

MINUTES OF CIVIL SERVICE BOARD
CITY OF SACRAMENTO
SPECIAL MEETING APRIL 13, 1976

EXECUTIVE SESSION IN THE MATTER OF THE APPEAL OF JOE LEWIS HUNTER,
REFUSE COLLECTOR (MEDICAL TERMINATION)

(Reference: Minutes of hearing held on 4/6/76.)

The Civil Service Board met in executive session commencing at 1:00 p.m. in the Personnel Department Conference Room 203, 801 Ninth Street.

Present: Oreitha Eggleston-Hausey, Alba Kuchman, Ronald Wright, Jimmie Yee.

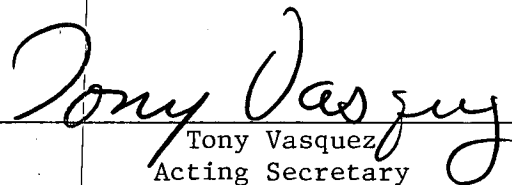
Absent: Wilfred Street.

The public session was called to order by President Jimmie Yee at approximately 2:50 p.m. The final vote of the Board, in executive session, was a two-to-two tie (Ayes: Mrs. Hausey and Mr. Yee. Noes: Mrs. Kuchman and Mr. Wright) to deny Mr. Hunter's appeal. Inasmuch as it had been stipulated by Attorney CoBen by letter dated March 1, 1976 that the appellant would assume the burden of proof, the appeal of Mr. Hunter concerning his medical termination was denied.

Deputy City Attorney Savage was requested to prepare the Findings and Conclusions in this matter.

HEARING TO APPEAL DISCIPLINARY ACTION (LETTER OF REPRIMAND)
Guy Robinson, Maintenance Man (Truck Driver), Street Cleaning

By letter dated April 13, 1976, from Wesley Keyson, Field Representative, Stationary Engineers Local 39/SCEA, the appeal of Mr. Robinson was withdrawn.


Tony Vasquez
Acting Secretary


Jimmie R. Yee
President

Mary Amemaya

CIVIL SERVICE BOARD

CITY OF SACRAMENTO

In the Matter of the Appeal of)	
JOE LEWIS HUNTER)	FINDINGS AND CONCLUSIONS
)	

This matter came before the Board for hearing on April 6, 1976. Members of the Board present were: Jimmie R. Yee, Acting Chairman; Oreitha Eggleston-Hausey; Alba Kuchman; and, Ronald H. Wright. Joe Lewis Hunter was represented by CoBen, Cooper and Zilaff by Melvyn J. CoBen. The City was represented by Leliand J. Savage, Deputy City Attorney.

Pursuant to a stipulation made by the attorneys for the respective parties, the burden of proof was assumed in this case by the appellant. This stipulation was memorialized by the letter attached hereto as Exhibit A which is incorporated by this reference as if set forth in full at this place.

All evidence was entered by stipulation with the exception of the testimony of Reginald Young, Superintendent of Waste Removal whose testimony was received without objection. The case was argued and submitted to the Board for decision on April 6, 1976. On April 6, 1976, the Board met in Executive Session to deliberate; however, no decision was reached. The Board again convened in Executive Session to deliberate on April 13, 1976. After the Executive Session on April 13, 1976, the Board convened in public session and announced its decision.

Based on the evidence, the Board finds:

1. On January 3, 1973, Joe Lewis Hunter was injured while at work. Joe Lewis Hunter left work.

. . .

1 2. On May 30, 1973, Joe Lewis Hunter returned to work based
2 on a physician's recommendation.

3 3. On or about July 13, 1973, Joe Lewis Hunter left work
4 due to the difficulties which had precluded him from working as
5 aforesaid.

6 4. Joe Lewis Hunter was off from on or about July 13, 1973
7 through on or about January 9, 1974.

8 5. On or about January 9, 1974, Joe Lewis Hunter returned
9 to work based on a physician's recommendation.

10 6. On or about June 20, 1974, Joe Lewis Hunter left work
11 due to the difficulties which had formerly precluded him from
12 working as aforesaid. He did not return to work after June 20,
13 1974.

14 7. The City dismissed Joe Lewis Hunter from his employment
15 on May 5, 1975.

16 8. The general conclusion of physicians who examined Joe
17 Lewis Hunter between January 3, 1973 and December 5, 1974 was
18 that Joe Lewis Hunter was precluded from doing heavy work.

19 9. The general conclusion of Walter Bromberg, M.D., L.F.,
20 A.P.A. as a result of his examination of Joe Lewis Hunter's
21 past medical records and of Joe Lewis Hunter on February 18,
22 1976, was that Dr. Bromberg saw no medical reason why Joe Lewis
23 Hunter could not return to work, but lifting heavy objects or
24 engaging in muscular movements may potentiate more difficulties
25 with the back. Dr. Bromberg also concluded that the effect of
26 mechanical stress on Joe Lewis Hunter's muscle - skeletal system
27 cannot be estimated in advance in the work he is assigned;
28 however, Dr. Bromberg recommended return to work for a trial period.

The Board concludes:

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1. The vote of the Board in this matter was two to two.

Since the appellant had assumed the burden of proof, the result of a two to two vote is to decide the ultimate issue against the party with the burden of proof, the appellant.

2. The appeal of Joe Lewis Hunter is denied.

3. The disciplinary action taken by the appointing authority is sustained.

DATED: MAY 25, 1976.

Jimmie R. Yee
JIMMIE R. YEE, Acting Chairman

Oreitha Eggleston-Hausey
OREITHA EGGLESTON-HAUSEY

Alba Kuchman
ALBA KUCHMAN

Ronald H. Wright
RONALD H. WRIGHT

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PERSONNEL DEPT.

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WILLIAM C. COOPER
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March 1, 1976

Mr. William F. Danielson,
Secretary
Civil Service Board
Department of Personnel
801 Ninth Street
Sacramento, CA 95814

Re: Joe Lewis Hunter

Dear Mr. Danielson:

On January 20, 1976, this office entered into a stipulation with the City assuming the burden of proving that our client is presently able to return to work. Per that stipulation, enclosed please find the medical report of Dr. Walter Bromberg concerning Mr. Hunter. Mr. Hunter's hearing is presently set for April 6, 1976 at 3:30 p.m.

Yours truly,

Melvyn J. Coben
MELVYN J. COBEN

MJC/ch
Enclosures

cc: Leland J. Savage, Esq.
Mr. Joe L. Hunter

Exhibit A

sent to CSB with agenda