

HEARING
BEFORE AN ADMINISTRATIVE LAW JUDGE OF THE
STATE OFFICE OF ADMINISTRATIVE HEARINGS

May 19, 1978

John Zamllich
Maintenance Man, Truck Driver
Waste Removal

TAPE RECORD

<u>No. on Tape</u>	<u>Appellant/Witnesses</u>
1431	Hearing Officer, Gilbert Elmore, began proceedings of the hearing at 9:05 a.m.
1433	Larry Dow made the motion of a continuance of the hearing because one essential witness is unable to attend due to illness.
1435	Phil Cunningham had no objections.
1435	Hearing Officer stated that it was possible to continue hearing without witness if other witnesses were willing to stipulate for the absent witness, and if Phil Cunningham was willing to forfeit his cross examination.
1436	Phil Cunningham objected.
1436	Hearing Officer recessed hearing until Larry Dow's witness is able to attend hearing.
1437	Hearing recessed at 9:10 a.m.

New hearing date is to be scheduled when the key witness is able to appear.

CITY OF SACRAMENTO
CIVIL SERVICE BOARD

HEARING

BEFORE AN ADMINISTRATIVE LAW JUDGE OF THE
STATE OFFICE OF ADMINISTRATIVE HEARINGS

May 22, 1978

The hearing concerning the appeal of Charles D. Long, Dispatcher Clerk, was held Monday, May 22, 1978 at 9:00 a.m. before Charles H. Bobby, Administrative Law Judge, in the Personnel Department Conference Room, 801 Ninth Street.

The following exhibits were introduced by the City:

- Exhibit 1 Pleadings--entered as evidence
- Exhibit 2 Submission Agreement--entered as evidence
- Exhibit 3 Charles D. Long letter to Lt. Samuel Somers - dated November 17, 1977-- entered as evidence
- Exhibit 4 Patsy Ferguson memorandum to Lt. Samuel Somers - dated November 17, 1977--entered as evidence
- Exhibit 5 Charles D. Long official evaluation - dated February 13, 1978--entered as evidence
- Exhibit 6 Charles D. Long evaluation by Sgt. Anthony Stella - dated February 8, 1978--entered as evidence
- Exhibit 7 Charles D. Long evaluation by Sgt. Larry Chavez - dated February 8, 1978--entered as evidence
- Exhibit 8 Charles D. Long evaluation by Sgt. Pete Riolo - dated February 7, 1978--entered as evidence
- Exhibit 9 Class specification for Dispatcher Clerk (current)-- entered as evidence
- Exhibit 10 Civil Service Board Rule 13 (current)--entered as evidence

Witnesses who appeared on behalf of the City were:

Lieutenant Samuel Somers, Police Department
Ms. Patsy Ferguson, Police Department
Sergeant Anthony Stella, Police Department
Sergeant Larry Chavez, Police Department

CITY OF SACRAMENTO
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May 22, 1978

Witnesses who appeared on behalf of the City were: (continued)

Sergeant Pete Riolo, Police Department
Deputy Chief Lee Dohm, Police Department
William Woska, Personnel Department
Lieutenant Ron Frame, Police Department

There were no witnesses on behalf of the appellant, other than himself.

BEFORE THE
CIVIL SERVICE BOARD
CITY OF SACRAMENTO
STATE OF CALIFORNIA

In the Matter of the Appeal)	
of:)	
)	CSB NO. HO-78-6
CHARLES D. LONG)	
Dispatcher Clerk)	OAH No. N-11263
Police Department)	
)	
)	

PROPOSED DECISION

The above-entitled matter came on for hearing before Charles H. Bobby, an Administrative Law Judge of the Office of Administrative Hearings, on May 22, 1978 in Sacramento, California.

Appellant Charles D. Long was present but was not otherwise represented.

The Appointing Authority was represented by Daniel W. Bonebrake, Employee Relations Representative, City of Sacramento.

Evidence was received, the hearing was closed and the matter was submitted.

The Administrative Law Judge certifies this decision and recommends its adoption.

FINDINGS OF FACT

I

During the period June 8, 1974 through February 20, 1978 Appellant Charles D. Long was an employee of the City of Sacramento Police Department as a Dispatcher Clerk.

II

On February 20, 1978 Appellant was served with a written notice of termination from employment for cause, as follows:

- (a) Rule 17.2(b). Incompetence.
- (b) Rule 17.2(c). Inefficiency in performance of

work which results in performance lower than that which is typically expected of a similar employee in a similar position.

III

The factual grounds alleged in the notice of termination are:

"(a) On June 8, 1974, you began work with the Sacramento Police Department as a Relief Dispatcher Clerk. On August 31, 1974, you were appointed to a probationary Dispatcher Clerk position. Your primary duties as a Dispatcher Clerk included working in the radio room, at the complaint desk, and at the teletype.

"(b) On October 1, 1977, you were assigned to the radio console for radio training. You entered into the normal training program for new Dispatcher Clerk and were assigned to a Trainer Dispatcher Clerk.

"During the following six weeks you failed to attain the proficiency normally reached by new dispatcher trainees in their first or second week of training. You consistently failed to hear units call in on the radio; your manual dexterity was slow, inefficient and below acceptable standards; you failed to retain information as to unit status, and location as required; and you were unable to accomplish more than one task at a time. You were counseled daily on these particular deficiencies. However, your manual dexterity, memory retention, and ability to do more than one task at a time while in the radio room have consistently remained below an acceptable standard or acceptable level. Although you are not a probationary employee, you have failed to attain even a marginal ability to work in radio without constant supervision or assistance in the six weeks of training.

"(c) The nature of the Dispatcher Clerk's duties in the radio room is such that life or death situations could erupt at any moment. It is essential for all Dispatcher Clerks to be able to perform many simultaneous tasks as well as hear all incoming transmissions pertaining to the position assigned in radio.

"On November 10, 1977, a hearing test was administered by the Sutter Diagnostic and Treatment Center.

"On November 28, 1977, you were seen by Dr. Patrick Clancy for further evaluation of your hearing problems. Dr. Clancy referred you to Dr. Gary Thomas, an ear, nose and throat specialist, for specific testing and evaluation of your hearing.

"On December 2, 1977, you were seen by Dr. Thomas. He stated in a letter to Mr. Earl Simons, Safety Officer for the City of Sacramento, that the hearing in your right ear was only 44% for speech discrimination in that, although you can hear the sound of speech, you cannot discriminate or understand the words that are spoken at normal speech volume.

"(d) At approximately 1130 hours on November 17, 1977, you had a conversation with your immediate supervisor, Senior Dispatcher, P. Ferguson, regarding radio training. You told her you knew you were not making required progress in radio, stating you did not know whether it was due to a hearing deficiency, age or what. You also expressed concern for your trainers and fellow employees, stating you were "wasting their time". You further stated that you did not care if you were fired or not "because it just wasn't worth it."

"(e) At approximately 1230 hours, November 17, 1977, you requested orally and in writing to Lieutenant S. Somers that you be taken out of radio training, stating "... I cannot seem to stay abreast of the operator position." You further alluded to deteriorating health problems. You were counseled at that time and advised that if you could not perform in radio, you would not be able to retain your position as a Dispatcher Clerk and that action would have to be instituted against you. You stated at that time that it did not matter as your health was too valuable to continue in radio. Your request to be taken out of radio training was granted.

"(f) Specifications for Dispatcher Clerk assigned to the Police Department requires the use of considerable independent judgment to determine degrees of emergency calls and dispatch units accordingly; maintain status of units in the field; relay radio calls from or to police units; provide cover and secondary response for primary units; and make proper disposition of calls in accordance with established regulations and procedures.

"You have been unable to accomplish the required duties in radio and have remained at an unsatisfactory level even though you have been advised continually of your deficiencies."

IV

On March 6, 1978 Appellant filed his written appeal and request for hearing and contended (in material part):

"This appeal is based on the fact that the Sacramento Police Department was negligent in fulfilling training requirements during the six (6) months probationary period of employment."

"I do feel I am capable of performing some other duty within the city system that does not require such critical hearing ability, and should be considered for such duty."

V

At the hearing the Appellant stipulated that the factual allegations of the Notice of Termination are true (Exhibit 2).

VI

Appellant contends that the City should have continued him in employment in another position for which he is qualified.

VII

The evidence establishes that there was no other available position existing to which Appellant could have been transferred at the time of his termination. His superiors made reasonable efforts and inquiries in this regard without success.

Appellant failed to seek assignment or transfer on his own behalf by contacting the City personnel department.

VIII

The evidence establishes that Appellant has been treated fairly by his supervisors in their efforts to train him.

DETERMINATION OF ISSUES

I

The appeal of Charles D. Long should be denied.

II

Legal cause for termination of employment under section 17.2(b), Civil Service Board Rules, has been established.

III

Legal cause for termination of employment under section 17.2(c), Civil Service Board Rules, has been established.

ORDER

The Appeal is denied.

Dated: July 3, 1978

Charles H. Bobby
CHARLES H. BOBBY
Administrative Law Judge
Office of Administrative Hearings

(over)

See Civil Service
Board's letter
adopting recom-
mendation.



CITY OF SACRAMENTO

DEPARTMENT OF PERSONNEL

801 NINTH STREET, ROOM 201
SACRAMENTO, CALIF. 95814
TELEPHONE (916) 449-5270

WILLIAM F. DANIELSON
DIRECTOR OF PERSONNEL

July 18, 1978

Mr. Charles H. Bobby
Administrative Law Judge
Office of Administrative Hearings
Department of General Services
915 Capitol Mall, Room 106
Sacramento, California 95814

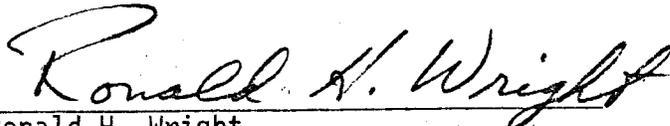
Dear Mr. Bobby:

Re: Appeal of Charles D. Long, Dispatcher-Clerk
Your File No. N-11263

The City of Sacramento Civil Service Board considered your recommended decision in the above matter at its meeting of July 18, 1978. It was the order of the Civil Service Board that your recommendation be adopted as its decision in the matter of the appeal of Charles D. Long.

Very truly yours,

CITY OF SACRAMENTO
CIVIL SERVICE BOARD


Ronald H. Wright
President

cc: Office of Administrative Hearings
Attention: Calendar Clerk
John P. Kearns, Chief of Police
Don A. Fausset, Assist.Pers.Dir./Employee Relations
Charles D. Long, Appellant