

NOT DESIGNATED FOR PUBLICATION

STATE OF LOUISIANA

COURT OF APPEAL

FIRST CIRCUIT

NO. 2014 CA 0592

DANA ELLIS

VERSUS

ALEXANDRIA HOUSING AUTHORITY

Judgment Rendered: NOV 07 2014

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On Appeal from the
State Civil Service Commission
State of Louisiana
Trial Court No. S-17758

David Duplantier, Chairman; John McLure, Vice-Chairman; G. Lee Griffin,
D. Scott Hughes, C. Pete Fremin, and Sidney Tobias; Presiding Commissioners of
the State Civil Service Commission

Shannon S. Templet, Director
Department of State Civil Service

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Malcolm X. Larvadain
Alexandria, LA

Attorney for Plaintiff-Appellant,
Dana Ellis

Lewis O. Lauve, Jr.
Alexandria, LA

Attorney for Defendant-Appellee,
Alexandria Housing Authority

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BEFORE: WHIPPLE, C.J., McCLENDON, AND HIGGINBOTHAM, JJ.

W. Boyd
JME
TMH

HIGGINBOTHAM, J.

This appeal challenges a decision of the State Civil Service Commission. For the following reasons, we affirm.

FACTS AND PROCEDURAL HISTORY

Dana Ellis was hired by the Alexandria Housing Authority (AHA) in March, 2005 as an Administrative Coordinator. She was twice promoted and in 2010 became an Accounting Technician. In correspondence dated June 14, 2013, Ellis was informed that she would be laid off from her position. Ellis appealed to the Civil Service Commission contending that her “layoff violated Chapter 17 of the Civil Service Rules.”¹ The attorney for the AHA requested a summary disposition of Ellis’s appeal. In response to that request, Kathe Zolman-Russell, the Civil Service Commission Referee, agreed that Ellis did not sufficiently detail how the AHA violated Chapter 17, but gave Ellis fifteen days to amend the appeal to comply with the Civil Service Rules. Ellis amended her petition, but it was summarily dismissed by the Civil Service Referee. On February 5, 2014, the Civil Service Commission unanimously adopted the decision of the referee. It is from this decision that Ellis appeals, contending that the Civil Service Commission erred in summarily dismissing her appeal prior to a hearing. For the following reasons, we affirm the decision of the Civil Service Commission.

LAW AND ANALYSIS

Decisions of the Commission are subject to the same standard of review as a decision of a district court. **King v. LSU Health Sciences Center**, 03-1138 (La. App. 1 Cir. 4/2/04), 878 So.2d 544, 546. Factual determinations should not be reversed or modified unless clearly wrong or manifestly erroneous. **King**, 878 So.2d at 546; **Gorbaty v. Department of State Civil Service**, 99-1389 (La. App. 1 Cir. 6/23/00), 762 So.2d 1159, 1162, writ denied, 00-2534 (La. 11/13/00), 774 So.2d 147. However, the issue before the court in the present appeal is a

¹ Chapter 17 of the Civil Service Commission rules states the requirements for layoffs involving state classified employees in all state agencies and departments.

procedural one involving a determination of the sufficiency of an allegation rather than a factual finding. The deferential standard of review afforded to factual findings is therefore inapplicable to our review of the Commission's decision for legal error. **King**, 878 So.2d at 546; **Marcantel v. Department of Transportation and Development**, 590 So.2d 1253, 1256 (La. App. 1 Cir. 1991).

The Commission's jurisdiction to hear appeals is limited to two categories of claims: discrimination claims under Article X, § 8(B) of the Louisiana Constitution, and removal or disciplinary claims under Article X, § 12(A). **Louisiana Department of Agriculture and Forestry v. Sumrall**, 98-1587 (La. 3/2/99), 728 So.2d 1254, 1260. Chapter 13 of the Civil Service Rules governs appeals to the Commission, and Rule 13.14(d) authorizes a referee to summarily dismiss an appeal if the appellant has no legal right to appeal. Whether an employee has the right to appeal a decision to the Commission is analogous to the question of whether a plaintiff has stated a cause of action. **King**, 878 So.2d at 546; **Ramirez v. Department of Social Services**, 603 So.2d 795, 798 (La. App. 1 Cir.), writ denied, 608 So.2d 195 (La. 1992). When a petition states a cause of action as to any ground or portion of the demand, an exception raising the objection of no cause of action must be overruled. Similarly, if the classified employee has alleged grounds upon which appeals are allowed, he has the right to appeal. The correctness of conclusions of law is not conceded for the purposes of a ruling on an exception raising the objection of no cause of action. **King**, 878 So.2d at 546-547; **Ramirez**, 603 So.2d at 798.

Ellis argues that in her amended appeal to the Commission a sufficient factual basis was pled to show her layoff violated Chapter 17 of the Civil Service Rules. Thus, Ellis contends that the Commission erred in summarily dismissing her appeal.

In Ellis's amended appeal, she alleges that she disagrees with the contention received in her letter that she was laid off because the agency lacked

work and that the reasons given for her being laid off contradicted each other. Ellis contends that she worked with several people in the accounting department with less seniority. Further, Ellis contends that she was laid off because she questioned the accounting practices that the executive director wanted to implement.

The Civil Service Commission Referee determined that “Ellis has failed to allege sufficient facts supporting a conclusion that she has been adversely affected by the violation of the Civil Service Rules or Article.” Further, the Referee noted that Ellis failed to name any of the alleged employees or any identifying information concerning them. The Referee concluded that Ellis’s claim of a rule violation is mere conclusion unsupported by even the most basic factual allegations.

Civil Service Rule 13.11(d) states in pertinent part: “Where a violation of the Article or a Rule is alleged to be a basis for appeal, specific facts supporting the conclusion that a violation has occurred must be alleged in sufficient detail to enable the agency to prepare a defense.”

After thorough review of the record, we agree that the allegations, as pleaded, are conclusory and do not allege sufficient detail as required by Rule 13.11(d). Ellis’s amended appeal does not allege any specific violations of Chapter 17 of the Civil Service Rules. Accordingly, we affirm the judgment of the Civil Service Commission.

CONCLUSION

For the foregoing reasons, the judgment of the Civil Service Commission summarily dismissing the petition of appeal filed by Dana Ellis is affirmed. Costs are assessed to Dana Ellis.

AFFIRMED.