

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

3 In the matter of the appeal of

4 **Nathanael Clemons,**

5 Appellant

6 v.

7 **SEATTLE DEPARTMENT OF**
8 **TRANSPORTATION (SDOT)**

9 Respondent

DISMISSAL ORDER

CSC No. 22-01-015

10 **FINDINGS OF FACT**

11 On August 24, 2022, the Appellant filed a Notice of Appeal with the Civil Service
12 Commission, alleging that respondent Seattle Department of Transportation (“SDOT”) violated
13 the City’s laws against discrimination (SMC Title 14), the Personnel Ordinance (SMC Title 4), and
14 the City of Seattle Personnel Rules, Preamble, and Rule 1 when he was separated from
15 employment for not being in compliance with the City’s COVID-19 vaccine requirement.
16

17 On September 1, 2022, Executive Director Scheele of the Civil Service Commission
18 (“Commission” or “CSC”) wrote to the parties acknowledging receipt of the appeal, and explained
19 that the CSC would refer the matter to the Seattle Office for Civil Rights (“SOCR”), in accordance
20 with Rule 5.05 of Civil Service Commission Rules of Practice and Procedure. See Scheele letter,
21 September 1, 2022.
22

23 The following are additional significant facts, including some of those stated in the
September 1, 2022 Scheele letter referenced above:

- The appellant (Mr. Clemons) exhausted the Employee Grievance Process as required by City Personnel Rule 1.4.
- Mr. Clemons’ appeal was filed timely on the twentieth day after SDOT notified Mr. Clemons of the Step 3 grievance decision (August 4, 2022).
- Mr. Clemons was an employee in the civil service prior to his separation from such employment.
- Mr. Clemons was non-disciplinarily separated from his employment with SDOT due to his non-compliance with the City’s COVID-19 vaccination requirement.
- Mr. Clemons requested and received a religious exemption from the vaccination requirement, he sought an accommodation, Mr. Clemons and the City were not able to arrive at an accommodation that would allow him to continue working, and SDOT separated him from employment.
- Mr. Clemons is alleging that the City unlawfully discriminated against him due to his religious beliefs.

JURISDICTION AND CONCLUSIONS OF LAW

The CSC’s jurisdiction includes timely appeals by civil service employees who have been discharged or separated from City employment, but there is an exception for certain appeals based on the subject matter at issue. CSC Rule 5.05 states:

REFERRAL - An appeal or petition alleging a violation of a rule or ordinance related to employment enforced by another City agency, shall be referred by the Commission to the agency of the City having jurisdiction over such alleged violation.

If the issue of an appeal falls under the jurisdiction of the Commission and another City agency and can be clearly separated, the Commission shall process the portions of the matter that are within the Commission's jurisdiction.

Under the facts at issue here, the City of Seattle Office for Civil Rights (“SOCR”) has sole jurisdiction over allegations of discrimination alleged by City employees. *See, e.g., SMC 4.04.260.D.*, and Order on City’s Motion to Dismiss in [Hemmelgarn v. City of Seattle](#), CSC 10-01-

1 004 (2011). As in Mr. Hemmelgarn’s case, here the SOCR has sole jurisdiction over the subject
2 matter of this appeal, including as relates to the Appellant’s allegation that the City “failed to
3 demonstrate cause” for termination. This is because the alleged “cause” violation relates to the
4 City’s alleged failure to meet the Appellant’s request for accommodation based on his religious
5 beliefs, which is a discrimination issue under the jurisdiction of the SOCR. Accordingly, Director
6 Scheele referred the Appellant’s written discrimination allegations, Notice of Appeal, and
7 attached documents to the SOCR on September 1, 2022, for proceedings consistent with the
8 applicable legal requirements, including SMC Title 14.

9
10 **ORDER**

11 Pursuant to the foregoing, this appeal is hereby dismissed in its entirety on jurisdictional
12 grounds because CSC Rule 5.05 requires that this appeal be referred to the City agency having
13 jurisdiction over the alleged violations, which in this case is the Seattle Office for Civil Rights.
14 Consistent with Rule 5.05 and the *Hemmelgarn* decision above described, the Seattle Office for
15 Civil Rights has sole jurisdiction over the subject matter of this appeal because the issues on
16 appeal cannot be clearly separated. Accordingly, the appeal in its entirety is under the jurisdiction
17 of the Seattle Office for Civil Rights.
18

19
20 Dated this 14th day of September 2023.

21
22 FOR THE CITY OF SEATTLE CIVIL SERVICE COMMISSION

23
Andrea Scheele
Andrea Scheele, Executive Director

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23

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

In the matter of the appeal of

Nathanael Clemons,

Appellant

v.

**SEATTLE DEPARTMENT OF TRANSPORTATION
(SDOT)**

Respondent

CERTIFICATE OF SERVICE

CSC No. 22-01-015

I, Teresa R. Jacobs, declare under penalty of perjury under the laws of the State of Washington, that on the date below, I caused to be served upon the below-listed parties, via email, a true and correct copy of the foregoing document: **Dismissal Order.**

Appellant: Nathanael Clemons
[REDACTED]

Respondent: Seattle Department of Transportation

Jesse Green, Director Human Resources

jesse.green@seattle.gov

DATED: September 14th, 2023, at Seattle, Washington.

Teresa R. Jacobs

Teresa R. Jacobs, Executive Assistant
Civil Service Commission