an unnecessarily stressful environment that contributed to the aforesaid errors in conduct. Employee further contends that some of the equipment that was provided for her was not working properly thereby preventing her from satisfactorily performing her assigned duties. Employee and her Union representative Morris testified on her behalf. Generally, I found their testimony to be inconsistent, unpersuasive and self-serving.

What is particularly illuminating in this matter is that Employee admitted to all of the specifications in this matter and further admitted that she knew that her conduct was not appropriate.³² Employee failed to follow established OUC protocols for both incidents and she was unable to satisfactorily convince the Undersigned that the tools that were available to her (CBD, RapidSOS, Smart911) were in disrepair during these incidents. Moreover, her assertion that she was stressed (and ostensibly in need of medical/psychiatric treatment) was not corroborated by her actions surrounding this time frame. It was confirmed that she did not share this feeling with anyone at the OUC prior to her adverse action.

Notwithstanding her explanation to the contrary, I find that Employee admitted to the salient facts that are the subject of the instant adverse action. The Board of the OEA has previously held that an employee's admission is sufficient to meet Agency's burden of proof. *See, Employee v. Agency*, OEA Matter No 1601-0047-84, 34 D.C. Reg. 804, 806 (1987). I find that Employee did not credibly argue that Agency's action was not done in accordance with applicable laws or

³² See footnotes 22 through 28 *supra*.

regulations. I conclude that the OUC has met its burden of proof for all of the charges levied against Employee in this matter.

When an Agency's charge is upheld, this Office has held that it will leave the Agency's penalty undisturbed when the penalty is within the range allowed by law, regulation or guidelines, is based on consideration of the relevant factors and is clearly not an error of judgment. *See Stokes, supra; Hutchinson, supra; Link v. Department of Corrections*, OEA Matter No. 1601-0079-92R95 (Feb.1, 1996); *Powell v. Office of the Secretary, Council of the District of Columbia*, OEA Matter No. 1601-0343-94 (September 21, 1995). I conclude that given the totality of the circumstances as enunciated in the instant decision, Agency's action of removing Employee from service should be Upheld.³³

ORDER

Based on the foregoing, it is ORDERED that Agency's action of REMOVING EMPLOYEE FROM SERVICE is hereby UPHeld.

FOR THE OFFICE:

/s/ Eric T. Robinson

ERIC T. ROBINSON, ESQ.
SENIOR ADMINISTRATIVE JUDGE

³³ Although I may not discuss every aspect of the evidence in the analysis of this case, I have carefully considered the entire record. *See Antelope Coal Co./Rio Tino Energy America v. Goodin*, 743 F.3d 1331, 1350 (10th Cir. 2014) (citing *Clifton v. Chater*, 79 F.3d 1007, 1009-10 (10th Cir. 1996)) (“The record must demonstrate that the ALJ considered all of the evidence, but an ALJ is not required to discuss every piece of evidence”).