



DECISION RENDERED BY THE  
CIVIL SERVICE COMMISSION ON  
THE 7<sup>TH</sup> DAY OF APRIL, 2021

*Deirdre' L. Webster Cobb*

Deirdré L. Webster Cobb  
Chairperson  
Civil Service Commission

Inquiries  
and  
Correspondence

Christopher S. Myers  
Director  
Division of Appeals and Regulatory Affairs  
Civil Service Commission  
Unit H  
P. O. Box 312  
Trenton, New Jersey 08625-0312

Attachment



**State of New Jersey**  
OFFICE OF ADMINISTRATIVE LAW

**INITIAL DECISION**

**SUMMARY DECISION**

OAL DKT. NO. CSV 10528-19

AGENCY DKT. NO. 2020-219

**IN THE MATTER ETTA ELLIOTT,  
DEPARTMENT OF HUMAN SERVICES,  
VINELAND DEVELOPMENTAL  
CENTER.**

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**John P. Morris, Esq.,** for appellant, Etta Elliott

**Rimma Razhba,** Deputy Attorney General for respondent, Department of Human Services, Vineland Developmental Center (Gurbir S. Grewal, Attorney General of New Jersey, attorney)

Record Closed: January 22, 2021

Decided: February 24, 2021

**BEFORE TAMA B. HUGHES, ALJ:**

**STATEMENT OF THE CASE**

Etta Elliott ("Elliott" or "Appellant") appeals the Department of Human Services - Vineland Development Center's (Respondent) Final Notice of Disciplinary Action (FNDA) sustaining the charges of violation of N.J.A.C. 4A:2-2-6.2 (Resignation Not in Good Standing)

and N.J.A.C. 4A:2-2.3(a)(12) (Other Sufficient Causes – specifically, Violation of Section A.O. 4:08 – A-3 (Abandonment of job as a result of absence from work as scheduled without permission for five (5) consecutive days) and A.O. 4:08; E-1.1 (Violation of a rule, regulation policy, procedure, order or administrative decision)).

### PROCEDURAL HISTORY

On May 31, 2019, a Preliminary Notice of Disciplinary Action (PNDA) was issued and mailed to the appellant via regular and certified mail. (Respondent's Brief, Rimma Razhba Certification (Razhba) – Exhibit A.) On July 2, 2019, a Final Notice of Disciplinary Action (FNDA) was issued and mailed to the appellant via certified mail. Both the PNDA and FNDA that were sent via certified mail and were mailed to appellant's last known address and returned to the respondent.<sup>1</sup> Appellant appealed her removal and the matter was transmitted to the Office of Administrative Law as a contested case on August 1, 2019, pursuant to N.J.S.A. 52:14B-1 to -15 and N.J.S.A. 52:14F-1 to -13.

Several conference calls were scheduled in October 2019, however, were adjourned due to petitioner's representative failure to join the call. Thereafter, in December 2019, appellant retained William A. Nash, Esq., as counsel after which a status call was held with the parties to discuss discovery and motion deadlines as well as hearing dates (June 8, 2020, and June 15, 2020). Thereafter, in May 2020, the parties notified the tribunal that they were attempting to settle the matter. At the request of the parties, the motion deadlines were extended, and the hearing dates adjourned. The matter did not settle and on September 1, 2020, new dates were provided to the parties for the filing of respondent's summary decision motion and new hearing dates of March 9, 2021, and March 10, 2021, were set.

On October 30, 2020, respondent filed the instant motion for summary decision. On November 24, 2020, appellant's counsel, Mr. Nash, filed a motion to be relieved as counsel. By Order, dated December 8, 2020, the application was granted. Thereafter, in or around

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<sup>1</sup> The address to which all notices/letters were sent, including the PNDA and FNDA were sent was the same address which petitioner used to file her appeal.

December 10, 2020, appellant retained the services of new counsel, John P. Morris, Esq., who filed an opposition brief to the instant motion on January 8, 2021.

### **FACTUAL DISCUSSION AND FINDINGS**

Based on the undisputed documents presented by the parties and for purposes of deciding the motion for summary decision, I **FIND** the following **FACTS**:

1. Appellant was employed by the Vineland Developmental Center as a Human Services Assistant. She was also a member of the American Federation of State, County and Municipal Employees. (AFSCME)
2. By letter, dated November 14, 2018, appellant was notified that she had been out of work since November 3, 2018, and that pursuant to the New Jersey Administrative Code, her union contract, and the Department's Policy on Time Away from Work, that she was required to submit a medical certificate for absences of five (5) days or more. The letter, which was sent by certified mail, was addressed to the appellant at her last known address in Bridgeton. (Razhba Certification – Exhibit C.)
3. By letter, dated November 15, 2018, the respondent acknowledged the appellant's request for a Medical Leave of Absence received that same date of November 15, 2018. (Elliott Certification - Paragraph 3) Through this letter, respondent approved the requested leave under the Federal Family and Medical Leave Act (FMLA) from November 2, 2018, through January 1, 2019. The leave from November 3, 2018, to November 9, 2018, was authorized as FMLA with pay. The remainder of the leave – November 10, 2018, to January 1, 2019, was authorized as FMLA without pay. The appellant was also informed that forty-eight hours prior to her return to work, she was required to provide a doctor's note clearing her without restriction. N.J.A.C. 4A:2-6.2(c)

was also cited.<sup>2</sup> The letter further stated that a request for an extension of leave would not be unreasonably denied. (Razhba Certification – Exhibit D.)

The letter was sent via regular and certified mail to appellant's last known address in Bridgeton where it was received on November 19, 2018, and signed for.

4. By letter, dated January 3, 2019, the respondent approved the appellant's request for an extended medical leave of absence under FMLA. Appellant's leave was extended from January 2, 2019, through February 13, 2019. (Elliott Certification - Paragraph 3.) January 2, 2019, through to January 25, 2019, was designated as FMLA without pay and January 26, 2019, to February 13, 2019, was designated as "Personal illness without pay. As with the prior letter, appellant was informed that forty-eight hours prior to her return to work, a doctor's note was required clearing her to work without restriction. N.J.A.C. 4A:2-6.2(c) was also cited in its entirety. (Razhba Certification – Exhibit E.)

Respondent sent the extension letter via regular and certified mail to appellant's last known address in Bridgeton where it was received and signed for.

5. By letter, dated February 21, 2019, the respondent informed the appellant that she had been absent from work since February 14, 2019 – the return date from her prior approved leave. Through this letter, the appellant was provided the citation to N.J.A.C. 4A:2-62(c) and informed that failure to contact the Human Resources Office within five days of the date of the letter may result action being taken against her – specifically, her involuntary resignation "not in good standing". (Razhba Certification – Exhibit F.)

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<sup>2</sup> N.J.A.C. 4A:2-6.2(c) states in pertinent part: "An employee who has not returned to duty for five or more consecutive business days following an approved leave of absence shall be considered to have abandoned his or her position and shall be recorded as a resignation not in good standing. A request for extension of leave shall not be unreasonably denied."

Respondent sent the extension letter via regular and certified mail to appellant's last known address in Bridgeton. The certified mail was returned as undeliverable. (Razhba Certification – Exhibit F.)

6. By letter, dated March 8, 2019, the respondent acknowledged receipt of the appellant's request for an extension of a Medical Leave of Absence. (Elliott Certification - Paragraph 3.) Through this letter, the appellant was informed that she no longer met the eligibility requirements for FMLA, however, the requested leave would be approved as a "Personal Illness Medical Leave of Absence" and that it would be granted from March 1, 2019, through March 15, 2019, without pay. The letter went on to advise that personal medical leaves of absence were discretionary and subject to management approval. Appellant was further informed that the time from February 14, 2019, to February 28, 2019, would be documented as unauthorized absences.

As with the prior extension letter, appellant was informed that forty-eight hours prior to her return to work, a doctor's note was required clearing her to work without restriction, and N.J.A.C. 4A:2-6.2(c) was cited in its entirety. (Razhba Certification – Exhibit G.)

The letter was sent via regular and certified mail to appellant's last known address in Bridgeton. The certified mail returned as undeliverable. (Razhba Certification – Exhibit G.)

7. By letter, dated March 20, 2019, respondent acknowledged receipt of the appellant's request for an extension of a Medical Leave of Absence. (Elliott Certification - Paragraph 3) Through this letter, the appellant was informed that she no longer met the eligibility requirements for FMLA, however the requested leave would be approved as a "Personal Illness Medical Leave of Absence" and that it would be granted from March 16, 2019, through April 12, 2019, without pay. The letter went on to advise that personal medical leaves of

absence were discretionary and subject to management approval. (Razhba Certification – Exhibit H.)

As with the prior extension letter, appellant was informed that forty-eight hours prior to her return to work, a doctor's note was required clearing her to work without restriction, and N.J.A.C. 4A:2-6.2(c) was cited in its entirety.

8. By letter, dated April 22, 2019, the respondent informed the appellant that she had been absent from work without permission since April 13, 2019 – the return date from her prior approved leave. Through this letter, the appellant was provided the citation to N.J.A.C. 4A:2-6.2(c) and informed that failure to contact the Human Resources Office within five days of the date of the letter may result action being taken against her – specifically, her involuntary resignation “not in good standing”. (Razhba Certification – Exhibit I.)

The letter was sent to the appellant's last known address in Bridgeton via regular and certified mail. The certified mail returned as undeliverable.

9. By letter, dated April 25, 2019, respondent acknowledged receipt of the appellant's request for an extension of a Medical Leave of Absence. (Elliott Certification – Paragraph 3.) Through this letter, the appellant was informed that she no longer met the eligibility requirements for FMLA, however, the requested leave would be approved as a “Personal Illness Medical Leave of Absence” and that it would be granted from April 13, 2019, through May 13, 2019, without pay. The letter went on to advise that “due to operational needs, management will not be able to grant you additional extensions on your current leave beyond May 13, 2019, until you established eligibility and entitlement under the applicable law”. The letter further advised that “personal medical leaves of absence are discretionary and subject to management approval.”<sup>3</sup> (Razhba Certification – Exhibit J.)

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<sup>3</sup> This verbiage was also in the March 8, 2019, and March 20, 2019, letters.



As with the prior extension letters, appellant was informed that forty-eight hours prior to her return to work, a doctor's note was required clearing her to work without restriction, and N.J.A.C. 4A:2-6.2(c) was cited in its entirety.

The letter was sent to the appellant's last known address in Bridgeton via regular and certified mail. The certified mail was returned as undeliverable.

10. Appellant did not return to work on May 14, 2019.
  
11. By letter, dated May 22, 2019, the respondent informed the appellant that she had been absent from work without permission since May 14, 2019 – the return date from her prior approved leave. Through this letter, the appellant was provided the citation to N.J.A.C. 4A:2-62(c) and informed that she needed to contact the Human Resources Office within five days of the date of the letter and provide “any request for Workers’ Com/FMLA leave with any (original) supporting documentation and explanation or, if indicated your resignation from employment. No other notice will be sent to you regarding this matter”. (Razhba Certification – Exhibit K.)

The letter was sent to the appellant's last known address in Bridgeton via regular and certified mail. The certified mail was returned as undeliverable.

12. On May 31, 2019, a PNDA was issued against the appellant.<sup>4</sup> (Razhba Certification – Exhibit A.)

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<sup>4</sup> The incident(s) giving rise to the charges and the date(s) on which it/they occurred:

“You have been absent from work without authorization since May 14, 2019, to present. Since May 14, 2019, you have failed to report to work and you are in non-compliance with administrative directives provided to you by the Human Resources Department. Specifically, a letter dated April 25, 2019, was sent to you from the Human Resources Department which notified you that Management was not able to extend your Medical Leave of Absence (Without Pay) beyond May 13, 2019, due to operational needs and until you established eligibility and entitlement under the applicable law (Family and Medical Leave Act (FMLA) of 1993. However, the letter notified you that your Medical Leave of Absence (Without Pay) was approved from April 13, 2019, through May 13, 2019.

Additionally, the letter directed you to return to duty on May 14, 2019, with a doctor's note clearing you to return to full duty without restrictions forty-eight hours prior to returning. You did not return to work on May

On page two of the PNDA, the charges identified were violation of N.J.A.C. 4A:2-6.2(c) and N.J.A.C. 4A:2-2.3(a)12). The disciplinary action being sought was removal and a resignation not in good standing effective May 14, 2019.

The "Charges" were also identified on page one of the PNDA. Specifically, violation of:

1. Administrative Order 4:08 – A(3) – Abandonment of job as a result of absence from work as scheduled without permission for five (5) consecutive days;
  2. Administrative Order 4:08 – E(1) – Violation of a Rule, regulation, policy, procedure, order or administrative decision; and
  3. N.J.A.C. 4A:2-6.2(b).
13. On June 26, 2019, almost a month after the issuance of the PNDA, a letter was received on appellant's behalf from a Daniel Evering, D.O., Sports Medicine. The letter advised that the appellant had been under his care through June 14, 2019, and that she would be able to return to work on July 31, 2019. (Razhba Certification – Exhibit L.) No additional information or documentation was provided.

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14, 2019, and a letter was sent to you from the Human Resources Department, dated May 22, 2019, which explained to you that you were absent from work without permission beginning, May 14, 2019, and the letter directed you to respond to the Human Resources Office no later than 5 (five) days from the date of the letter. To date, you have not returned to duty or submitted a letter of resignation to the Vineland Developmental Center Human Resources Department.

Pursuant NJAC 4A:2-6.2(c) an employee who has not returned to duty for five or more consecutive business days following an approved leave of absence shall be considered to have abandoned his or her position and shall be recorded as a resignation not in good standing. A request for extension of leave shall not be unreasonably denied.

Furthermore, unauthorized, and unpaid absences are not an entitlement, constitute chronic and excessive absenteeism and an abuse of sick time. Your failure to follow proper procedures to support or report your absences, which resulted in unauthorized absences, constitutes insubordination. Your actions are egregious and warrant your removal from Vineland Developmental Center."

14. On July 2, 2019, a FNDA was issued against the appellant. (Razhba Certification – Exhibit B.) The FNDA mirrored the PNDA as it related to the incidents giving rise to the charges as well as the charges.
15. On July 3, 2019, the appellant filed the instant appeal.

### **LEGAL ANALYSIS AND CONCLUSION**

Summary decision is the administrative counterpart to summary judgment in the judicial arena. N.J.A.C. 1:1-12.5 provides that summary decision should be rendered if the papers and discovery which have been filed, together with the affidavits, if any, show that there is no genuine issue as to any material fact challenged and that the moving party is entitled to prevail as a matter of law. In order to defeat a summary decision motion, the adverse party must respond by affidavits setting forth specific facts showing that there is a genuine issue which can only be determined in an evidentiary hearing. Use of the summary procedure is aimed at the swift uncovering of the merits and either their effective disposition or their advancement toward a prompt resolution by trial. Judson v. Peoples Bank and Trust Co. of Westfield, 17 N.J. 67, 74 (1954).

The New Jersey Supreme Court encouraged trial-level courts not to refrain from granting summary judgment when the proper circumstances present themselves. Brill v. Guardian Life Ins. Co. of Am., 142 N.J. 520, 541 (1995). While cautioning that a judge should not weigh the truth of the evidence or resolve factual disputes at this early stage of the proceedings, the court clarified that when the evidence is so one-sided that one party must prevail as a matter of law, the trial court should not hesitate to grant summary judgment. Id. at 540. Appellate courts recognize that “[a]n evidentiary hearing is mandated only when the proposed administrative action is based on disputed adjudicatory facts.” Contini v. Bd. of Educ. of Newark, 286 N.J. Super. 106, 120 (App. Div. 1995), cert. denied, 145 N.J. 372 (1996).

I **FIND** that under the Brill standards this matter is appropriate for summary disposition. The allegations are supported by tangible evidence and the facts presented by the appellant in her opposition papers are insufficient to raise disputed facts in the record. Lo Russo v. State-Operated Sch. Dist. of Jersey City, Essex County, 97 N.J.A.R.2d (EDU) 505, 506 (citing Borough of Franklin Lakes v. Mutzberg, 226 N.J. Super. 46, 57 (App. Div. 1988)).

Public employees' rights and duties are governed and protected by the provisions of the Civil Service Act, N.J.S.A. 11A:1-1 to 12-6, and the regulations promulgated pursuant thereunder. N.J.A.C. 4A:1-1.1 et seq. However, public employees may be disciplined for a variety of offenses involving their employment, including the general causes for discipline as set forth in N.J.A.C. 4A:2-2.3(a) and removal as set forth under N.J.A.C. 4A:2-6.2(c).

In an appeal concerning major disciplinary action, the burden of proof is on the appointing authority to show that the action taken was justified. N.J.S.A. 11A:2-21. The burden is to establish by a preponderance of the competent, relevant, and credible evidence that the employee is guilty as charged. Atkinson v. Parsekian, 37 N.J. 143 (1962); In re Polk License Revocation, 90 N.J. 550 (1982).

Here, respondent sustained charges against appellant for Resignation Not in Good Standing (N.J.A.C. 4A:2-6.2(c) and Other Sufficient Cause (N.J.A.C. 4A:2-2.3(a)(12) - specifically, violation of Section Administrative Order 4:08 – A-3 and E-1.1 of the of the New Jersey Department of Human Services Disciplinary Action Policy.

Appellant asserts that there are genuine issues of material fact that exists which would preclude the granting of summary decision some of which are procedural in nature. Specifically, appellant contends that service of the PNDA and FNDA was not properly effectuated; the regulatory basis for termination - N.J.A.C. 4A:2-6.2(b) as cited on the front page of the PNDA and FNDA was improper; and that respondent's actions were unreasonable and contrary to both N.J.A.C. 4A:2-6.2(b) and (c) which state that a request for an extension of leave shall not be unreasonably denied.

Regarding appellant's assertion that notice of the PNDA and FNDA were never properly effectuated - such argument lacks merit given the facts of this case. There is no question that the respondent was required to place the appellant on notice of the PNDA and the ultimate disposition under the FNDA. See N.J.S.A. 11A:2-13 In this case, all correspondence to the appellant, including the PNDA and FNDA were sent to the appellant's last known address - which notably, was the same address that the appellant used to file the instant appeal. Most of the correspondence that was sent to the appellant, including the May 22, 2019 letter, was sent via regular and certified mail to her last known address. The PNDA was sent via regular and certified. Only the certified mail was returned for inability to effectuate service. While the FNDA, which was sent via certified mail, was returned for inability to effectuate service, the appellant clearly received notice of the FNDA as she timely filed the instant appeal on July 3, 2019 – the day after the FNDA was issued.

Appellant also argues that the respondent's sustained charges under N.J.A.C. 4A:2-6.2(b) were improper as the applicable regulation, if any, should have been N.J.A.C. 4A:2-6.2(c).

N.J.A.C. 4A:2-6.2 states in pertinent part:

- (a) If an employee resigns without complying with the required notice in N.J.A.C. 4A:2-6.1, he or she shall be held as having resigned not in good standing.
- (b) Any employee who is absent from duty for five or more consecutive business days without the approval of his or her superior shall be considered to have abandoned his or her position and shall be recorded as a resignation not in good standing. Approval of the absence shall not be unreasonably denied;
- (c) An employee who has not returned to duty for five or more consecutive business days following an approved leave of absence shall be considered to have abandoned his or her position and shall be recorded as a resignation not in good standing. A request for extension of leave shall not be unreasonably denied.

Review of both the PNDA and FNDA and the "incident's" giving rise to the charges find that the basis for the sustained charges in both charging documents were set forth in great specificity. (Razhba Certification – Exhibits A and B.)

Plain notice is the standard to be applied when considering the adequacy of disciplinary charges filed against public employees. Pepe v. Township of Springfield, 337 N.J. Super. 94, 97 (App. Div. 2001). Hammond v. Monmouth County Sheriff's Dep't, 317 N.J. Super. 199, 204 (App. Div. 1999): "No provision of law empowers the public employer to prosecute charges before the Board which the appointing authority has, itself, dismissed after the required local disciplinary proceedings have been held." Cf. N.J.S.A. 11A:2-13, -14, -15; City of Orange v. De Stefano, 48 N.J. Super. 407, 419-20 (App. Div. 1958). Stated otherwise, charges are a *sine qua non* of a valid disciplinary proceeding. It is elementary that an employee cannot legally be tried or found guilty on charges of which he has not been given plain notice by the appointing authority. The de novo hearing on the administrative appeal is limited to the charges made below. West New York v. Bock, 38 N.J. 500, 522 (1962) "Where an employee who is entitled to notice of "cause" and hearing before discharge is tried on one specific charge, as here, and is found not guilty thereof but solely of other charges, never specified or actually tried before either the original hearer or on appeal to the Commission, the penalty imposed will be set aside." City of Orange v. De Stefano, 48 N.J. Super. 407, 419-20 (App. Div. 1958); Kramer v. Civil Serv. Comm'n, 120 N.J.L. 599 (Sup. Ct. 1938). However, if the person had reasonable notice in time to defend at the hearing, then the core concerns of fairness are met.

In Campbell v. Department of Civil Service, 39 N.J. 556 (1963), Bernard Campbell ("Campbell") was charged with incompetency, inefficiency, and poor service ratings. During the hearing, evidence was introduced relating to two additional matters which occurred during the pendency of the hearing which bore on Campbell's fitness to continue in his position. Campbell was advised that the two matters would also be considered by the Acting Commissioner of the Department of Labor and Industry. Campbell did not introduce any evidence to meet the two new charges, however, introduced evidence bearing on the other ten other charges. Upon the close of the hearing, the Acting Commissioner sustained the charges and removed Campbell from his position. Thereafter, a hearing de novo was held

before the Civil Service Commissioner who sustained Campbell's removal. On appeal, one of the arguments set forth by Campbell was the contention that the appointing authority failed to enumerate the cause which constituted the grounds for removal and the act of the employee constituting such cause. In upholding the Civil Service Commissioner's findings, the Court stated:

...the preliminary notice of disciplinary action which was served by the Department of Labor and Industry upon Mr. Campbell was on a form prepared by the Commission and referred to both of the quoted grounds for removal. While the notice might well have set forth the specifics supporting the general charges of incompetency and inefficiency, Mr. Campbell was made fully aware of them during the days of hearing before the Department and was afforded ample opportunity to meet them. Furthermore, his appeal before the Civil Service Commission was de novo and by that time Mr. Campbell was thoroughly familiar with the individual charges, including the additional charges of injudicious conduct in Burkley and improper practice before the Division during his suspension. He was undoubtedly entitled to fair notice and opportunity to be heard. See West New York v. Bock, 38 N.J. 500, 522 (1962). But he had that, he never made formal application for further particularization, and if there was any procedural irregularity it did not prejudice him...

While there is no question that the cover page of the PNDA and FNDA cited to the wrong subsection of N.J.A.C. 4A:6.2 – subsection (b) instead of (c), the appellant was clearly on notice of what she was being charged with and why. More importantly, the correct subsection was properly referenced on the second page of the charging documents as well as in each and every letter that was sent to her as it related to her medical leave of absence.

As such, appellant argument that the charges levied against her were incorrect must also fail.

Appellant's last argument suggests, without any legal authority, that a stronger burden of proof on respondent's part was required to justify their "reasonable denial" of her request for an extended medical leave and what constituted "operational needs" - the basis provided for their denial. As with appellant's other arguments, this too lacks support in both law and the undisputed facts of this case.

With the above in mind, the appellant was charged with violation of N.J.A.C. 4A:2-6.2(c). It is undisputed that she was an employee at the Vineland Developmental Center in April 2019, which was when her last medical leave was approved. By letter, dated April 25, 2019, she was informed that no further leaves would be granted. Through this letter she was also informed that failure to return to duty for five or more consecutive business days following an approved leave of absence would be considered job abandonment and recorded as a resignation not in good standing. Appellant did not return to work on May 14, 2019, as directed.

For the reasons cited above, I **CONCLUDE** that the respondent has met its burden of proving the charges of N.J.A.C. 4A:2-6.2(c) - Resignation Not In Good Standing.

With regard to the charge of Other Sufficient Cause (N.J.A.C. 4A:2-2.3(a)12 – specifically Policy A.O. 4:08-A3 (Abandonment of job as a result of absence from work as scheduled without permission for five (5) consecutive days) and A.O. 4:08-E1-1 (Violation of a rule, regulation, policy, procedure, order or administrative decision), there is no definition in the New Jersey Administrative Code for other sufficient cause. Other sufficient cause is generally defined in the charges against appellant. The charge of other sufficient cause has been dismissed when “respondent has not given any substance to the allegation.” Simmons v. City of Newark, CSV 9122-99, Initial Decision (February 22, 2006), adopted, Comm’r (April 26, 2006), <<http://njlaw.rutgers.edu/collections/oal/final/csv9122-99.pdf>>. In this case, the FNDA states that since May 14, 2019, appellant failed to report to work and was in non-compliance with the administrative directives that were provided to her by the Human Resources Department.

For the reasons previously cited above, I **CONCLUDE** that respondent has met its burden of proving the charge of Other Sufficient Cause Other Sufficient Cause (N.J.A.C. 4A:2-2.3(a)12) , specifically, violation of Section A.O. 4:08 – A3 and Section A.O. 4:08-E1.1 of the New Jersey Department of Human Services Disciplinary Action Policy.



Based on the foregoing, I **CONCLUDE** that the respondent has demonstrated and the record reflects by a preponderance of credible evidence that the appellant was absent for five consecutive days following an approved leave, without the approval of her supervisor, and she therefore is to be deemed as having abandoned her position. The respondent's motion for summary decision reflecting her resignation not in good standing should be and is hereby **GRANTED**.

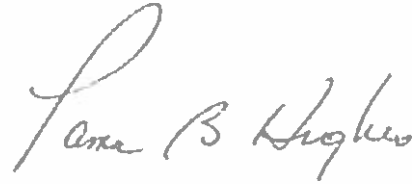
**ORDER**

It is hereby **ORDERED** that the Department of Human Services, Vineland Developmental Center's motion for summary decision is **GRANTED** and the removal of of Etta Elliott, not in good standing is hereby **AFFIRMED**.

I hereby **FILE** my initial decision with the **CIVIL SERVICE COMMISSION** for consideration.

This recommended decision may be adopted, modified or rejected by the **CIVIL SERVICE COMMISSION**, which by law is authorized to make a final decision in this matter. If the Civil Service Commission does not adopt, modify or reject this decision within forty-five days and unless such time limit is otherwise extended, this recommended decision shall become a final decision in accordance with N.J.S.A. 52:14B-10.

Within thirteen days from the date on which this recommended decision was mailed to the parties, any party may file written exceptions with the **DIRECTOR, DIVISION OF APPEALS AND REGULATORY AFFAIRS, UNIT H, CIVIL SERVICE COMMISSION, 44 South Clinton Avenue, PO Box 312, Trenton, New Jersey 08625-0312**, marked "Attention: Exceptions." A copy of any exceptions must be sent to the judge and to the other parties.



February 24, 2021  
DATE

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**TAMA B. HUGHES, ALJ**

Date Received at Agency:

\_\_\_\_\_

Date Mailed to Parties:

\_\_\_\_\_

TBH/dm

**EXHIBIT LIST**

**For appellant:**

Certification of Etta Elliott

**For respondent:**

Certification of Rimma Razhba, DAG

Exhibit A – PNDA

Exhibit B – FNDA

Exhibit C – Letter, dated November 14, 2018, from Department of Human Services - Office of Human Resources to Etta Elliott

Exhibit D – Letter, dated November 15, 2018, from Department of Human Services - Office of Human Resources to Etta Elliott

Exhibit E – Letter, dated January 3, 2019, from Department of Human Services - Office of Human Resources to Etta Elliott

Exhibit F – Letter, dated February 21, 2019, from Department of Human Services - Office of Human Resources to Etta Elliott

Exhibit G – Letter, dated March 8, 2019, from Department of Human Services - Office of Human Resources to Etta Elliott

Exhibit H – Letter, dated March 20, 2019, from Department of Human Services - Office of Human Resources to Etta Elliott

Exhibit I – Letter, dated April 22, 2019, from Department of Human Services - Office of Human Resources to Etta Elliott

Exhibit J – Letter, dated April 25, 2019, from Department of Human Services - Office of Human Resources to Etta Elliott

Exhibit K – Letter, dated May 22, 2019, from Department of Human Services - Office of Human Resources to Etta Elliott

Exhibit L – Letter, dated June 14, 2019, from Daniel Evering, D.O.

New Jersey Department of Human Services – Disciplinary Action Program