

**COMMONWEALTH OF KENTUCKY
PERSONNEL BOARD
APPEAL NO. 2016-040**

MICHAEL SHANE LEWIS

APPELLANT

**FINAL ORDER
ALTERING HEARING OFFICER'S
VS. FINDINGS OF FACT, CONCLUSIONS OF LAW
AND RECOMMENDED ORDER**

TRANSPORTATION CABINET

APPELLEE

*** **

The Board at its regular November 2016 meeting having considered the Findings of Fact, Conclusions of Law and Recommended Order of the Hearing Officer dated August 30, 2016, Appellee's Exceptions, Appellant's Response to Exceptions, Oral Arguments and being duly advised,

IT IS HEREBY ORDERED that the Findings of Fact, Conclusions of Law and Recommended Order of the Hearing Officer be altered as follows:

A. **Add** Findings of Fact paragraphs 9 and 10 as follows:

9. The Board finds the Appellant falsified his timesheets on the days in question and such action constitutes misconduct.

10. The Board finds that the penalty of dismissal was supported by just cause and was neither excessive nor erroneous. The Board bases this finding upon the fact that the discipline for other employees varied from suspension to intent to dismiss. The Appellant's case was different in that he had recently been counseled regarding time and attendance policies before he was caught falsifying his timesheet. The Appellant's Chief District Engineer did not recommend that he be retained. The Appellant showed little or no remorse and felt that everyone cheated on their time.

B. **Delete** the Conclusions of Law and substitute the following:

1. Based on the Findings of Fact, the Appellant's conduct of falsifying his timesheets as charged constitutes misconduct pursuant to 101 KAR 1:345 and is worthy of disciplinary action.

2. Based on the Findings of Fact, the decision to dismiss the Appellant was supported by just cause and was neither excessive nor erroneous. KRS 18A.095(1) and (22)(c). The surrounding circumstances in this appeal, including the Appellant's counseling for time and attendance and the fact that his Chief District Engineer did not recommend that he be retained, his lack of remorse and his feeling that everyone cheats on their time, all support the finding of just cause.

C. **Delete** the Recommended Order and substitute the following:

IT IS HEREBY ORDERED that the appeal of **MICHAEL SHANE LEWIS V. TRANSPORTATION CABINET (APPEAL NO. 2016-040)** is **DISMISSED**.

IT IS FURTHER ORDERED that the Findings of Fact, Conclusions of Law and Recommended Order of the Hearing Officer as Altered be, and they hereby are approved, adopted and incorporated herein by reference as a part of this Order, and the Appellant's appeal is therefore **DISMISSED**.

The parties shall take notice that this Order may be appealed to the Franklin Circuit Court in accordance with KRS 13B.140 and KRS 18A.100.

SO ORDERED this 22nd day of November, 2016.

KENTUCKY PERSONNEL BOARD



MARK A. SIPEK, SECRETARY

A copy hereof this day mailed to:

Hon. William Fogle
Hon. Paul Fauri
Mr. J. R. Dobner

**COMMONWEALTH OF KENTUCKY
PERSONNEL BOARD
APPEAL NO. 2016-040**

MICHAEL S. LEWIS

APPELLANT

**V. FINDINGS OF FACT, CONCLUSIONS OF LAW
AND RECOMMENDED ORDER**

TRANSPORTATION CABINET

APPELLEE

** ** ** ** **

This matter came on for an evidentiary hearing on July 20 and 21, 2016, at 9:30 a.m., at 28 Fountain Place, Frankfort, Kentucky, before the Hon. R. Hanson Williams, Hearing Officer. The proceedings were recorded by audio/video equipment and were authorized by virtue of KRS Chapter 18A.

The Appellant, Michael S. Lewis, was present at the evidentiary hearing and was represented by the Hon. Paul Fauri. The Appellee, Transportation Cabinet, was present and represented by the Hon. Will Fogle. Appearing as Agency representative was Mr. J. R. Dobner.

This matter involves the dismissal of the Appellant by letter dated February 16, 2016 (a copy attached hereto and incorporated herein as **Recommended Order Attachment A**). In summary, the Appellant was dismissed from his position as Transportation Engineering Technologist II for falsifying timesheets on five days in September and October 2015. The burden of proof was placed on the Appellee, by a preponderance of the evidence, to show that the dismissal was appropriate under all surrounding circumstances and was neither excessive nor erroneous.

BACKGROUND

1. The Appellee's first witness was **Sherri Chappell**. She has been the Chief District Engineer at District 11 in Manchester, Kentucky, for approximately four years. Her duties involve receiving calls from citizens, overseeing a staff of approximately 300 and being involved in the hiring and disciplinary actions.

2. She testified the Appellant was a Technology Engineering Technologist III (TET III). (Later proof showed Appellant was actually a TET II.) She described Appellant's duties as being involved with traffic counts, traffic studies, speed studies and reviewing intersection situations.

3. Chappell explained Appellant was assigned to the Clay County District Office, but actually was responsible for covering eight counties. She described him as primarily an independent worker, with little or no daily supervision. He was expected to work on his own.

4. The witness explained that after the Office of Inspector General (OIG) had received an anonymous complaint about the Appellant's worktime, she was contacted and supplied the OIG office with Appellant's timesheets. She later discussed the situation with J. R. Dobner, Executive Director of Human Resources.

5. Prior to his dismissal, Chappell testified she discussed the situation with Appellant. In her opinion, he showed little or no remorse, and expressed that he felt everyone cheated on their time. She also testified that his supervisors supported the Appellant's dismissal. She added that she could not perceive any improvement in the Appellant's behavior in the future.

6. On cross examination, Chappell stated she was not familiar with the Appellant's evaluations. She expressed her knowledge that Appellant had been counseled before for a time and attendance issue. This occurred September 8, 2015, in the District Office with Supervisor Joel Holcomb. Among other things discussed were the General Administration and Personnel (GAP) policies regarding same.

7. The witness then stated she was aware of a prior case involving TET III Don Nolan. Mr. Nolan was given a 30-day suspension for misusing his time and for performing some private business on state time. Chappell then introduced Appellee's Exhibit 1, a March 19, 2014 email from her to various employees, including the Appellant. The subject of this email was an emphasis on signing out whenever leaving and to drive a state vehicle while working on state time.

8. The Appellee's second witness was **J. R. Dobner**. He is the Executive Director of the Office of Human Resource Management, and has worked in the Human Resources field with the Agency for approximately nine years. He has been an Appointing Authority since December 2015, alongside Carol Beth Martin, the Appointing Authority who signed Appellant's dismissal letter.

9. He testified that sometime in January 2016, he received the OIG report involving the investigation of the Appellant. At that time, he reviewed the full report and Appellant's personnel file (which showed Appellant was a TET II).

10. Dobner explained that following the issuance of an Intent to Dismiss letter, a pre-termination hearing was held with those present being himself, Attorney Will Fogle, Carol Beth Martin and the Appellant.

11. The five days in question concerning falsification of time were September 11, 2015; September 22, 2015; September 25, 2015; October 20, 2015, and October 30, 2015. Dobner estimated the hours in question involving falsification were approximately 10.5 to 11 hours.

12. At the pre-termination hearing, Dobner discussed with the Appellant each day in question. He testified the Appellant admitted the incorrect time claimed on September 11, 2015. Regarding September 22, 2015, the witness provided Appellee's Exhibit 3. This is a September 22, 2015 email sent at 1:59 p.m. from Appellant to Jason Smith. Since the allegations regarding that day involve conducting personal business, the Hearing Officer finds no relevance to this email, which purportedly shows the Appellant was working at approximately 2:00 p.m. in the District Office. However, a portion of the claim of conducting personal business was from 2:16 p.m. to 3:00 p.m.

13. On September 25, 2015, Appellant was alleged to have conducted personal business while on state time. This consisted of, among other things, stopping at a dry cleaning business owned by his brother-in-law.

14. On October 20, 2015, Appellant was alleged to have conducted personal business from 2:00 p.m. to 3:00 p.m. During this time, he was observed in his personal vehicle at Liquor World and at his bank in London. When questioned at the pre-termination hearing regarding work activities on October 20, 2015, Appellant cited Appellee's Exhibit 5, an October 21, 2015 email from himself to Supervisor Ronnie Corum. This email supposedly corroborated the Appellant's timesheet. On the previous day, October 20, 2015, Appellant claimed he had been inspecting sites in Knox County where school bus stop signs needed to be placed.

15. However, Dobner introduced Appellee's Exhibit 6. This was a GPS printout detailing the whereabouts of the Appellant's state vehicle on October 19, 2015. This printout appears to show, on page 5 of that exhibit, that Appellant was at the locations he claimed from 8:55:47 a.m. through 8:59:49 a.m. on October 19, 2015, rather than October 20, 2015.

16. On October 30, 2015, Appellant is alleged to have used approximately one hour and forty-five minutes of state time to conduct personal business. The Appellant offered no credible explanation for this.

17. The witness then testified that in helping to make the decision to terminate Appellant, Dobner had decided the various falsifications of time warranted dismissal. He expressed concern about the Appellant's future trustworthiness, especially when he would primarily be working on his own in the field. The witness also cited, as an example of untrustworthiness, the apparent fact that the September 22, 2015 email sent by the Appellant to prove his worktime was supposedly sent from the District Office, but actually was sent from the Maintenance facility.

18. This witness also explained that, in his opinion, Appellant's actions were a violation of the GAP Policy GAP-801. Specifically, Dobner felt that the provisions following a portion of that policy had been violated.

The Cabinet prohibits employees from engaging in any conduct that violates Cabinet policies or involves the violation of criminal or civil laws

of the Commonwealth or the federal government. Specifically prohibited acts include but are not limited to the following:

- Falsifying, forging, or inappropriately altering official Cabinet documents, which include but are not limited to:
 - Timesheets

19. The witness was also asked how any previous employee actions involving misuse or falsification of time were handled. Dobner introduced Appellee's Exhibit 10, an October 28, 2010 letter involving Larry Draper. Mr. Draper was given an Intent to Dismiss letter involving approximately 14 hours of falsification. However, the witness explained that this action was rendered moot when Draper resigned soon thereafter.

20. On cross-examination, Dobner admitted that at the pre-termination hearing, Appellant said, "I will do better in the future – I need my job." The witness also confirmed that Appellant did not deny using his vehicle or going to London on the days cited. Appellant explained he had to go to the bank and make deposits, because he was in a bit of financial trouble.

21. Regarding the September 25, 2015 incident involving approximately four hours of either falsification of time or conducting personal business, Dobner stated that at the pre-termination hearing, Appellant could only respond by saying, "I wouldn't do that." However, the Appellant could not recall the specifics of that day.

22. Likewise, Appellant did not deny the time in question of October 30, 2015, which involved approximately one and one-half hours falsified.

23. The witness explained that surveillance during these days in question was conducted by OIG Investigator Doug Boyd, who performed surveillance of Appellant's activities.

24. Again, Dobner mentioned that the Appellant appeared apologetic at the pre-termination hearing.

25. The witness then identified Appellant's Exhibits 1 through 10. These are a series of previous disciplinary actions within the Cabinet for falsification of time or improperly using a state vehicle for personal business. These personnel actions cover a time period from January 17, 2013, through April 14, 2016. Many of these cases involve personal surveillance conducted by an OIG Investigator and/or use of the GPS tracking system.

26. The ranges of discipline for falsification of time or conducting personal business range from a five-day suspension to 15-day suspensions to several 30-day suspensions. Also included within these actions were two Intent to Dismiss letters, which were mooted by the employees' resignations.

27. A reason given for at least two instances being reduced from an Intent to Dismiss to a 30-day suspension were the fact that the employees were a carpenter and a surveyor, respectively, skills which were hard to replace and considered in the decision-making process.

28. Dobner also confirmed that the 10 examples heretofore mentioned ranged, in terms of falsified hours, from 11 hours through 60 hours, with the differing amounts falsified contained therein.

29. Dobner said that since April 1, 2016, he has instituted a new policy which is to give an Intent to Dismiss letter for any time and attendance falsification issues. Dobner also stated his belief that a pattern of falsification of time warrants dismissal, without the use of progressive discipline.

30. On re-direct, the witness went over each of the 10 individual cases, but merely confirmed what has been summarized above.

31. The Appellee's next witness was **Travis Wagers**. He is the Branch Manager for IT within the Office of Information Technology in the Agency. He has been employed as such for approximately 10 years.

32. He testified he was asked by the OIG office to analyze the computers used by Appellant in the Clay County Maintenance Campus, rather than the District Office. He referred to Appellee's Exhibit 4, and testified he had reviewed a Security Event Log for September 22, 2015. This exhibit shows three screen shots. One of the screen shots shows the Appellant logged on to the computer at 1:44 p.m., apparently a precursor to the 1:59 p.m. email which he sent to Jason Smith on September 22, 2015 (Appellee's Exhibit 3). The purpose of the witness's testimony was to show that the Appellant misled someone by claiming this email was sent from the District Office, where, in fact, it was sent from the Maintenance campus.

33. The Appellee next called **Doug Boyd**, the OIG Investigator. However, upon motion by Counsel for the Appellant to exclude Boyd's testimony due to the fact he was not listed on the witness list, the Appellant's motion was **GRANTED** and Boyd's testimony was excluded.

34. The Appellee next called the **Appellant, Michael S. Lewis**. He testified that at the time of his dismissal, he was a TET II within the Traffic Division of the District 11 Office in Clay County. His supervisor was Chris Harris. He confirmed earlier testimony that his duties included speed studies, traffic counts and striping programs. At the time of his dismissal, the Appellant had approximately 17 years of service.

35. He added he was assigned a state vehicle, and he traveled frequently over eight counties. He was aware he was to use a state vehicle for state work.

36. Lewis testified the first time he was aware of any time and attendance issues was when he talked with Doug Boyd, an Investigator from the OIG who had conducted surveillance

on him over several days. Regarding September 11, 2015, the witness admitted these allegations. Regarding September 22, 2015 (involving the email sent at 1:59 p.m. verifying his presence), the witness testified he thought he had sent this from the District Office and not the Maintenance facility. However, after hearing the testimony of Travis Wagers (the IT Tech), Appellant stated he could not argue with the discrepancy.

37. Regarding September 25, 2015, he confirmed he was at a non-state business, a dry cleaning business owned by his brother-in-law. However, he assumed he went back to work from 12:30 p.m. to 3:00 p.m., although he offered no proof.

38. Regarding October 20, 2015, on his timesheet, Appellant claimed work from 7:00 a.m. to 3:00 p.m., with a half-hour lunch. The Cabinet's proof was that, at 2:00 p.m. the Appellant left the District Office, driving to Liquor World and on to London, where he did some banking. The Appellant also claimed he worked from 2:00 p.m. to 3:00 p.m. that day.

39. As proof of his worktime, the Appellant cited Appellee's Exhibit 5, an October 21, 2015 email from himself to Supervisor Corum. In this email, Appellant claims documentation of the work which he had done on October 20, 2015, which included locating places where school bus signs needed to be placed. However, Appellant's claim of the work done on October 20, 2015, was apparently contradicted by Appellee's Exhibit 6, a GPS tracking of the Appellant's activities on October 19, 2015, which appeared to be the same locations which he claimed he had been at on October 20, 2015.

40. Regarding October 30, 2015, the Appellant admitted he drove to Liquor World at approximately 1:30 p.m. and then went to his residence. He does not recall why he would do that, and does not dispute that he claimed worktime from 1:30 p.m. to 3:00 p.m.

41. Appellant then referred to Appellee's Exhibit 11, his timesheets for the days in question. Specifically, on October 30, 2015, his timesheet contains a note which appears to show that he was at the sign shop from 1:30 p.m. to 3:00 p.m., for which he claimed time worked. However, it must be noted the OIG report (Appellee's Exhibit 1) shows he was first at Liquor World at approximately 1:30 p.m., and then at his residence thereafter until 3:00 p.m.

42. Appellant was then directed to page 3 of the OIG report, which reflects the interview on December 15, 2015, between the Appellant and Investigator Doug Boyd and Acting Inspector General Mike Duncan. The Appellant admitted this report reflects his admission on the date of the interview that he had misrepresented his time on each day listed in the dismissal letter.

43. At this point, the Agency announced it rested its case and moved for a directed verdict. The Hearing Officer **DENIED** the motion.

44. Appellant then called **Ronald Corum** as his first witness. He has been employed by the Agency in the Clay County District as a Superintendent I for the past 11 years. He is supervisor of the sign shop.

45. He testified he has worked with the Appellant since he began work. He mentioned the Appellant was a timekeeper at one point, up until 2011. This witness performed the Appellant's evaluation while under his supervision.

46. He identified Appellant's Exhibits 11 through 14, the Appellant's evaluations for 2006, 2008, 2010 and 2011, respectively. These evaluations reflect two "Outstanding" and two "Highly Effective" ratings during that time. In addition, the witness mentioned Appellant had received an ACE award in December 2006.

47. Corum stated that even in his new job, the Appellant occasionally still comes to the sign shop to help with sign issues.

48. Regarding the dispute over whether the Appellant actually visited the locations on October 20, 2015, that supposedly needed school bus stop signs placed, Corum stated he had mentioned this to Appellant, who volunteered to go look at the site. As far as this witness knows, those sites were marked on October 20, 2015, not October 19, 2015, as alleged by the Agency. Corum then mentioned a sign-in sheet existed for October 21, 2015, which showed the Appellant had been there on that day.

49. Appellant's recalled **J. R. Dobner** as his next witness. Dobner was referred to Appellee's Exhibit 11, the Appellant's timesheets for the dates in question. The witness stated he did not specifically see the notation for October 30, 2015. This was the notation claiming work from 1:30 p.m. to 3:00 p.m. at the sign shop. With that, the Appellant rested.

FINDINGS OF FACT

1. The Appellant was an employee with 17 years of service who was dismissed from his position as a TET II on February 16, 2016, for falsifying timesheets and conducting personal business on state time for five days in September and October 2015.

2. In early September 2015, Appellant had been counseled regarding time and attendance policies.

3. Executive Director J. R. Dobner testified the amount of time in question was between 10.5 to 11 hours.

4. Regarding October 20, 2015, the Hearing Officer finds the afternoon hours of 12:15 p.m. to 3:00 p.m., claimed to have been worked by the Appellant, is very unlikely. Certainly the time between 2:00 p.m. to 3:00 p.m. was falsified, as the Appellant was observed in his personal vehicle at a liquor store and a bank in London, Kentucky.

5. Regarding the remainder of the hours claimed in question, the Hearing Officer finds the timesheets of the Appellant was falsified. The Appellant's actions were a violation of GAP Policy GAP-801 and constituted lack of good behavior under 101 KAR 1:345.

6. During the years 2006, 2008, 2010 and 2011, Appellant received two "Outstanding" and two "Highly Effective" evaluations while working as an Administrative Specialist II. No evidence was introduced regarding prior disciplinary actions, or evaluations ranking his performance as a TET II.

7. The evidence also shows that from January 17, 2013, through April 14, 2016 (in approximately 11 cases involving cases of falsified timesheets), the Agency's discipline varied from 5-day, 15-day and 30-day suspensions. At least two Intent to Dismiss letters were mooted by employees' resignations.

8. Two other reductions from Intent to Dismiss letters were made because of the unique work skills of those employees.

CONCLUSIONS OF LAW

1. The Hearing Officer concludes as a matter of law that the Agency carried its burden of proof to show the Appellant falsified his timesheets of the days in question.

2. The Hearing Officer also concludes the penalty imposed under all circumstances was excessive.

RECOMMENDED ORDER

Although the Hearing Officer finds the timesheets were falsified, he must also take note of the relatively minimal number of hours falsified and the discipline imposed by the Agency to others in cases of falsification. The falsification of timesheets is a serious matter and there must be consequences. Accordingly, the Hearing Officer recommends to the Personnel Board that the appeal of **MICHAEL S. LEWIS V. TRANSPORTATION CABINET, (APPEAL NO. 2016-040)** be **SUSTAINED to the extent** that Appellant receive a one-grade **DEMOTION**, effective **February 26, 2016**, and he be awarded back pay at a rate reflecting the demotion from **February 26, 2016**, and other benefits and otherwise be made whole. [KRS 18A.105 and 200 KAR 12:030.]

NOTICE OF EXCEPTION AND APPEAL RIGHTS

Pursuant to KRS 13B.110(4), each party shall have fifteen (15) days from the date this Recommended Order is mailed within which to file exceptions to the Recommended Order with the Personnel Board. In addition, the Kentucky Personnel Board allows each party to file a response to any exceptions that are filed by the other party within five (5) days of the date on which the exceptions are filed with the Kentucky Personnel Board. 101 KAR 1:365, Section 8(1). Failure to file exceptions will result in preclusion of judicial review of those issues not

specifically excepted to. On appeal a circuit court will consider only the issues a party raised in written exceptions. See *Rapier v. Philpot*, 130 S.W.3d 560 (Ky. 2004).

Any document filed with the Personnel Board shall be served on the opposing party.

The Personnel Board also provides that each party shall have fifteen (15) days from the date this Recommended Order is mailed within which to file a Request for Oral Argument with the Personnel Board. 101 KAR 1:365, Section 8(2).

Each party has thirty (30) days after the date the Personnel Board issues a Final Order in which to appeal to the Franklin Circuit Court pursuant to KRS 13B.140 and KRS 18A.100.

ISSUED at the direction of **Hearing Officer R. Hanson Williams** this 30th day of August, 2016.

KENTUCKY PERSONNEL BOARD



MARK A. SIPEK
EXECUTIVE DIRECTOR

A copy hereof this day mailed to:

Hon. Will Fogle
Hon. Paul F. Fauri
Mr. J. R. Dobner



COMMONWEALTH OF KENTUCKY

Matthew G. Bevin
Governor

February 16, 2016

Michael S. Lewis

PERNR:

Re: Dismissal

Dear Mr. Lewis:

After considering your statements presented at your pre-termination hearing held on Wednesday, February 10, 2016, I have not found sufficient reason to rescind or alter the intent to dismiss letter dated January 26, 2016. This letter serves as notification that you are officially dismissed from your position as a Transportation Engineering Technologist II with the Kentucky Transportation Cabinet (KYTC), Department of Highways, District Eleven effective the close of business Tuesday, February 16, 2016.

In accordance with KRS 18A.095 and 101 KAR 1:345, cause exists for your dismissal based on the following specific reason:

Lack of Good Behavior. In July 2015, the KYTC Office of Inspector General (OIG) received notice that you were frequently late for work and left work early. Doug Boyd, contract OIG Investigator, was assigned to investigate the complaint. Boyd conducted physical surveillance on you on about 10 days in September and October 2015, and on 5 of those days, you claimed time worked on your timesheet to which you were not entitled.

On September 11, 2015, you claimed that you worked from 7:00 a.m. to 12:30 p.m. on your timesheet. At approximately 10:15 a.m., Boyd witnessed you leave the Clay County Maintenance Facility and drive to your residence at in your personal vehicle, a Nissan Frontier. At approximately 11:30 a.m., you left your residence and drove to Liquor World. At approximately 11:35 a.m., you left Liquor World and returned to your residence, where you remained until approximately 12:35 p.m. You claimed



An Equal Opportunity Employer M/F/D

RECOMMENDED ORDER
ATTACHMENT A

time worked from 10:15 a.m. until 12:30 p.m. on your timesheet, during which time you were observed conducting personal business.

On September 22, 2015, you claimed on your timesheet that you worked from 7:00 a.m. to 3:00 p.m. with a lunch from 12:00 p.m. to 12:30 p.m. At approximately 11:25 a.m., Boyd observed you leave the Clay County Maintenance Facility in your personal vehicle and drive to your residence. At approximately 12:30 p.m., you returned to the district office. At approximately 1:00 p.m., you left the district office in your personal vehicle and drove to the Manchester Enterprise (the local newspaper office). At approximately 1:40 p.m., you left the Manchester Enterprise and drove to the Clay County Maintenance Facility. At approximately 2:16 p.m., you left the Clay County Maintenance Facility and drove to London in your personal vehicle. Boyd lost sight of you at approximately 2:40 p.m. in the city limits of London on KY 192. You claimed time worked on your timesheet from 11:25 a.m. to 12:00 p.m., 1:00 p.m. to 1:40 p.m., and 2:16 p.m. to 3:00 p.m., during which time you were observed conducting personal business.

On September 25, 2015, you claimed on your timesheet that you worked from 6:30 a.m. to 3:00 p.m. with a lunch from 12:00 p.m. to 12:30 p.m. At approximately 10:40 a.m., Boyd observed you leave the Clay County Maintenance Facility in your personal vehicle and not return to work prior to 3:00 p.m. At approximately 10:50 a.m., or shortly thereafter, Boyd observed you stop at a business near the courthouse in Manchester. You later admitted to Boyd and Mike Duncan, OIG Staff Assistant, that the business was your brother-in-law's dry cleaning business. You claimed time worked on your timesheet from 10:40 a.m. to 12:00 p.m. and 12:30 p.m. to 3:00 p.m., during which time you were observed conducting personal business.

On October 20, 2015, you claimed on your timesheet that you worked from 7:00 a.m. to 3:00 p.m. with a lunch from 12:15 p.m. to 12:45 p.m. At approximately 2:00 p.m., Boyd observed you leave the district office in your personal vehicle and drove to Liquor World. You left Liquor World and drove to London. Once in London, you proceeded to the Market Place Shopping Center, where you arrived at approximately 2:30 p.m. You later admitted to Boyd and Duncan that your financial institution is located in the Market Place Shopping Center in London. You claimed time worked on your timesheet from 2:00 p.m. to 3:00 p.m., during which time you were observed conducting personal business.

On October 30, 2015, you claimed on your timesheet that you worked from 7:00 a.m. to 3:00 p.m. with a lunch from 12:00 p.m. to 12:30 p.m. At approximately 11:15 a.m., Boyd observed you leave the district office in your personal vehicle and drive to your residence. At approximately 12:00 p.m.,

you left your residence and returned to the district office. At approximately 1:25 p.m., you left the district office in your personal vehicle and drove to Liquor World. At approximately 1:32 p.m., you left Liquor World and drove to your residence, where you stayed until 3:00 p.m. You claimed time worked on your timesheet from 11:15 a.m. to 11:30 a.m. and 1:25 p.m. to 3:00 p.m., during which time you were observed conducting personal business.

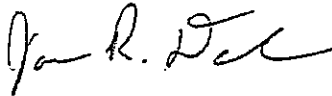
On December 15, 2015, you were interviewed by Boyd and Duncan. They showed you your timesheets for September 11, 22, 25, and October 20 and 30, 2015. Initially, you informed them that the times signed on the timesheets were correct. Boyd then informed you that he had been conducting surveillance and reminded you of the importance of being truthful. You eventually acknowledged that you misrepresented your time on the timesheets. When asked directly by Duncan whether you misrepresented your time on the 5 timesheets in question, you answered "yes."

Your actions are in violation of 101 KAR 1:345, KRS 18A.145(4), and General Administration and Personnel Policy GAP-801, General Conduct, because you falsified your timesheets and claimed time worked to which you were not entitled.

Pursuant to KRS 18A.032, you will not be certified on future registers for employment within the KYTC unless the KYTC so requests.

As you are an employee with status, you may appeal this action to the Personnel Board within sixty (60) days after receipt of this notice, excluding the day of receipt. To appeal, you must complete the attached form and direct it to the address indicated on the form. Copies of KRS 18A.095 and 101 KAR 1:365 concerning appeal and hearing procedures are also attached.

Sincerely,



James R. Dobner
Appointing Authority

Attachments

cc: Personnel Cabinet
State Highway Engineer
Sherri Chappell, Executive Director
Agency Personnel File