

**FINDINGS AND DECISION OF THE HEARING EXAMINER
FOR THE CITY OF SEATTLE
UNDER DELEGATION FROM THE CIVIL SERVICE COMMISSION**

WILLIAM A. GROSSO)	
)	
Appellant,)	
)	
v.)	File No.
)	CSC-09-01-011
)	
SEATTLE DEPARTMENT OF TRANSPORTATION.)	
)	
Respondent.)	
_____)	

Introduction

The Director of the Seattle Department of Transportation issued a one-day disciplinary suspension without pay to William Grosso on July 6, 2009. Mr. Grosso timely appealed the suspension to the Civil Service Commission. The Commission delegated the matter to the Hearing Examiner, pursuant to SMC 4.04.250.

The hearing was held before the undersigned Deputy Hearing Examiner on October 19, 2009. Represented at the hearing were Mr. Grosso, William Grosso, pro se; and the Director, by Evan Chinn, Acting Human Resource Manager.

After due consideration of the evidence elicited during the hearing the following shall constitute the findings of fact, conclusions and decision of the Hearing Examiner on this appeal.

Findings of Fact

1. The Appellant, William Grosso, has worked for the City of Seattle since 1981, and has been a Crew Chief at Seattle Department of Transportation since 1997.
2. Karen Sweeney is an SDOT Street Maintenance Supervisor and is Mr. Grosso's immediate supervisor. Ms. Sweeney in turn reports to Robert Clarke, SDOT Street Maintenance Operations Manager.
3. On Friday, May 1, 2009, Mr. Clarke held an afternoon meeting with Mr. Grosso and Ms. Sweeney to inform Mr. Grosso that in 10 days, he was being transferred from the

Charles Street facility to the West Seattle facility. Ms. Sweeney had previously expressed opposition to this transfer to Mr. Clarke.

4. The reason given for the transfer was that an experienced crew chief was needed at the West Seattle facility to replace an employee who had been temporarily filling that position through an out-of-class assignment. According to Mr. Clarke, it made sense to place Mr. Grosso at West Seattle, which was more remote from supervisory support, because Mr. Grosso was an experienced crew chief. A less experienced crew chief would in turn be stationed at the Charles Street facility.

5. Mr. Grosso was opposed to the transfer and expressed this to Mr. Clarke. He told Mr. Clarke that he viewed the transfer as essentially putting him out to pasture, and that he would retire rather than be transferred.

6. After the meeting, Mr. Grosso spoke to Ms. Sweeney, and commented "Et tu Brute?" He also referred to another employee, Tim Ricker, and expressed agreement with Mr. Ricker's apparent belief that Ms. Sweeney "moved up through the system too fast because Roxanne [an SDOT manager] likes females."

7. Ms. Sweeney became upset upon hearing these comments. On the following Monday morning, May 4, she went to Mr. Clarke and complained about Mr. Grosso's comments. Mr. Clarke did not immediately recognize the "Et tu Brute" comment as a quote from Shakespeare's *Julius Caesar*. Ms. Sweeney told Mr. Clarke that the comment implied that Ms. Sweeney was a backstabber.

8. On May 6, 2009, Mr. Clarke called Mr. Grosso into a meeting to discuss the comments Mr. Grosso made to Ms. Sweeney, and to inform Mr. Grosso of his union rights. Ms. Sweeney also attended the meeting. Mr. Grosso asked to discuss the comments directly with her, but this did not occur. Instead, the conversation focused on the transfer as well as the fact that Ms. Sweeney had been opposed to the transfer. Mr. Grosso apologized for his comments after learning that Ms. Sweeney had not been responsible for his transfer.

9. Despite the apologies, an investigative meeting was held on May 13 between Mr. Clarke, Mr. Grosso and Evan Chinn, acting SDOT Human Resources manager. Mr. Grosso declined union representation at this meeting. During the meeting, Mr. Grosso commented that SDOT's promotion decisions were unfair and based on favoritism. At this meeting, Mr. Clarke brought up the fact that Mr. Grosso had previously referred to Ms. Sweeney as "Toots" or "Princess." (Mr. Grosso had previously been admonished for making those comments.)

10. Following the May 13 meeting, Mr. Clarke recommended that Mr. Grosso be suspended for three days, for failure to meet SDOT's Workplace Expectations.

11. On June 22, 2009, a Loudermill hearing was held by SDOT Director Grace Crunican. Mr. Grosso, Mr. Clarke and Mr. Chinn all attended this meeting. On July 6,

2009, the Director issued her decision, reducing the recommended three-day suspension to a one-day suspension. The Director's July 6 letter to Mr. Grosso set forth the reasons for the Director's decision. The letter stated: "Specifically, the reasons for this discipline are (1) you admitted saying "Et tu Brute" to Karen expressing your anger about your transfer to West Seattle and implying that she was working against you; (2) according to Karen, you told her that the only reason she was a supervisor was because Roxanne preferred women; and (3) your history of inappropriate workplace communications to Karen and others." The letter noted Mr. Grosso's leadership position as a crew chief, and stated that his actions violated SDOT "Workplace Expectations" to "Respect the Rights of Others" and "Promote Open Communication" and cited City Personnel rule 1.1.3. on Nondiscrimination.

12. At hearing, Mr. Grosso did not offer any testimony. The issue raised in his appeal is whether he actually made the comments to Ms. Sweeney on May 1, 2009 that were attributed to him.

Conclusions

1. The Hearing Examiner has jurisdiction over this appeal pursuant to delegation from the Civil Service Commission under SMC 4.04.250. Under Civil Service Commission Rule 5.31, the Department must show by a preponderance of the evidence that there was justifiable cause for the suspension.

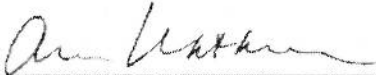
2. Mr. Grosso's appeal was focused on one issue: that he did not make the comments referenced in the Director's letter. The evidence presented at hearing, however, showed that he said "Et tu Brute" to Ms. Sweeney, although Mr. Grosso indicated that this comment was not meant to disparage Ms. Sweeney. The evidence also shows that he told her he agreed with Tim Ricker that Ms. Sweeney was promoted only because an SDOT supervisor favored female employees. Although Mr. Grosso suggested that there was a difference between stating that he agreed with Mr. Ricker's statement and actually making the statement himself, the Director could reasonably conclude that Mr. Grosso was making the same statement by repeating it and expressing his agreement with it.

3. Mr. Grosso asserted at hearing that his statements, if he made them, were directed at unfair practices at SDOT. It can also be inferred that he was surprised and disappointed by the transfer, at the time he spoke to Ms. Sweeney. But regardless of his intentions, it was reasonable for the Director to base her decision on what was said, rather than what was intended. The Director could also reasonably decide that these comments to his supervisor constituted a violation of the Workplace Expectations that would merit a one-day suspension. Therefore, the appeal must be denied.

Decision

The decision by the Director of SDOT to suspend William Grosso for one day is hereby affirmed.

Entered this 3rd day of November, 2009.



Anne Watanabe
Deputy Hearing Examiner

Concerning Further Review

NOTE: It is the responsibility of the person seeking to appeal a Hearing Examiner decision to consult Code sections and other appropriate sources, to determine applicable rights and responsibilities.

The decision of the Hearing Examiner is subject to review by the Civil Service Commission. 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 6.02 and 6.03.