

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

**HERMAN BUCHANAN**

Appellant,

v.

**DEPARTMENT OF INFORMATION  
TECHNOLOGY**

Respondent.

File No.  
CSC-12-07-003

**RECEIVED**  
JUL 24 2012  
City of Seattle  
**CIVIL SERVICE COMMISSION**

**Introduction**

The Director of the Department of Information Technology (DoIT) suspended the Appellant, Herman Buchanan, for three days. The Appellant 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 July 11, 2012. Represented at the hearing were the Appellant, Herman Buchanan, pro se; and Respondent, DoIT, by Shawn Abernethy, Human Resources 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. In a letter dated March 30, 2012, the then-Director of the Department of Information Technology (DoIT), William Schrier, notified the Appellant, Herman Buchanan, that he would be suspended for three days.
2. The Appellant is employed within the Computing Services – Data Center Operations Division of DoIT. During the time period of 5:00 p.m. on March 8, 2012, through 7:00 a.m. on March 9, 2012, the Appellant was the designated “on-call Facilities Engineer” for the City Data Center located in the Seattle Municipal Tower.
3. The City’s Data Center is valued at over \$25 million. The equipment is subject to damage if the temperature in the Data Center facility is too high, and temperatures are

therefore monitored at all times. DoIT's Computing Services Division provides round-the-clock support for the Data Center.

4. DoIT has procedures for its on-call personnel. On-call personnel are expected to carry an on-call pager with them during the on-call hours, are expected to respond to all pages within 15 minutes by phone, and to arrive on site if needed "ASAP or within 1 hour (or longer if your regular commute to the office requires more time);" Ex. 1. The procedures also provide that if the on-call person does not respond to a page within 15 minutes by phone or email, the Data Center operator or other DoIT personnel that issued the page are to escalate the alert as identified in the procedures.

5. In December of 2010, there had been a heat event in the Data Center, and the Appellant was on-call at the time. Temperatures had exceeded 100 degrees, and the Appellant was paged several times but failed to respond until 2-3 hours later. The Data Center managers noted that the City's computer systems came close to failure during this event, a result that would have been catastrophic; testimony of Hjelmstad, Namba, Schrier.

6. On the afternoon of March 7, 2012, the Appellant attended a meeting to discuss on-call procedures. The Appellant's manager, Brian Namba, attended the meeting, as did Barbara Hjelmstad, DoIT Enterprise Computing Manager, and John Clark, another DoIT employee. The meeting included a discussion of the responsibility of on-call personnel if a data center cooling unit alarm (CRU) went off. The Appellant was responsible for documenting the meeting.

7. At approximately 11:30 p.m. on March 8, 2012, the Data Center Operator received a "General Alarm" email and page indicating an issue with CRU6. The temperature in the data center had risen to 85 degrees, a temperature at which failure is possible. The operator immediately attempted to contact the Appellant by pager, the Appellant's City-issued Blackberry, and the Appellant's personal cell phone number. Several attempts to contact the Appellant were made, but after 15 minutes had passed with no response from the Appellant, the data center staff contacted John Clark. Mr. Clark responded to the data staff and also called Ms. Hjelmstad, who was on call as "escalation manager." By this time, CRU6 had returned to normal operations and the temperature had returned to normal. However, Ms. Hjelmstad and Mr. Clark decided to turn on another CRU to help assure that the temperatures remained normal.

8. The Appellant and Ms. Hjelmstad were scheduled to meet at 8:30 a.m. on the Monday following the incident. At that time, Ms. Hjelmstad asked the Appellant to explain why he had not responded to the page on the evening of March 8, but he did not have an explanation. He instead noted that what had happened "was not good." Ms. Hjelmstad told the Appellant not to code "on-call" time for the evening of March 8 and the morning of March 9 on his time card. Employees are paid at a higher hourly rate for on-call time. She also asked him to prepare a memo explaining what had happened. The



Appellant prepared a memo dated March 12, 2012, to Ms. Hjelmstad, which is shown in Ex. 7.

9. At hearing, the Appellant indicated that his pager was not on at the time the Data Center manager had paged him on the evening of March 8, 2012.

10. The Appellant coded time on his time card for a period during the evening of March 8 and the morning of March 9, 2012, as on-call time. His supervisor, Brian Namba, reviewed the time card on March 14, 2012, and saw that the Appellant had, contrary to Ms. Hjelmstad's direction, coded time as on-call time. Mr. Namba changed this time coding before approving the time card.

11. Ms. Hjelmstad sent a memo dated March 9, 2012, to Deb Schlenker, Computing Services Director, and to Mr. Namba, recommending that the Appellant be suspended for three to five days without pay on account of his failure to respond while on-call. Ex. 7.

12. Mr. Namba sent a memo dated March 15, 2012, to Ms. Schlenker, recommending that the Appellant be suspended without pay for three days. The memo cited the Appellant's failure to respond to repeated attempts by the operations staff to contact him during the CRU incident, and the Appellant's coding of his time card with on-call time, contrary to Ms. Hjelmstad's instructions. Ex. 7.

13. Ms. Schlenker sent a memo dated March 15, 2012, to Bill Schrier, Director and Chief Technology Officer, recommending that the Appellant be suspended for three days. Ex. 8.

14. A Loudermill hearing for the appellant was scheduled on March 21, 2012. It was rescheduled and was held on March 30, 2012. The Appellant attended the meeting with Mr. Schrier. The Director subsequently decided to suspend the Appellant for three days.

15. Prior to the March 2012 incident, in December of 2011, Mr. Namba had issued a memo to the Appellant informing him that he was subject to a "coaching plan" with the goal of improving the Appellant's performance. The memo stated that "If I am not able to see significant improvement in your performance in the three areas indicated by March 14, 2011, it could lead to a formal disciplinary process up to and including termination." The "three areas" identified for improvement were: Accomplishment of Job Tasks; Reliability and Initiative; and Customer Service.

16. With the memo was a document that summarized "projects and tasks that you were assigned this year and did not complete successfully. The performance categories in which you did not succeed is listed as well." The document listed several projects and tasks, including "lack of incident reporting and escalation" and "timecard/discrepancies between what is coded and what actually occurred." Also attached was a document

entitled "Coaching Plan – Performance Expectations" that directed the Appellant to perform certain actions and described management's expectations for his performance.

17. The Appellant's 2011 "Performance & Development Review" is shown at Ex. 11. The Appellant did not sign the review.

18. The 2011 "Expectation Statement for DoIT Employees" is shown at Ex. 12. The Appellant signed the statement.

19. The "Workplace Expectations" for DoIT are shown at Exhibit 3.

20. A document entitled "Data Center Operations Team Expectations," dated October 2011, states "Employee responsibility to review and understand DoIT's and Work Group's current policies and procedures." The Appellant's signature appears at the bottom of the page, along with the date "10/11/2011."

21. Within the past three years, at least two other employees at DoIT have been suspended after failure to improve pursuant to a performance improvement plan. One of the suspensions was a three-day suspension for failure to respond to a critical incident.

22. Personnel Rule 1.3.3 provides in part:

*A. In order of increasing severity, an appointing authority or designated management representative may take the following disciplinary actions against an employee for misconduct or poor work performance:*

- 1. A verbal warning, which shall be accompanied by a notation in the employee's personnel file. A verbal warning is appropriate only when the supervisor determines that there are sufficient mitigating factors related to the employee's conduct or performance that suspension, demotion or discharge is unwarranted.*
- 2. A written reprimand, a copy of which must be placed in the employee's personnel file. A written reprimand is appropriate only when the supervisor determines that there are sufficient mitigating factors related to the employee's conduct or performance that suspension, demotion or discharge is unwarranted.*
- 3. Suspension up to 30 calendar days.*
- 4. Demotion.*
- 5. Discharge.*

*C. A regular employee may be suspended, demoted or discharged only for justifiable cause. This standard requires that:*

- 1. The employee was informed of or reasonably should have known the consequences of his or her conduct;*



2. *The rule, policy or procedure the employee has violated is reasonably related to the employing unit's safe and efficient operations;*
3. *A fair and objective investigation produced evidence of the employee's violation of the rule, policy or procedure;*
4. *The rule, policy or procedure and penalties for the violation thereof are applied consistently; and*
5. *The suspension or discharge is reasonably related to the seriousness of the employee's conduct and his or her previous disciplinary history.*

### **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, as described in Personnel Rule 1.3.3.C.

2. The first element of justifiable cause is whether the employee was informed of, or reasonably should have known the consequences of his or her conduct. The December 2011 memo and attachments provided him with written notice as to the areas in which his job performance needed to change, including incident response and time coding. The Appellant had been provided with written policies and procedures and was verbally instructed by managers at the Data Center as to the on-call engineer's responsibility, as well as the coding of his time card for March 8 and March 9. The Appellant knew or reasonably should have known, that failure to respond within 15 minutes to a CRU alarm during the March 8 incident, without a reasonable excuse, and the failure to accurately code his time to reflect his activities, would subject him to discipline up to termination.

3. The Data Center procedures which govern on-call staff's actions are reasonably related to the safe operation of the City's Data Center, even if a particular alarm turns out to be false, or an incident resolves itself without intervention by on-call staff. The requirement that employees accurately reflect their time on their time cards, is also reasonably related to DoIT's efficient operations.

4. The investigation of the Appellant's violation of DoIT procedures and policies was fair and objective, and the policies and procedures at issue here are applied throughout DoIT and to the Computing Services employees.

5. The Appellant's appeal requests that a written reprimand, rather than a suspension, be imposed. The appeal states that the Appellant did not receive a written reprimand before receiving the suspension. But under Rule 1.3.3, a verbal or written reprimand is only to be issued when there are sufficient mitigating circumstances related to the employee's conduct, and no mitigating circumstances were shown in this case. The Director was not required to issue a written reprimand before issuing a suspension in this case.


6. The Appellant pointed to the fact that the temperature alert on March 8 resolved of itself, and that no harm was done to the equipment as a result of his failure to respond. The Appellant also noted that the Data Center is a dynamic environment, that false alarms occur there, and that there are differing opinions in the industry concerning the range of temperature "set points" for data environments. Even if no harm occurred this time, an employee's failure to adhere to the on-call procedures can endanger the Data Center operations. The Director's order for a three-day suspension is reasonably related to the seriousness of the employee's conduct in this case.

7. There was justifiable cause for the Director's decision to suspend the Appellant. No errors were shown in this decision, and it should therefore be affirmed.

### Decision

The appeal is hereby denied. The Director's decision issuing a three-day suspension to Herman Buchanan is hereby affirmed.

Entered this 23<sup>rd</sup> day of July, 2012.

  
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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.

CSC Rule 6.02 provides that: "Any party may file a petition for review with the Commission of all or any part of the Presiding Officer's final decision. The petition must be filed at the Commission's office, and served on all other parties, no later than ten (10) days following the date of the issuance of the Presiding Officer's final decision. The party seeking review must file an original and four copies of the petition and any related briefs submitted."