



COMMONWEALTH OF KENTUCKY  
PERSONNEL BOARD  
APPEAL NO. 2018-158

SCOT RATZLAFF

APPELLANT

VS.

FINDINGS OF FACT, CONCLUSIONS OF LAW  
AND RECOMMENDED ORDER

TOURISM, ARTS AND HERITAGE CABINET,  
DEPARTMENT OF PARKS

APPELLEE

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This matter came on for an evidentiary hearing on April 11, 2019, at 10:30 a.m., at 1025 Capital Center Drive, Suite 105, 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, Scot Ratzlaff, was present and not represented by legal counsel. The Appellee, Tourism, Arts and Heritage Cabinet, Department of Parks, was present and represented by the Hon. William Adams. Appearing as Agency representative was Shawn Estep.

This matter involves a four-day suspension issued to the Appellant by letter dated June 13, 2018. The basis of the suspension was unsatisfactory performance of duties and lack of good behavior, pursuant to 101 KAR 1:345.

Specifically, on April 28, 2018, sometime in the afternoon, the Appellant is charged with backing his state-operated vehicle into a subordinate employee's personal vehicle. The Appellant is then alleged to have left the scene without making any contact with the owner of the car or any law enforcement.

The burden of proof was placed upon the Appellee by a preponderance of the evidence.

**BACKGROUND**

1. The Appellee's first witness was **Sergeant Jammie Moore**. He has been a Park Ranger with the Department at Kentucky Dam Village State Resort Park for the previous 12 years. Prior to that, he served with the Christian County Police Department.

2. The witness stated that he was informed on or about May 3, 2018, of the accident herein. He stated that after receiving notice of the accident, he conducted an investigation and inspected the employee, Hillary Copeland's, car. This witness completed an incident report (Appellee's Exhibit 1) dated May 8, 2018. In this report, and the witness confirmed this, damage to Copeland's car would not be easily seen by visual inspection only. However, the witness testified that upon thorough inspection, he did find a crease, causing damage to the front panel and molding of Copeland's car.

3. The witness stated he had advised the Appellant that, in the future, should such an incident occur, it was the Appellant's responsibility to notify either the owner or local law enforcement.

4. The witness then referred to KRS 189.580, which sets forth one's duty in the case of an accident. KRS 189.580(2) mandates the actions imposed upon one involved in an accident, as just described by this witness.

5. The witness concluded by stating that he did not believe the Appellant had backed into Copeland's car intentionally, and had probably only left after observing no apparent damage to the car.

6. The Appellee's next witness was **Shawn Estep**. He is the Acting Division Director of Human Resources within the Department of Parks. As such, he made the decision to impose the penalty herein. He explained that because the Appellant is the Park Manager at Kentucky Dam Village, he is expected to set the tone for other Park employees and, in this witness' mind, should be held to a higher standard.

7. He stated the Appellant is a Park Manager III, being one of only three such park managers in the system. He occupies the same grade level as an Assistant Director.

8. This witness testified that one of his primary reasons for imposing discipline was that the Appellant did not contact anyone after hitting the employee's car. He believes that this later led to a possible scenario of intimidation for employee Copeland, after she found out there was approximately \$1,000 worth of damage to her car. The witness then stated that the Appellant herein had no prior disciplinary action and he was aware of nothing similar to this event in the Department's history. He concluded by stating he felt the four-day suspension was appropriate because of the seriousness of the incident.

9. On cross-examination, the witness confirmed a meeting with the Appellant on or about May 15, 2018. He stated that at no time did the Appellant deny the accident had occurred. He also stated that he had advised the Appellant to wait until the entire process had played out.

10. On re-direct, the witness again confirmed that his decision for a four-day suspension was primarily based on Appellant's failure to contact anyone. He added that he had also considered imposing a fine equivalent to damage done to Copeland's car, but decided that was not possible.

11. The **Appellant, Scot Ratzlaff**, then called himself as his first and only witness. He stated that he has been employed within State government as the Kentucky Dam Village Park Manager since October 2010. He testified that at no time has he ever denied backing into the employee's car. He explained that after hitting the car, he got out, looked at her car, and observed no damage to his car or to hers.

12. After talking with Park Ranger Moore, the witness explained that he was told by Moore to wait for the process to play out and that there was no need at that point for him to talk with employee Copeland. He was also advised of the same by Shawn Estep. Appellant was later requested by Debra Barlow of the Parks' Human Resource Department for a Board of Claims form, presumably to be filed in an attempt to pay for damages to Copeland's car.

#### **FINDINGS OF FACT**

1. On April 28, 2018, the Appellant, Scot Ratzlaff, backed his state-owned vehicle into the car of a subordinate employee, Hillary Copeland, at the Kentucky Dam Village State Resort Park parking lot.

2. The Appellant exited his car, made a cursory visual examination of Copeland's car and, seeing no apparent damage, went on his way. No one else was apparently present.

3. It was later determined that Copeland's car had suffered approximately \$1,000 in damages.

4. At the time of the incident, the Appellant neither contacted Copeland nor law enforcement, as mandated by KRS 189.580(2).

5. KRS 189.580(2) states as follows:

The operator of any vehicle which collides with or is involved in an accident with any vehicle or other property which is unattended resulting in any damage to such other vehicle or property shall immediately stop as close to the accident scene as possible without obstructing traffic and shall then and there either locate and notify the operator or owner of such vehicle or other property of his or her name, address, and the registration number of the vehicle he or she is driving or shall attach securely in a conspicuous place in or on such vehicle or other property a written notice giving his or her name, address, and the registration number of the vehicle he or she is driving, or shall file a report with the local police department.

6. Subsequent to the accident, Debra Barlow of the Parks' Human Resource Department requested a Board of Claims form from the Appellant, which presumably was going to be used in an attempt to pay for damages to Copeland's car.

7. At no time has the Appellant denied striking Copeland's car.

#### **CONCLUSIONS OF LAW**

1. The Hearing Officer concludes, as a matter of law, that the Appellee has carried its burden of proof by a preponderance of the evidence.

2. The Hearing Officer has some sympathy for the Appellant's role in this apparent innocent sequence of events. The Hearing Officer also understands the Appellant was unaware of the mandates of KRS 189.580(2); nevertheless, it is the law and, as Park Manager, the Appellant should be held to a somewhat higher standard.

#### **RECOMMENDED ORDER**

The Hearing Officer recommends to the Personnel Board that the appeal of **SCOT RATZLAFF VS. TOURISM, ARTS AND HERITAGE CABINET, DEPARTMENT OF PARKS (APPEAL NO. 2018-158)** be **DISMISSED**.

**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 9<sup>th</sup> day of May, 2019.

**KENTUCKY PERSONNEL BOARD**

  
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**MARK A. SIPEK**  
**EXECUTIVE DIRECTOR**

A copy hereof this day mailed to:

Hon. William Adams  
Mr. Scot Ratzlaff  
Ms. Misty Judy