

**COMMONWEALTH OF KENTUCKY
PERSONNEL BOARD
APPEAL NO. 2016-080**

ELIZABETH A. VETTER

APPELLANT

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

CABINET FOR HEALTH AND FAMILY SERVICES

APPELLEE

*** **

The Board, at its regular December 2016 meeting, having considered the Findings of Fact, Conclusions of Law and Recommended Order of the Hearing Officer dated November 4, 2016, and being duly advised,

IT IS HEREBY ORDERED that the Findings of Fact, Conclusions of Law and Recommended Order of the Hearing Officer 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 15th day of December, 2016.

KENTUCKY PERSONNEL BOARD



MARK A. SIPEK, SECRETARY

A copy hereof this day sent to:

Hon. Jennifer Wolsing
Ms. Elizabeth A. Vetter
Mr. Jay Klein

**COMMONWEALTH OF KENTUCKY
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**VS. FINDINGS OF FACT, CONCLUSIONS OF LAW
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CABINET FOR HEALTH AND FAMILY SERVICES

APPELLEES

* * * * *

This matter came on for evidentiary hearing on September 1, 2016, at 9:30 a.m., at 28 Fountain Place, Frankfort, Kentucky, before the Hon. John C. Ryan, Hearing Officer. The proceedings were recorded by audio/video equipment and were authorized by KRS Chapter 18A.

Appellant, Elizabeth A. Vetter, was present and was not represented by legal counsel. Appellee, Cabinet for Health and Family Services, was also present and was represented by the Hon. Jennifer Wolsing.

This matter was the subject of at least one pre-hearing conference conducted on June 7, 2016, at which the issues were defined and any lingering procedural concerns dealt with.

BACKGROUND

1. At all times germane herein, Elizabeth A. Vetter held the position of Social Service Clinician II, serving in the Department for Community Based Services of the Cabinet for Health and Family Services, assigned to the Hardin County, Kentucky, office. By four-page letter issued on February 9, 2016, over the signature of Tresa Straw, Appointing Authority, she was assessed a five-day suspension for asserted lack of good behavior. A true copy of the letter is attached hereto as **Recommended Order Attachment A**.

2. Ms. Vetter took issue with the action by appeal to this Board under the appropriate category on April 8, 2016, wherein she wrote:

The supervisor did not state that my leave on 12-21-15 was unapproved. I completed all tasks even if I didn't agree with the assignment. Personnel guidelines prevent an employee from working and not claiming the overtime. The current timesheet procedures will not allow you to claim 3 minutes overtime. The incident on 1-14-16 is misrepresented. There have been times when every worker, as well as the supervisor, have been

participating in non-work related activities. I should not be held to a different standard.

3. Upon convening the evidentiary hearing, under its assigned burden of proof the Agency presented the testimony of **Christie Carr**, who was employed with the Agency for nearly 11 years. She was, at the time of the hearing, working elsewhere. At the time of Appellant's suspension in February 2016, she was her supervisor in the Hardin County office. She depicted their relationship as hostile "at best."

4. The witness identified, discussed and explained certain previous disciplines assessed Appellant, including a written reprimand on November 6, 2015 for inappropriate and insubordinate behavior, a two-day suspension issued to her on December 15, 2015 for additional specified acts of insubordinate behavior and, in due course, the five-day suspension of February 9, 2016 which is the subject of this appeal. She depicted the series of disciplines to be due to an ongoing and continuing sequence of disrespectful (and almost intimidating) actions demonstrating a hostile demeanor toward the witness and her instructions.

5. The witness specifically addressed the four specific allegations detailed in the February 9, 2016 suspension letter, recalling that during the sequence depicted therein she maintained notes pertaining to Appellant's hostility toward her and the instructions she undertook to provide her. She urged that Appellant persisted in either ignoring or rejecting one or another request, such as insisting upon closing her office door despite expressed and repeated instructions by both herself and the Safety Director that it remain open. She pointed out that behind the closed door Appellant was found to be reading a book and/or playing games on her cell phone. She had requested that the Safety Director be present when meeting with Appellant upon the occasion referenced in the letter for the reason that she was "fearful, intimidated and disrespected" due to Appellant's body language, which routinely included disapproval, eye rolling and huffing when addressed. She explained that as this behavior appeared to escalate, she commenced to experience anxiety episodes and medical issues, and her own job efficiency and home life became adversely affected. She also was required to work past closing time.

6. The witness continued that Appellant's behavior notably and negatively impacted the entire team operation for the reason that her position requires that she promptly receive and process hard copy documents coming into the unit. These materials must be screened and entered into the TWIST system and, immediately distributed to the Social Workers for further processing. Since Appellant has persisted in reading and playing games upon her cell phone behind her closed office door, the processing of the material slowed or did not occur and the entire office output was negatively impacted.

7. Under cross-examination, Appellant quizzed the witness relative to her assertion of having to work longer hours. She explained that Appellant's hostile behavior and her

11. This witness was the staff member involved with the email matter pertaining to Anderson County, Kentucky, perceived as incomplete with missing pages referenced in the suspension letter. She depicted a circumstance in which it became important to timely confirm with Appellant whether the transmission was already received and dealt with, or needed to be re-requested. When Appellant was approached concerning it, she demonstrated what the witness perceived to be an extremely uncooperative attitude, refusing to discuss it as she prepared to leave for the day. The outcome was that the witness and one or more other staff persons were required to remain after hours that day to clear up matters. She generated email to Supervisor Carr on January 26, 2016, describing Appellant's disrespectful behavior and urging that this, and her general attitude, were causing a hostile environment within the office. She also made reference in the email to Supervisor Carr having approached Appellant in her office upon a prior occasion with a question, who at that time refused to respond and, according to the witness, "slammed the door in her face."

12. Under very brief cross- and redirect examination, the witness denied that her knowledge of the door slamming episode was hearsay. Appellant pressed her concerning whether, pertaining to the email about the Anderson County issue, she simply failed to hear her response thereto; the witness reiterated that she was quite certain Appellant did not respond. She added that from her workstation she was able to overhear virtually all conversations throughout the work area.

13. **Theresa McDowell** is a Social Services Clinician II assigned to the Hardin County office. Her duties include covering for the supervisor in her absence upon a rotating basis, receiving and processing child and adult abuse reports as received from clients, and entering classified information into the TWIST system. She commenced originally with the Agency sometime in 1996 and has been so employed since that time, with the exception of approximately one year when she was away. She holds an extensive work history with the Commonwealth, which she described. This witness has also served as a supervisor as required upon occasion.

14. The witness has known and worked with Appellant for several years, beginning around 1996. She has also been her supervisor and, in connection therewith, depicted her behavior during those times as similar (i.e. insolent and surly) as described in the prior testimony. She recalled that, at one point, she quizzed Appellant concerning her attitude and discerned that she was unhappy due to having been passed over for promotion.

15. This witness is familiar with former supervisor Christie Carr and recalled that, in the performance of her duties, "she tried to be fair to everybody." She acknowledged that she made mistakes, but undertook to learn and correct her errors and "she was learning." The witness was aware that the relationship between Appellant and Carr was hostile and that they

tendency to close her office door and read or utilize her cell phone resulted in extra work and, as supervisor, she felt the need to remain beyond closing time to "make sure everything was done appropriately." Briefly addressing the episode of January 14, 2016, referenced on page 3 of the suspension letter, Appellant discussed with the witness whether she, as supervisor, had consulted with Appellant concerning whether certain documents were timely received from Anderson County in addition to obtaining a version of the story supplied by another worker. The witness recalled that Appellant had left and was not available at the appropriate time to clear up the issue. Turning to other events of that same date, the witness denied that Safety Director Dan McCoy was loud or hostile when he conferred with Appellant concerning her insistence upon closing her office door; she noted that her own office is nearby and she would have heard him if he raised his voice. She confirmed that staff are on duty at the Hardin County office from 8:00 a.m. through 4:30 p.m. and are not required to work outside of those hours although, she added, most of them do so in the furtherance of their duties.

8. Under relatively brief redirect examination, the witness further explained that her longer hours on the job arose, at least in part, due to Appellant's hostile and belligerent behavior, primarily her refusal to follow instructions or perform beyond the bare minimum required. She explained the protocol giving rise to this involving the processing of papers and other reports coming in to the office. She also further addressed an inquiry made by Appellant in the cross-examination concerning her own use of her computer for non-work-related matters, pointing out that this seldom occurred and was usually for purposes of checking weather conditions or searching for further information arising from incidents which might impact the office or its mission.

9. **Robin Payne** commenced her position of fulltime Administrative Secretary in the Agency's Hardin County, Kentucky office in November 2009. She includes among her duties preparation of payroll, faxing requirements, and the processing of a variety of reports. She is familiar with both Appellant and Christie Carr, former supervisor. She recalled that Ms. Carr performed her supervisory duties well and in a professional and fair manner. She was always courteous to this witness, Appellant and other staff. Appellant, on the other hand, displayed an insolent and surly attitude toward the supervisor and others and, in her view, was unprofessional toward her and everyone else in the office. Specifically, Appellant bullied and belittled this witness, criticizing her work product to one or more coworkers. She depicted Appellant's attitude as "eye rolling and huffing" quite often when addressing the supervisor or the witness.

10. The witness continued that, in keeping with the depicted insolent attitude, Appellant refused to communicate with anyone concerning work-related duties before 8:00 a.m. and routinely kept her office door closed. She recalled that upon one or another occasion when she needed to confer with Appellant during work hours, upon entering her office, Appellant would be reading a book or giving the appearance of playing a game or sleeping. She viewed that this behavior negatively impacted the office.

“did not get along.” Among the behavior which she observed was Appellant’s chronic closing of her office door which, she recalled, at one time was being locked by Appellant until stopped by management, and her tendency to read books while on duty and to engage in other non-work activities. The witness pointed out that the office duties demand a fast-paced, rushed procedure, and that little time is available to be wasted with follow-up tracking of the work of others.

16. The witness continued that Appellant’s attitude with her coworkers was and is similar to that displayed toward the supervisor, i.e. disrespectful and uncooperative. She cited, as an example, the episode previously addressed dealing with the email traffic from Anderson County which arrived late in the day on January 14, 2016. The witness expanded upon the sequence in some detail, noting that the transmission came in near closing time, between 4:20 p.m. and 4:30 p.m. As it came through, she approached Appellant to confirm whether or not the documentation had already been received, assessed, and processed in order to avoid duplicating the work. However, when she approached Appellant, who should have received it, she was departing for the day and refused to discuss it or respond at all. The result was that the witness and one or more others were required to remain past the 4:30 p.m. closing time and deal with the issue, since they were unaware of whether or not Appellant had already done so and could not assume that the matter was taken care of. She expressed her irritation and concerns in an email to the supervisor, which she introduced as part of her testimony. Under very brief cross- and redirect examination, the witness reiterated that no conversation occurred between Appellant and herself pertaining to the Anderson County email episode. She insisted that she had no reason to fabricate any claim concerning Appellant’s behavior.

17. **Daniel McCoy** has been the Safety Administrator for the Department of Community Based Services (DCBS) for three years. His official workstation is Frankfort, but his assigned territory includes Hardin County. He numbers among his duties the monitoring of critical events, management and resolution of all safety issues, and the issuance of safety advice. He also conducts follow-up concerning any threats from within or outside of the Agency, and is involved with OSHA matters. His background includes 23 years with the Frankfort City Police from which he retired in August 2013, and three years of military duty.

18. The witness was requested, in his official capacity, to sit in at a conference scheduled by Christie Carr on December 21, 2015. He was apprised of her concern arising from the demeanor of an employee, Appellant herein, and the supervisor felt the need to ensure safety and to more firmly convey her instructions to this employee. Accordingly he appeared on the said date and Appellant’s presence was requested in the supervisor’s office. Initially, despite the supervisor’s request, Appellant refused to sit choosing instead, he recalled, to stand while “huffing” and demonstrating a defiant posture. However, she did sit when this witness advised her to do so, but continued to convey a “hateful,” disrespectful, and even combative demeanor toward the supervisor.

19. The witness recalled that supervisor Carr's agenda included three items, namely (a) that Appellant keep her office door open during working hours; (b) make certain corrections upon her timesheet; and (c) offer suggestions toward a specified program. Appellant's reaction concerning the open door was that they should "make everyone else do it," that her incorrect timesheets were the fault of management and not herself, and that she had no suggestions concerning the particular program.

20. The witness continued that, notwithstanding Appellant's hostile demeanor, the supervisor was not "pushy," loud, arrogant or belligerent. Following the brief conference, Appellant went to her office and, upon entering it, promptly closed her door. Observing this, the witness followed her, opened the door, and firmly instructed her to allow it to remain open. He recalled her response to be "I can't work like that" and rather quickly she snatched up some documents, threw them on Carr's desk and left the building, allegedly sick. The witness insisted that he was never abusive, loud or threatening toward her, but did address her in a firm voice. He prepared a written summary of events at the time, which he introduced in the course of his testimony. Under brief cross-examination, he ratified that Appellant did not throw the aforementioned documents at the supervisor, but tossed them on her desk.

21. **Marcus Haycraft** has served as a Service Region Administrator Associate with DCBS for approximately one year. He is assigned the Hardin County office. He was previously employed with the Agency for approximately 27 years and retired therefrom, but was called back to serve in the current position. He includes among his duties personnel hiring and firing, building safety and related matters. He has known Appellant for several years.

22. This witness was made aware by Supervisor Carr of certain issues with Appellant and sat in upon at least one meeting wherein Carr undertook to counsel with Appellant concerning her duties. In the meeting, he observed Appellant to be disrespectful, depicting her body language as crossing her arms, rolling her eyes and responding in a condescending manner such as "whatever" to the supervisor's instructions. He did not observe the supervisor to raise her voice or respond in kind to Appellant. Based upon his observations, he concluded that the relationship between the two individuals was sufficiently deteriorated that it could not be repaired, and it gave him concern relative to future and worsening efficiency in that office. He prepared a summary of his observations at that time, which he tendered as part of his testimony. Appellant conducted no cross-examination.

23. **Heather Simpson**, now retired, previously served as a Service Region Clinical Associate with the Agency for nine years and, prior to that, accumulated extensive experience as an investigator of high risk child abuse and near-fatality matters. Her more recent position involved assisting the various supervisors in those areas within her expertise. She came to know former supervisor Christie Carr and found her to be always fair and professional in the performance of her duties and treatment of personnel.

24. The witness is also familiar with Appellant, whom she has known for approximately nine years. It was she who put in a formal Request for Major Disciplinary Action on December 22, 2015. The basis for this was the unsatisfactory meeting among Carr, McCoy and Appellant on December 21, 2015, wherein Appellant displayed notable disrespect toward the supervisor, refused to comply with her directives, and left "sick" without permission following the meeting. The witness tendered a copy of her request, together with several attachments detailing the events which gave rise to the need to seek the action. These attachments contain a series of incidents involving Appellant wherein she displayed hostility, insolence and disrespect toward the supervisor and coworkers.

25. This witness previously undertook to confer with Appellant variously in connection with one or another of the disciplines assessed her, including that under appeal herein. She thought that, in light of Appellant's demonstrated skills, intellect and various astute abilities in the performance of her assigned tasks, perhaps something could be implemented to alleviate the demonstrated behavior. However, she recalled, Appellant grew surly, would not respond, and refused to discuss any remedies or options. She was also informally referred to the Kentucky Employees Assistance Program (KEAP), which is routine when discipline is imposed. Under very brief cross-examination, Appellant quizzed the witness as to the reason for the KEAP referral, whereupon she reiterated that it is informal, merely an offer and imposes no obligation.

26. **Jack Barnett** has held the position of Human Resource Administrator for five and one half years and is a member of the staff which receives Requests for Major Disciplinary Action in the Frankfort office of the Agency. The request submitted by Heather Simpson concerning Appellant on December 22, 2015 came to him. He described the procedure utilized in the processing of such requests, namely that he collects all data and information to complete the file, and researches precedent in order to determine an appropriate disposition if action is taken. In the event action is required, he prepares a draft of the disciplinary letter. He located at least two precedents which he viewed were comparable to the facts presented concerning the behavior of Appellant, and in each instance a five-day suspension was assessed.

27. The witness confirmed that it was he who drafted the suspension letter of February 9, 2016, based upon the information supplied and collected. He explained the basis for each of the findings set forth in the letter and identified and presented as part of his testimony relevant portions of an Agency employment manual governing employee conduct, standards of practice, and the sick leave regulation. He pointed out that Appellant's behavior, as set forth in detail in the suspension letter and verified at length by prior witnesses, expressly violated various of these standards of conduct. Further, use of sick leave without permission or preapproval violates that regulation.

28. Under very brief cross-examination, Appellant questioned the appropriateness of adding certain "charges" to the Request for Major Disciplinary Action without discussing these additions with her. He acknowledged that this does occur although, he pointed out, it is not he who directly informs any employee of the charge and, in that regard, has never met Appellant.

29. **Jay Klein** is the Division Director, Division of Employee Management in the Office of Human Resources Management (OHRM) for the Agency. He currently holds limited appointing authority and, in connection therewith, identified and briefly explained the suspension letter issued to Appellant on February 9, 2016. He recalled that his staff recommended a five-day suspension, based both upon the allegations submitted in the request and under the Agency progressive discipline policy. He noted, as set forth in the letter, that Appellant was previously penalized by way of reprimands and a two-day suspension, and the five-day recommendation was the next level. The Appointing Authority who executed the letter concurred. Appellant had no questions of this witness.

30. The Agency having completed its proof-in-chief, **Appellant, Elizabeth Vetter**, offered testimony in her own behalf. She verified that she is a Social Service Clinician for the Agency, based in Hardin County, Kentucky. She addressed the allegations set forth in the suspension letter. She acknowledged that she declined to discuss work-related items with the supervisor before 8:00 a.m. as alleged, noting that staff is not permitted to start work early and incur overtime or work off the clock. She viewed that "working" three minutes before starting time would have resulted in an incurrence of improper overtime.

31. Appellant agreed that she often closes her office door. She urged that she does this because it enables her to perform her duties more efficiently, screening out the variety of noises generated in the facility hallway. She insisted that she was being singled out, in that other staff often works with their office doors closed. Referencing the conference or meeting with Supervisor Carr and Safety Director McCoy, Appellant insisted that upon one or more occasions either during or after the meeting, McCoy addressed her in a loud and threatening tone. She conceded that she thereupon left due to not feeling well, informing the supervisor of her intent to do so. She viewed that, since the supervisor did not deny the leave at that time, she effectively approved it. As a corollary, Appellant noted that the leave was charged to her without compensation, and to have utilized her departure as one of the grounds for the recent suspension amounted to a form of double penalization. She felt that one or the other should be rescinded. Briefly addressing the claim that she engages in non-work related activities while on duty such as reading, Appellant insisted that her activities in that regard are no different than other members of the staff having done the same thing without penalty. She asserted that she adequately performs her duties and no time is wasted. Finally, Appellant noted that certain alleged complaints concerning her behavior were added to the Request for Major Disciplinary Action sent in by Simpson, without any discussion with her and concerning which she was not afforded any opportunity to respond or dispute before the disciplinary letter was issued.

32. Under cross-examination, the Agency further addressed some of the points or issues specified in the suspension letter. Appellant acknowledged certain portions thereof and disputed others, insisting that many of the complaints lodged against her were matters of opinion which were routinely resolved in favor of others while she was being singled out for excess scrutiny. She felt that some portions of the testimony and of the underlying correspondence variously introduced contained inaccurate or false information. Appellant acknowledged that she possesses no probative information that would disprove any of the testimony. There was thereupon concluded the sworn testimony, and the matter stood submitted for recommended order.

33. KRS 18A.095(1) requires that "a classified employee with status shall not be dismissed, demoted, suspended or otherwise penalized except for cause."

34. 101 KAR 1:345, Section 1, allows that "Appointing Authorities may discipline employees for lack of good behavior or the unsatisfactory performance of duties." Section 4 of the regulation mandates that suspensions shall not exceed 30 days, and details the handling of notices.

35. The Agency has in place a manual containing a series of internal requirements governing the behavior of its personnel. These include Personnel Procedures 2.1 and Standards of Practice 1.1, each of which is adequately referenced and addressed in the suspension letter attached as part of this recommended order.

FINDINGS OF FACT

1. At all times germane to this proceeding Appellant, Elizabeth A. Vetter, was a classified employee with status, holding the position of Social Service Clinician II, serving in the Department for Community Based Services of the Agency and assigned to the Hardin County, Kentucky, office. At some time previously, by all accounts she became unhappy with certain aspects of her working relationships. Her displeasure with her employment environment primarily took the form of demonstrated contempt for the supervisor, whereupon she variously disputed, ignored or disobeyed requests and instructions. She also demonstrated a disparaging and condescending attitude toward one or more coworkers while consistently declining to discuss whatever issues were troubling her or how they might be remedied to her satisfaction.

2. Appellant's hostility, which also included ignoring inquiries from coworkers and engaging in non-work activities behind the closed door of her office, had a notable negative impact upon the work environment. Notwithstanding one or more reprimands and a previous suspension, her demeanor did not improve.

3. The Hearing Officer finds the testimony of all witnesses, including that of Appellant, to be credible.

CONCLUSIONS OF LAW

1. Appellant's behavior, as abundantly established by several members of management and coworkers who observed her demeanor, clearly warrants implementation of 101 KAR 1:345, and is violative of Agency personnel Standards of Practice. Many of the claims stand uncontroverted, other than a general denial by Appellant, which she depicts as a difference of opinion. She concedes that she demonstrated her contempt toward, but supplies no grounds for, the supervisor and one or another coworker, along with her arbitrary refusal to comply with reasonable instructions.

2. Neither previous penalizations nor efforts at counseling for similar acts alleviated the issue, and the current suspension of five days was neither excessive nor erroneous in light of the overall circumstances.

RECOMMENDED ORDER

The Hearing Officer recommends to the Personnel Board that the appeal of **ELIZABETH A. VETTER V. CABINET FOR HEALTH AND FAMILY SERVICES, (APPEAL NO. 2016-080)** 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 John Ryan** this 1/24 day of November, 2016.

KENTUCKY PERSONNEL BOARD



MARK A. SIPEK
EXECUTIVE DIRECTOR

A copy hereof this day mailed to:

Hon. Jennifer Wolsing
Ms. Elizabeth A. Vetter



CABINET FOR HEALTH AND FAMILY SERVICES

Matthew G. Bevin
Governor

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Vickie Yates Brown Glisson
Secretary

February 9, 2016

Elizabeth A. Vetter

PERNR: 181540

Re: Five (5) Day Suspension

Dear Ms. Vetter:

Based on the authority of KRS 18A.095 and 101 KAR 1:345, you are hereby notified that you are officially suspended from duty and pay for a period of five (5) working days. The effective dates of your suspension are February 22, 2016; February 23, 2016; February 24, 2016; February 25, 2016; and February 26, 2016.

In accordance with 101 KAR 1:345, Section 1, you are being suspended from your position as a Social Service Clinician II in the Department for Community Based Services (DCBS), Salt River Trail Service Region for the following specific reasons:

Lack of Good Behavior. As reported by Service Region Administrator (SRA) Nelson Knight, you have been resistant to proper direction and demonstrated inappropriate, unprofessional and insubordinate behavior by failing to follow the directives of your supervisor. In addition, you left your work station without approval on December 21, 2015.

Specifically, you repeatedly have demonstrated resistance to accepting direction from your supervisor, Family Services Office Supervisor (FSOS) Christie Carr. In addition, when given direction, you repeatedly questioned FSOS Carr regarding the validity of the direction, attempted to demean FSOS Carr, and unprofessionally expressed your displeasure by rolling your eyes when addressed by FSOS Carr.

On December 21, 2015, at approximately 7:57 a.m., FSOS Carr addressed you to inform you that the Central Intake (CI) box had been pulled and that she wanted you to keep the CI box pulled for the remainder of the day. However, before FSOS Carr could complete her sentence, you cut her off stating, "It is not 8:00 o'clock yet. I don't want to hear it."

Additionally, a few minutes later, FSOS Carr knocked on your office door, as it was closed, and informed you that she needed to speak with you. You rolled your eyes and stated that you had a lot of work to do. FSOS Carr directed you to come to her office. You "reluctantly" got up from your desk again stating you had a lot of work to do, but did comply and went to FSOS Carr's office. Safety Administrator Dan McCoy was also present for this meeting. FSOS Carr asked you to sit down. At first you refused, but then "reluctantly" complied. Mr. McCoy, described you as "mad" and "very uncooperative during the meeting." FSOS Carr directed you to leave your office door open for open communication purposes. You argued and responded that you "would if everyone else had the directive to leave their door open." Mr. McCoy asked you if you were going to comply with FSOS Carr's directive. According to Mr. McCoy, you were combative and would not directly answer his question.

After the meeting ended, you went back to your office and promptly closed your office door, in direct contradiction to FSOS Carr's directive. Mr. McCoy walked across the hall and opened your office door. You asked Mr. McCoy to shut the door and told him that this was your office. Mr. McCoy reminded you that this was a DCBS office and that FSOS Carr had just directed you to leave your office door open. You responded to Mr. McCoy that you "would just go home sick." You then told FSOS Carr that you were leaving and taking sick leave. FSOS Carr did not approve your request for sick leave at that time.

Your sick leave benefit is provided to cover times when you have medical examinations scheduled and/or when you are unable to perform your duties due to a medical situation. Sick leave is not provided for cases when an employee becomes upset/mad, or because they do not want to follow the direction of their supervisor. You stated in your January 8, 2016 written response to the notification of possible disciplinary action that you informed the supervisor that you did not feel well. However, you also stated in the statement "I was not placing my safety and well-being in harm's way by staying in that type of environment so I chose the best course of action for my own safety and removed myself from the situation." You also stated, "Removing myself from the situation was the most appropriate and professional response." Although you describe this situation as being a hostile work environment, the fact that you were given direction by your supervisor, and this direction was reaffirmed to you by Mr. McCoy after you immediately defied the instruction, does not create a hostile work environment. Leaving your work station on December 21, 2015 was not due to a condition requiring the use of sick leave, but was due to your failure to accept proper direction from your supervisor. As a result, you received 7.25 hours of unauthorized leave without pay for your unauthorized absence on December 21, 2015.

As written in the Cabinet for Health and Family Services' (CHFS) Personnel Procedures 2.1, Employee Conduct, Purpose, "CHFS expects its employees to maintain a high standard of conduct and professional behavior, including outside of work, to maintain the public's confidence in the integrity of its government and public servants. (See Guide to the Executive Branch Code of Ethics) Actions in violation of this duty as a public servant may lead to corrective or disciplinary action, up to and including dismissal." CHFS also expects a "respectful and professional work environment, free from any form of harassment and violence. Violation of policies and procedures, unsatisfactory performance of duties, and/or failure to exhibit good behavior may lead to corrective or disciplinary action, up to and including dismissal."

Further, DCBS' Standards of Practice (SOP) 1.1, Ethical Practice states in part that protection and permanency professionals "Carry out their professional responsibilities with integrity, treating those with whom they have professional relationships in a dignified, respectful, honest and fair manner. Avoid harming those toward whom they have professional responsibilities. Act with integrity in their relationships with their colleagues, treating them with respect, honesty and fairness and accepting their right to hold values and beliefs that differ from their own." And, "Cooperate with colleagues in order to serve the best interests of their clients effectively and efficiently."

Your inappropriate, unprofessional, and insubordinate conduct violates DCBS' SOP 1.1, Ethical Practice and the CHFS' Personnel Procedure 2.1, Employee Conduct; and 5.13, Sick Leave and constitute grounds for disciplinary action pursuant to 101 KAR 2:102, Section 10(2)(c). Further, your actions constitute lack of good behavior for which you may be disciplined pursuant to 101 KAR 1:345, Section 1.

Lack of Good Behavior. As reported by Service Region Administrator (SRA) Nelson Knight, you demonstrated inappropriate and unprofessional behavior towards a co-worker and your supervisor.

The Cabinet for Health and Family Services' (CHFS) Personnel Procedures 2.1, Employee Conduct, Purpose, "CHFS expects its employees to maintain a high standard of conduct and professional behavior, including outside of work, to maintain the public's confidence in the integrity of its government and public servants. (See Guide to the Executive Branch Code of Ethics) Actions in violation of this duty as a public servant may lead to corrective or disciplinary action, up to and including dismissal." CHFS also expects a "respectful and professional work environment, free from any form of harassment and violence. Violation of policies and procedures, unsatisfactory performance of duties, and/or failure to exhibit good behavior may lead to corrective or disciplinary action, up to and including dismissal."

Specifically, on January 15, 2016, you met with FSOS Carr and Service Region Administrator Associate (SRAA) Marcus Haycraft concerning work issues as to reading and playing on your cell phone during working hours and while not on break. According to SRAA Haycraft, you were disrespectful during the meeting and expressed apparent resentment towards FSOS Carr. After the meeting, at approximately 4:00 p.m., FSOS Carr came out of her office as you were walking in the hallway. She began to tell you that she would pull the webs (emails generated from the Kentucky Child / Adult Protective Services Reporting System) for you, but before she could complete her sentence, you displayed rudeness and disrespect by closing your office door and cut off the communication when FSOS Carr was approximately two feet away.

On January 14, 2016 at approximately 4:27 p.m., an email was received in the CI email box from Anderson County. As Social Service Clinician II (SSC II) Theresa McDowell was printing the documents, OSA II Robin Payne revealed that she had just received a fax from Anderson County and provided it to you. SSC II McDowell went to your office to check with you to see if these were duplicate documents. You were walking towards your office door with your coat on and your handbag on your shoulder. When SSC II McDowell asked you about the fax you received from OSA II, instead of cooperating with your co-worker to eliminating possible duplicate documentation and work effort, you refused to answer SSC II McDowell. SSC II McDowell explained that she had received documents from Anderson County and needed to know if they were duplicates of the documents OSA II Payne had given you. Again you refused to answer and departed for the day.

Your inappropriate and unprofessional conduct violates DCBS' SOP 1.1, Ethical Practice and the CHFS' Personnel Procedure 2.1, Employee Conduct. Further, your actions constitute lack of good behavior for which you may be disciplined pursuant to 101 KAR 1:345, Section 1.

Unsatisfactory Performance of Duties and Lack of Good Behavior. As reported by Service Region Administrator (SRA) Nelson Knight, on January 14, 2015, you were observed shirking your duties and conducting non-work related activities during working hours.

On the afternoon of January 14, 2016, you were observed by FSOS Carr reading a book and playing on your cell phone. You were not on break when you were observed by FSOS Carr. This conduct of not performing your assigned duties has occurred several times in the past, including on December 23, 2015,

at 8:10 a.m., when FSOS Carr entered your office and observed that you were playing a game on your cell phone, even though you attempted to cover the phone with documents. This conduct and your failure to perform your assigned duties was the reason for the meeting between you, FSOS Carr, and SRAA Haycraft, outlined in the above charge, held on January 15, 2016.

Even though you were placed on notice concerning shirking your duties and conducting non-work related activities during the January 15, 2016 meeting with FSOS Carr and SRAA Haycraft, on February 2, 2016, at approximately 3:44 p.m., FSOS Carr observed you reading the *Hunger Games* when she came to your office. You were not on break at this time and should have either been performing your assigned duties or offering your assistance to your co-workers to aid them in timely completing all referrals and other necessary paperwork.

Your conduct violates CHFS' Personnel Procedure 2.1, Employee Conduct. Further, your actions constitute unsatisfactory performance of duties and lack of good behavior for which you may be disciplined pursuant to 101 KAR 1:345, Section 1.

You previously received the following action(s):

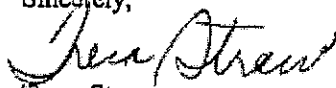
<u>DATE</u>	<u>ACTION</u>	<u>REASON</u>
December 15, 2015	Two Day Suspension	Lack of Good Behavior
November 6, 2015	Written Reprimand	Lack of Good Behavior
July 17, 2008	Written Reprimand	Lack of Good Behavior/Poor Work Performance
April 29, 2008	Verbal Reprimand	Lack of Good Behavior/Poor Work Performance
February 19, 2008	Verbal Reprimand	Lack of Good Behavior

Further incidents in violation of policy may lead to further and more severe disciplinary action, up to and including dismissal.

For your information, the Kentucky Employee Assistance Program (KEAP) is a voluntary and confidential assessment and referral service for state employees. This service may help you with any personal problems that may be affecting your job performance. KEAP can be reached at 1-800-445-5327 or (502) 564-5788.

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 enclosed.

Sincerely,


Tresa Straw
Appointing Authority

TS:jcb

Attachments

c: Secretary Thomas Stephens, Personnel Cabinet
Executive Director Mark Sipek, Personnel Board
Commissioner Adria Johnson, Department for Community Based Services
Service Region Administration Nelson Knight, Salt River Trail Service Region
Cabinet Personnel File