

BEFORE THE CITY OF SEATTLE CIVIL SERVICE COMMISSION

Paul Janos, Appellant
V.
Department of Planning and
Development, City of Seattle,
Respondent

MEMORANDUM DECISION

CSC No. 06-05-005

INTRODUCTION

- On 3-16-06, the Appellant filed a Notice of Appeal (Performance Review -CSC 06-05-005) to the Commission alleging that his performance evaluation did not comply with the provisions of SMC 4.04.180. The Commission assigned the appeal to Hearing Officer Gary McLean.
- On 11-2-06, Commission staff contacted Hearing Officer McLean to inform him that the Respondent Department had incorrectly submitted a brief related to the appeal to Hearing Officer Diane Hess Taylor.¹ At the Commission's request, Officer McLean accepted the brief and an Order for Response was issued to the Appellant, Mr. Janos, on 11-2-2006. The Appellant filed a response on 11-16-2006.
- On 12-11-2006, Hearing Officer McLean issued an Order to Show Cause as to why the appeal number CSC 06-07-005 should not be dismissed for lack of jurisdiction because of a failure to follow intradepartmental grievance procedures. The order required Appellant's response brief by 12-22-2006, and the Department's response to the Appellant's brief was due 12-29-2006.
- On 12-13-2006, Appellant Mr. Janos submitted a response to the Order to Show Cause stating that he had exhausted intradepartmental grievance procedures. The Department did not respond.
- On 2-7-2007, the Hearing Officer issued a Hearing Order. Upon receipt of the Hearing Order, the Respondent Department contacted the CSC office and expressed confusion as to why the appeal was going to hearing, stating that they had not received a copy of a brief submitted by the Appellant per the Commission's 12-11-2006 order.
- On 2-12-2007, the Commission sent a copy of Appellant's 12-13-2006 brief to the Respondent Department, and the Hearing Officer issued an Order canceling the hearing and giving the Department an opportunity to respond.

¹ The Appellant had two simultaneous appeals before the Commission that were assigned to different Hearing Officers. The Commission assigned Upward Mobility CSC 06-07-008 to Hearing Officer Diane Hess Taylor and Hearing Officer Taylor issued an order dismissing the appeal for lack of jurisdiction on 2-5-07.

- On 2-20-2007 the Respondent Department submitted a response to Appellant's brief, stating that the Appellant failed to exhaust the internal grievance procedure as described in Personnel Rule 1.4.3.
- On 4-11-2007, upon request from the Hearing Officer, the Respondent submitted an email stating that the Appellant received two performance evaluations in 2006, one signed and dated by his supervisor on 1-12-2006 (for November 2004-November 2005) and the second signed and dated by his supervisor on October 31, 2006 (for October 2005-October 2006). The Respondent's email further stated that the evaluations were not signed by the Appellant.
- On 4-11-2007, the Appellant responded to the Respondent's email. The Appellant's response did not challenge the receipt of the 1-12-2006 or 10-31-2006 performance evaluations. Appellant's response did challenge the timing of the evaluations, and requested a hearing "to reconcile the evaluations..."
- On 4-19-2007, the Respondent submitted a declaration to the Hearing Officer confirming the dates and the delivery of the Appellant's performance evaluations. The appellant had until 4/26/07 to respond to the declaration. The commission did not receive a response. The record on the appeal closed April 27, 2007.

ISSUE

The Appellant alleges that the Department violated provisions in SMC 4.04.180 - Performance Evaluation and seeks "the purging of the performance evaluation" from his employee file.

FINDINGS OF FACT

1. The Appellant received a performance evaluation signed and dated by his supervisor on 1-12-06 (for the period November 2004 to November 2005) and a second evaluation signed and dated by his supervisor on October 31, 2006 (for October 2005 to October 2006).
2. The Appellant was provided an opportunity to provide comment on his evaluation.
3. The Appellant's Operations Director received a copy of his performance evaluation and discussed the performance evaluation with the Appellant.

DECISION

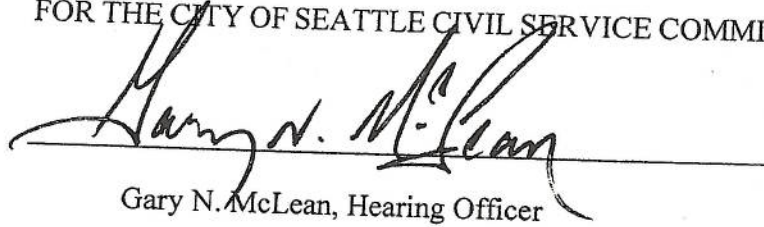
SMC 4.04.180 states that a performance evaluation system shall include the following: "*An expectation that every City supervisor will provide a formal job-related performance evaluation to each of his or her subordinate employees at least annually...;*" (emphasis added).

Respondent did not violate SMC 4.04.180A (1) by providing a performance evaluation on 1-12-2006 for the period of November 2004 to November 2005. To the extent that the Respondent alleges other violations of SMC 4.04.180, the facts as alleged would not constitute a violation.

The Commission does not have jurisdiction over the issue of this appeal and the appeal is hereby dismissed.

Dated this 20th day of **June 2007**

FOR THE CITY OF SEATTLE CIVIL SERVICE COMMISSION


Gary N. McLean, Hearing Officer

The decision of the Hearing Officer in this case is subject to review by the Civil Service Commission. Parties may also request that the Commission review the decision, by filing a petition of review of the Hearing Officer's decision, and asking the Commission to consider specific issues. To be timely, the petition for review must be filed with the Civil Service Commission no later than ten (10) days following the date of issuance of this decision, as provided in Civil Service Commission Rules.

**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 20th day of June, 2007, I deposited in the U.S. mail, postage prepaid, a copy of **MEMORANDUM DECISION** to:

**Paul M. Janos
5249 17th Avenue NE
Seattle, WA 98105**

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

Robert Laird, Operations Direction, DPD
Felecia Caldwell, Human Resources Manager, DPD
Gary McLean, Hearing Officer, CSC

In the appeal of:

Paul M. Janos v. Department of Planning and Development

CSC Appeal No. 06-05-005

DATED this 20th day of June, 2007



TERESA R. JACOBS

BEFORE THE CITY OF SEATTLE CIVIL SERVICE COMMISSION

Paul Janos, Appellant

V.

Department of Planning and
Development, City of Seattle,
Respondent

DISMISSAL ORDER

CSC No. 06-05-005

Whereas at its July 18, 2007 meeting the Commission reviewed and affirmed the Memorandum Decision issued by Hearing Officer Gary McLean, on June 20, 2007,

Whereas neither party requested a review of the decision and the decision was affirmed by the Commission,

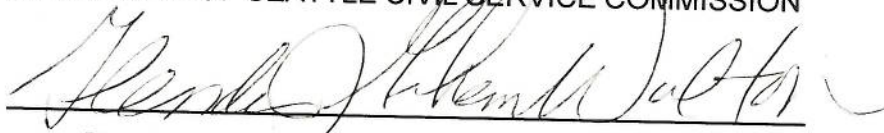
The Executive Director enters the following order for the Civil Service Commission

ORDER

The Appeal is hereby dismissed with *prejudice*.

Dated this *24th* day of *July*, 2007

FOR THE CITY OF SEATTLE CIVIL SERVICE COMMISSION



Glenda J. Graham-Walton, Executive Director

Note: Commission decisions are final and conclusive unless a party of record makes application for a writ of review to the Superior Court of the State of Washington for King County within fourteen (14) days of issuance.

**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 24th day of July, 2007, I deposited in the U.S. mail, postage prepaid, a
copy of **DISMISSAL ORDER** to:

**Paul Janos
5219 17th Avenue NE
Seattle, WA 98105**

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

Mark McDermott, Director, Personnel Department
Robert Laird, Operations Director, DPD
Felecia Caldwell, Human Resources Manager, DPD
Gary N. McLean, Hearing Officer, CSC

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DATED this 24th day of July, 2007


TERESA R. JACOBS