

1 **BEFORE THE CITY OF SEATTLE CIVIL SERVICE COMMISSION**

Jon Fulmer
Appellant

V.

Parks and Recreation Department
City of Seattle, Respondent

DISMISSAL ORDER

CSC No.04-01-015

2
3 The Civil Service Commission **AFFIRMS** the Executive Director's Decision and hereby
4 enters the following

5 **DISMISSAL ORDER**

6
7 **I. HISTORY**

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9 The Civil Service Commission received a Notice of Appeal and Notice of Appearance
10 from Attorney John Scannell for the appellant Jon Fulmer on December 7, 2004.

11
12 The Commission's Executive Director issued a Dismissal Order on December 14, 2004,
13 stating that the appeal was not timely filed.

14
15 The attorney for the appellant requested a review of the Executive Director's dismissal.

16
17 **A. APPELLANT'S ALLEGATIONS**

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19 Mr. Fulmer alleges that he was appointed to a Regular Part-time Grounds Keeper position
20 with the Parks and Recreation Department, beginning June 16, 2004.

21
22 Mr. Fulmer also alleges that he was suspended and/or terminated on or about September
23 15, 2004.

24
25 Mr. Fulmer alleges that the Department did not notify him of a right to appeal to the Civil
26 Service Commission.

27
28 **B. APPELLANT'S DECLARATION**

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30 After receipt of a Dismissal Order, the appellant issued a declaration to support his
31 request for a review of the Executive Director's decision. In his declaration to the
32 Commission, received on January 4, 2005:

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- The appellant states that in June 2004 he was promoted to a Groundskeeper 2 permanent part-time position, with the Parks and Recreation Department.

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- 1 • The appellant provides a report obtained entitled "Available Time and Leave
2 Report", as evidence. The report shows sick leave and vacation for the appellant.
3 The appellant declares this as proof he was a regular employee.
4
5 • The appellant states that he received an oral lay-off notice from his supervisor on
6 or about September 15.
7
8 • The appellant also states that at the time he was laid off, the Department did not
9 give him written or oral notice of his right to appeal to the Civil Service
10 Commission.

11 12 **II. EMPLOYMENT HISTORY**

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14 According to City personnel records for the appellant, using the City's HRIS, to confirm
15 the appellant's employment history:

16
17 The appellant was rehired on April 4, 2003. From that date until the present, the
18 appellant held five positions with the City of Seattle. It appears that three of the five
19 positions were with the Parks and Recreation Department:

20
21 They include in chronological order, (beginning with the last pay period paid)
22 Golf Course Grounds Keeper II*, 474 hours-Job Code 94131 (9/21/2004),
23 Recreation Attendant*, 1923 hours-Job Code 34719 (6/15/2004) and Janitor
24 SC/Parks/Wtr*, 33.5 hours-Job Code 97949 (12/28/2004).
25

26 **III. ANALYSIS**

- 27
28 1. According to the 2004 Salary Schedule, and supported by the asterisk in each
29 position title and the position's job code, each of the positions held by the
30 appellant represents an Intermittent (TES) job title.
31
32 2. Intermittent (TES) employees are not defined as "regular" City employees;
33 therefore, they are exempt from the City's Civil Service.
34
35 3. The Civil Service Commission does not have jurisdiction over this appeal:
36
37 a. As stated by the appellant, the appellant was dismissed on or about
38 September 15, 2004. The Civil Service Commission received the Notice
39 of Appeal on December 7, 2004. Therefore, the appeal was not timely
40 filed.
41
42 b. Even assuming the appeal was timely, because the appellant did not
43 receive a right to appeal notice, the Commission does not have
44 jurisdiction. The appellant was an Intermittent (TES) employee.
45 Intermittent (TES) employees are exempt from Civil Service, so they do
46 not have the right to appeal to the Civil Service Commission. Therefore,

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1 the appellant did not receive a notice stating "rights to appeal" to the Civil
2 Service Commission because he had no such right of appeal.

- 3
4 c. Even assuming that the appellant was a regular employee at the time of his
5 dismissal, as he alleges, he would have been a probationary employee at
6 the time of his dismissal. Under the City's Personnel Rules and the Seattle
7 Municipal Code, "Probationary employee means an employee who has
8 been appointed to a position within the classified service but who has not
9 completed a one (1) year period of probationary employment".
10 Probationary employees do not have rights to appeal demotions,
11 terminations or suspensions to the Commission.
12

13 **VI. CONCLUSION**

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15 For each of the reasons stated above, the Commission finds that it does not have
16 jurisdiction over this appeal. The decision of the Executive Director is affirmed.
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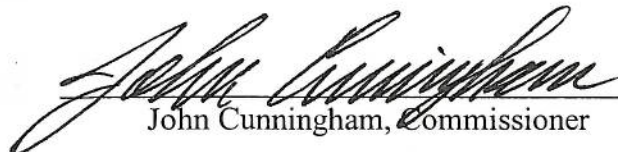
18 **Therefore, this appeal is hereby dismissed.**
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22 Dated this 16th day of February 2005
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26 FOR THE CITY OF SEATTLE CIVIL SERVICE COMMISSION
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32 Ellis Casson, Commission Chair
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38 John Cunningham, Commissioner
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44 Commission Rule 7.04: RECONSIDERATION OF COMMISSION DECISION. A party may move for
45 reconsideration of a Commission decision only based on fraud, mistake or in the event that new evidence
46 becomes known that would justify reconsideration. Such motion shall be filed with the Commission within
47 fifteen (15) days of the Commission's final decision.

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**CITY OF SEATTLE
CIVIL SERVICE COMMISSION**

**Affidavit of Service
By Mailing**

STATE OF WASHINGTON }
COUNTY OF KING }

TERESA R. JACOBS, deposes and states as follows:

That on the 16th day of February, 2005, I deposited in the U.S. mail, postage prepaid, a copy of **Dismissal Order** to:

Jon Fulmer
c/o John Scannell, Attorney
P.O. Box 3254
Seattle WA, 98144

And copies of same via interdepartmental and U.S. mail addressed to:

Norma McKinney, Director, Personnel
Kenneth R. Bounds, Superintendent, Parks
Darwyn B. Anderson, Human Resources Director, Parks

In the appeal of:

Jon Fulmer v. Seattle Parks and Recreation

CSC Appeal No. 04-01-015

DATED this 16th day of February, 2005


TERESA R. JACOBS