

THE DISTRICT OF COLUMBIA

BEFORE

THE OFFICE OF EMPLOYEE APPEALS

In the Matter of:	)	
	)	
Faith Scott	)	OEA Matter No. 1601-0071-07
Employee	)	
	)	Date of Issuance: March 15, 2011
v.	)	
	)	Joseph E. Lim, Esq.
Office of Property Management	)	Senior Administrative Judge
Agency	)	
	)	

Grandison E. Hill, Esq., Employee Representative  
Kevin Turner, Esq., Agency Representative

**INITIAL DECISION**

INTRODUCTION

On May 4, 2007, Employee filed a petition for appeal with this Office from Agency's final decision removing her effective April 13, 2007, for malfeasance. At the parties' joint request, I rescheduled and held a prehearing conference on September 14, 2007, wherein I scheduled a hearing for December 12, 2007. After both parties requested a postponement of the trial, I held a status conference whereby the parties informed me that they want to wait until the resolution of a corresponding criminal case before proceeding.

Status conferences were held on January 25, 2008, December 16, 2009, and January 20, 2010, to provide an update on developments in the criminal matter. The parties indicated an interest in mediation. However, the mediation on March 16, 2010, failed to produce a settlement. I held a conference on April 19, 2009, to urge the parties to continue informal settlement discussions on their own as I informed the parties that the Office had no funds for a hearing. I held status conferences on November 15, 2010, and December 1, 2010, to narrow the issues and obtain a joint stipulation of facts. With new funding provided, I finally held a hearing on March 7, 2011. I closed the record at the conclusion of the hearing.

JURISDICTION

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

ISSUE

Whether Agency had just cause for removing Employee from her employment.

## BACKGROUND

### Parties' Allegations

Agency accused Employee, a Property Management Specialist, Grade 12/2, at the Office of Property Management (Agency) of malfeasance, to wit: engaging in activities that have criminal penalties or are in violation of D.C. laws and statutes. Specifically, Employee was accused of preparing and submitting a false \$25,000 claim for services not performed by Roberson Trucking. Employee denies the allegations.

### Stipulated facts

1. Faith Scott was an employee of the District of Columbia and worked as the secretary for the Deputy Director in the Office of Property Management.
2. Darnell Dunson was an employee of the District of Columbia and worked in the office of the Property Management.
3. Steve Roberson, was a former employee of the Department of Administrative Services (now Office of Property Management) and was the contractor for the Office of Property Management.
4. The District of Columbia Office of Attorney General filed charges against Scott, Dunson and Roberson related to the allegations in Criminal Case No. 2007 DCD 26551 which were later dismissed by that office on March 26, 2009.
5. Michael Lorusso, the Deputy Director in the Office of Property Management, pled guilty to bribery charges in 2004 before Judge Urbina in U.S. District Court.

### Evidence on Disputed Issues

Agency presented no witnesses or documentary evidence. In her sworn testimony, (transcript pages 14-17), Employee denied all allegations and submitted her affidavit (Employee Exhibit 1) as evidence.

## FINDINGS OF FACT, ANALYSIS AND CONCLUSIONS

Agency failed to present any evidence to support its charge of malfeasance against Employee. Thus, I find that Agency failed to meet its burden of proof on establishing cause for their adverse action of removal against Employee. Accordingly, I conclude that Agency's action should be reversed.

ORDER

It is hereby ORDERED:

1. Agency's decision is to suspend Employee from her position is reversed.
2. Agency is directed to reinstate Employee, issue her the back pay to which she is entitled and restore any benefits she lost as a result of the removal, no later than 30 calendar days from the date of issuance of this Decision.
3. Agency is directed to document its compliance no later than 45 calendar days from the date of issuance of this Decision.

FOR THE OFFICE:

JOSEPH E. LIM, Esq.  
Senior Administrative Judge