

Cevette reported to the Executive Director, James McRath, who was appointed on July 1, 2006.

Because Case, by her own admission, was having difficulty completing her files in a timely manner, she met with Cevette who gave Case specific directives on the caseworker job. These directives included specific instructions on how to renew tenant leases, which had been Case's responsibility since 2000. Thereafter, on August 11, 2006, Cevette and McRath met with Case to discuss her files and the difficulties she was having with a coworker, Rick Mott, the maintenance foreman. At that meeting, Cevette again gave Case a series of specific instructions on how to complete her job responsibilities.

After the meeting, McRath sent a letter to Case stating that he had directed Cevette to assist her in the effort to improve her file handling. The letter enclosed a 2000 job description but explained that a new job description was being prepared. Case was advised to follow the instructions she had received from Cevette.

On September 5, 2006, Cevette met with Case to explain the paperwork procedures for tenants moving into one of the Authority's apartments. Because Case was unable to complete the required paperwork, she watched Cevette complete the required documents. Thereafter, Cevette prepared a new job description for Case. The 2006 job description identified each of Case's job duties, and thoroughly explained what had to be done to complete them.¹

On September 8, 2006, McRath held a meeting with Case and Mott, who continued to have difficulties working together. After the meeting, McRath sent a letter to Case stating that although there had been "some improvements," Case

¹ The previous job descriptions written in 2000 and 2003 simply listed the duties and did not explain what was required to fulfill those duties. Reproduced Record at 261a – 262a (R.R. ____).

needed to continue to work on improving her job performance in accordance with her new job description. R.R. 226a – 227a. The letter also informed Case that she had been placed on a sixty-day probation because of her failure to work in a professional and courteous manner with the maintenance staff.

Cevette continued to work with Case. In addition to meeting with Case five or six times, she talked to her almost daily by phone. Nevertheless, Case continued to have difficulty completing her job responsibilities in a timely manner. Case also informed Cevette that she continued to have conflicts with Mott. In December 2006, after a meeting with Case, Cevette, and Mott, McRath imposed a successive thirty-day probation on Case because of the lack of improvement in her job performance.

In January 2007, Cindy Roupp, a project manager responsible for reporting to the U.S. Department of Housing and Urban Development, obtained thirty-six files from Case. Seventeen of the thirty-six files contained numerous errors, including third-party verification errors, miscalculations, incorrect dates, and unsigned forms. Thereafter, Case met with Cevette and Roupp to discuss the seventeen files.

On February 9, 2007, McRath sent a letter to Case instructing her to make the necessary corrections to the seventeen files by February 28, 2007. The letter stated that if she failed to so do, she would be terminated. Case did not complete the requested corrections by February 28, 2007; Case did not even open the files.² Accordingly, on February 28, 2007, the Authority dismissed Case. Case did

² Once Cevette received Case's files, she made the necessary corrections in two days. However, this delay required the Authority to forego a month's rent from several tenants who had not been timely notified of the increase in rent.

not file a grievance or request a hearing on her termination from the Authority's Board of Directors. Instead, Case appealed to the Commission pursuant to Section 951(b) of the Civil Service Act, 71 P.S. §741.951(b),³ asserting that she was terminated without just cause.⁴

At the Commission's hearing on her appeal, Case testified that after July 1, 2006, she did not have a clear understanding of her job responsibilities and that she had difficulty working with Mott. Case stated that it was her understanding that Griswold was her immediate supervisor, not McRath or Cevette. Nevertheless, Case admitted that she understood Cevette was going to help her with her job performance. Case testified that the 2006 job description imposed new duties on her, and she found the changes to be confusing.⁵ Case admitted that she failed to correct the mistakes in the seventeen renewal files by February 28, 2007, as directed.

The Commission sustained the Authority's removal of Case for just cause. It found, first, that Case failed to perform her job in accordance with

³ Act of August 5, 1941, P.L. 752, *as amended*, added by the Act of August 27, 1963, P.L. 1257. Section 951(b) states:

Any person who is aggrieved by an alleged violation of Section 905.1 of this act may appeal in writing to the commission within twenty calendar days of the alleged violation. Upon receipt of such notice of appeal, the commission shall promptly schedule and hold a public meeting.

71 P.S. §741.951(b)

⁴ Although Case also alleged that she was a victim of discrimination, harassment, and mental abuse in the form of discipline and reprimands by McRath and Cevette, she did not pursue these claims in the hearing before the Commission.

⁵ Case testified that prior to the 2006 job description she was only responsible to assist with move-ins and transfers rather than complete the paperwork herself. Additionally, Case stated that prior to the 2006 job description she was only required to submit renewals to the office two weeks before their expiration, but that after the 2006 job description she had to start renewals three months in advance and submit them to the office one month prior to their expiration.

expectations and, second, she failed to follow a direct order to correct the mistakes in the seventeen renewal files. Case then petitioned for this Court's review.⁶

Case raises two issues. First, Case asserts that the Commission's finding of just cause is not supported by the record. Second, Case argues that the Commission erred as a matter of law by sustaining her removal where the Authority failed to follow the appropriate procedures for removal. We will consider the issues *seriatim*.

We consider, first, Case's contention that the Commission's finding that the Authority had just cause to remove her is not supported by substantial evidence.⁷ In support, Case notes that three of her employment evaluations were favorable. In light of these evaluations, including the one issued by Griswold on August 26, 2006, Case argues that McRath had no basis to place her on probation or to assign Cevette to work with Case on her job performance. Case also contends that the record shows

⁶ Our review of a decision of the State Civil Service Commission is limited to determining whether findings of fact are supported by competent evidence, whether errors of law have been committed, and whether constitutional rights have been violated. *Thompson v. State Civil Service Commission*, 863 A.2d 180, 183 (Pa. Cmwlth. 2004). Questions of credibility and the weight to be accorded evidence are determined by the State Civil Service Commission, and this Court will not re-weigh the evidence or substitute its judgment even though it might have reached a different factual conclusion. *Id.*

⁷ Substantial evidence is such relevant evidence as a reasonable mind might accept as adequate to support a conclusion. *Moorehead v. Civil Service Commission of Allegheny County*, 769 A.2d 1233, 1238 (Pa. Cmwlth. 2001). In performing a substantial evidence analysis, this Court must view the evidence in the light most favorable to the party who prevailed before the factfinder and draw all reasonable inferences which are deducible from the evidence in support of the factfinder's decision in favor of that prevailing party. *Three D Trucking Company v. Workers' Compensation Appeal Board (Fine and Anthony Holdings, Int'l.)*, 921 A.2d 1281, 1288 (Pa. Cmwlth. 2007). In addition, it is irrelevant whether the record contains evidence to support findings other than those made by the factfinder; the critical inquiry is whether there is evidence to support the findings actually made. *Allied Mechanical and Electrical, Inc. v. Pennsylvania Prevailing Wage Appeals Board*, 923 A.2d 1220, 1228 (Pa. Cmwlth. 2007).

that McRath decided in July or August 2006 to force Case from her position and, thus, conspired with Cevette to “paper” Case’s employment file. Case also argues that the record does not show that either McRath or Cevette supervised Case’s daily performance. Finally, Case argues that the confusion surrounding her job requirements was created by the two different job descriptions supplied by Cevette, which gave two different time frames by which she was to complete the necessary paperwork.⁸

We begin with a review of the applicable law. Under Section 807 of the Civil Service Act, no civil service employee may be removed from employment except for just cause.⁹ The appointing authority has the burden to prove just cause whenever it dismisses a civil service employee. *Thompson v. State Civil Service Commission*, 863 A.2d 180, 184 (Pa. Cmwlth. 2004). Just cause for removal must be related to the inefficiency, delinquency or misconduct of the employee. *Davis v. Civil Service Commission of the City of Philadelphia*, 820 A.2d 874, 878 (Pa. Cmwlth. 2003). Further, just cause is “largely a matter of discretion on the part of the head of the department.” *Richter v. Civil Service Commission of the City of Philadelphia*, 387 A.2d 131, 133 (Pa. Cmwlth. 1978).

A single instance of misconduct or an error of judgment can be just cause for dismissal if it adversely reflects on the fitness of an employee for his or her duties. *Williams v. State Civil Service Commission*, 457 Pa. 470, 327 A.2d 70

⁸ Case complains that the Authority failed to call Griswold as a witness. However, at the hearing before the Commission, it was Case who requested a post-hearing deposition of Griswold to use as a rebuttal witness. Later, Case withdrew the request for a post-hearing deposition.

⁹ Section 807 of the Act of August 5, 1941, P.L. 752, *as amended*, provides:

No regular employe in the classified service shall be removed except for just cause.

71 P.S. §741.807.

(1974).¹⁰ For example, in *DeMarinis v. Hazleton Housing Authority*, 399 A.2d 1197 (Pa. Cmwlth. 1979), an employee was dismissed for negligent and incompetent maintenance of financial records, unethical conduct in dealing with contractors, lack of ability and insubordination. He challenged the dismissal, arguing that the evidence was insufficient to support each of the separate grounds for his dismissal. Mindful that even a single proffered reason may be sufficient to justify a dismissal, this Court considered only the charge that the employee had mishandled the employer's financial records. Because the evidence showed that the financial records, for which the employee was responsible, were incomplete, not properly maintained and grossly inaccurate, this Court found that employee had been negligent or incompetent, which constituted just cause for his removal.

Because there need be only a single reason to support a just cause dismissal, we consider only the charge that Case was insubordinate in failing to correct the seventeen files by February 28, 2007. Case does not dispute that seventeen files she gave to Roupp had numerous errors, including third-party verification errors, miscalculations, incorrect dates, and unsigned forms. It is also undisputed that McRath sent a letter to Case directing her to make the necessary corrections to the seventeen files by February 28, 2007, or face termination. Case did not make the required corrections. Further, she did not offer any explanation for her noncompliance. In the absence of any explanation, we must affirm the Commission's finding that Case was insubordinate. Thus, the Authority had just cause to dismiss Case.

¹⁰ Indeed, this Court has long held that insubordination constitutes justification for discharge. *Department of General Services v. Civil Service Commission (Maddox)*, 707 A.2d 1210, 1212 n.3 (Pa. Cmwlth. 1998).

We address, next, Case's argument that her removal was procedurally defective because under the Authority's Statement of Personnel Policies, McRath needed the approval of the Board of Directors before he dismissed her. Case also asserts that her removal cannot be sustained because the Authority failed to provide her with annual employment evaluations, a current organizational chart, and did not notify the State Civil Service Commission of the change in Case's employment status.

The Authority's Statement of Personnel Policies governs personnel matters, including transfers and dismissals. Section 6 of the Statement of Personnel Policies provides as follows:

Authority to appoint, promote, transfer, demote and separate personnel shall be vested in the Executive Director, subject to the approval of the Board of the Authority. Regarding administrative personnel, Pennsylvania Civil Service Procedures will be followed. Regarding maintenance personnel, the Executive Director may delegate authority on part-time positions to foreman.

R.R. at 243a (emphasis added). Thus, a civil service employee may be removed by the executive director so long as the Board of Directors approve.¹¹

¹¹ With respect to those Authority employees subject to the Pennsylvania Civil Service Act, Section 9 of the personnel policy provides, in pertinent part, as follows:

B. Dismissals

An employee who gives unsatisfactory service or who is guilty of violation of regulations shall be subject to dismissal. In such cases the employee, if he desires, shall be given a hearing before the Board of the Authority.

R.R. at 245a. Thus, a civil service employee who is removed may obtain a hearing on his dismissal from the Board of Directors.

With respect to the Board of Directors' approval of Case's removal, McRath testified as follows:

When I had a board meeting with my Board of Directors for Bradford County they had indicated to me that they did not wish to be involved with personnel issues. They allowed me to take my own actions with regard to this problem.

R.R. at 144a. McRath's testimony was not rebutted. The Commission found the Board of Directors opted not to be involved with personnel issues and, thus, implicitly approved Case's removal. Stated otherwise, the Board gave McRath advance approval to hire and fire employees, including Case. The Board may be derelict in delegating its responsibility to the executive director, but it cannot be said that McRath's dismissal of Case was not approved.

Case also argues that her removal cannot be sustained because the Authority did not give her annual evaluations and an organizational chart. The annual evaluations and the organizational chart are irrelevant to Case's willful disregard for the Authority's directive that she correct the seventeen files, the only basis for her dismissal.

Case next claims that her removal was defective because the Authority failed to notify the Civil Service Commission. Section 950 of the Civil Service Act governs the notice requirements where a civil service employee is removed, and it states, in relevant part, as follows:

Written notice of any personnel action taken pursuant to the provisions of this act shall be provided to the affected employe. Such notice shall be furnished within time limits prescribed by the rules of the commission. Copies of such notices shall be provided to the director upon request. The notice shall in the case of the permanent separation, suspension for cause, or

involuntary demotion of a regular employe set forth the reason or reasons for the action.

71 P.S. §741.950 (emphasis added). Written notice to the employee is required to satisfy due process so that the employee can knowledgeably defend. *Woods v. State Civil Service Commission*, 590 Pa. 337, 351-352, 912 A.2d 803, 812 (2006). However, there is no requirement upon the employer to notify the Civil Service Commission unless requested by the Commission. Case is wrong in her assertion that the Authority had to notify the Commission, and Case does not contend that the notice she received did not satisfy Section 950. Therefore, her argument that the Authority violated Section 950 of the Civil Service Act is unavailing.

For the above-stated reasons, we affirm the Commission's adjudication.

MARY HANNAH LEAVITT, Judge

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Linda M. Case,	:	
	:	
Petitioner	:	
	:	
v.	:	No. 1798 C.D. 2007
	:	
State Civil Service Commission	:	
(Bradford County Housing	:	
Authority),	:	
	:	
Respondent	:	

ORDER

AND NOW, this 12th day of May, 2008, the order of the State Civil Service Commission, dated August 23, 2007, in the above-captioned matter is hereby AFFIRMED.

MARY HANNAH LEAVITT, Judge