

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

3 **Gina Kim,**
4 Appellant
5 vs.
6 **Seattle Public Utilities,**
7 Respondent.
8

CSC No. 20-07-013
ORDER ON REQUEST FOR
RECONSIDERATION OF
EXECUTIVE DIRECTOR’S
DISMISSAL

9
10 **I. INTRODUCTION**

11 Pursuant to Civil Service Commission (CSC) Rule 5.03, the Civil Service Commission
12 reviewed the Appellant’s Request for Reconsideration of the Executive Director’s dismissal of the
13 Appellant’s Appeal.¹ The Commission reviewed the Request at a regular meeting on March 15,
14 2021, at 2:00 p.m. Due to the COVID-19 public health emergency and pursuant to the Governor’s
15 Proclamation 20-28 (as extended), the meeting was held remotely on WebEx. Both parties attended
16 and had an opportunity to speak to the Commission.
17

18 **II. SUMMARY**

19 The Civil Service Commission agrees with the Executive Director’s determination that the
20 Commission does not have jurisdiction over the subject matter of the Appeal. The Commission
21 **affirms** the Executive Director’s dismissal.
22

23 **III. DISCUSSION**

24 **A. Background**

25 For purposes of the Civil Service Commission’s scope of review, the relevant history of
26 this matter consists of three events: (1) the Appellant’s Appeal; (2) the Executive Director’s
27 dismissal; and (3) the Appellant’s Request for Reconsideration.
28
29

30 ¹ The CSC Rules use the word “appeal” to refer to both an employee’s appeal of a department decision pursuant to
31 CSC Rule 5.01.A and an employee’s appeal of the Executive Director’s decision pursuant to CSC Rule 5.03. For
purposes of clarity in this Order, the Civil Service Commission refers to the Rule 5.01.A appeal as the “Appeal,” and
refers to the Rule 5.03 “appeal” as the “Request for Reconsideration” of the Executive Director’s dismissal.

- 1 1. On November 19, 2020, the Appellant filed an appeal (“Appeal”) with the
2 Civil Service Commission to petition the Respondent’s (Seattle Public
3 Utilities) decision to deny the Appellant’s grievance.
- 4 2. On December 17, 2020, the Executive Director issued an Order to dismiss the
5 Appeal upon determining the Commission did not have jurisdiction over the
6 subject matter of the Appeal.
- 7 3. On January 4, 2021, the Appellant submitted a Request for Reconsideration of
8 the Executive Director’s dismissal.

9

10 **B. Scope of Review**

11 Pursuant to CSC Rule 5.03, “decisions made by the Executive Director may be appealed
12 to the Commission within twenty calendar days after the date of the order.”² As previously
13 mentioned (see Footnote 1), the Commission calls this Rule 5.03 “appeal” a “Request for
14 Reconsideration.” The Appellant requested that the Commission reconsider the Executive
15 Director’s dismissal of the Appeal, which was based on the Executive Director’s determination
16 that the Civil Service Commission does not have jurisdiction over the subject matter in the Appeal.

17 Accordingly, the sole issue before the Civil Service Commission is whether it agrees or
18 disagrees with the Executive Director’s decision.

19

20 **C. The Civil Service Commission’s Jurisdiction**

21 Generally, “jurisdiction” means a government agency’s authority over people, things, or
22 issues within its boundaries. The Civil Service Commission’s appellate jurisdiction (that is, its
23 authority to hear an appeal) is established by The Charter of the City of Seattle, the Seattle
24 Municipal Code (SMC), and the Civil Service Commission (CSC) Rules. Article XVI of the
25 Charter and SMC 4.04.250.K broadly grant the Commission the authority to hear appeals
26 involving administration of the personnel system.

27 That authority (appellate jurisdiction) is not interpreted as a blanket authority over the
28 administration of the personnel system, but rather, the scope of the appellate authority is described
29 by SMC 4.04.260 and then further described by CSC Rule 5.01. SMC 4.04.260 states, “A regular
30

31

² The Executive Director’s Order to Dismiss was issued on December 17, 2020, and the Appellant’s Request for Reconsideration was submitted on January 4, 2021, within 20 days of the Order, and is therefore timely.

1 employee who is aggrieved thereby may appeal to the Civil Service Commission his/her demotion,
2 suspension, termination of employment, or violation of [SMC 4.04] or rules passed pursuant
3 thereto, provided that the employee first exhausts the intradepartmental grievance remedies under
4 section 4.04.240 and the Personnel Rules.” CSC Rule 5.01 lists three bases for the Commission to
5 hear an appeal:

- 6 1. Any regular employee who is demoted, suspended, or terminated may appeal
7 such action to the Commission.
- 8 2. Any employee alleged to be probationary by the disciplining department may
9 appeal the question of the employee’s probationary status and whether the
10 procedures for discharge of probationers, as found in Personnel Rules, were
11 followed.³
- 12 3. Individuals or departments adversely affected by an alleged violation of Article
13 XVI of the Charter of the City of Seattle, the Personnel Ordinance, or the
14 administration of the personnel system, may appeal the alleged violation to the
15 Commission.⁴

16
17 **D. Lack of Jurisdiction Over Appellant’s November 19, 2020 Appeal**

18 The Appellant’s November 19, 2020 Appeal listed eight violations:⁵

- 19 1. SPU Workplace Expectations for All
- 20 2. SPU Workplace Expectations for Managers, Supervisors and Directors
- 21 3. Contact Center Supervisor Expectations
- 22 4. City of Seattle Philosophies
- 23 5. Misconduct
- 24 6. Personnel Rules 1.5 Training
- 25 7. SMC 4.04.070 B. Employees Rights to Timely Resolution to Grievances

26
27 ³ The second of the three bases above is not relevant to this case, so we do not address it.

28 ⁴ CSC Rule 5.01’s reference to “administration of the personnel system,” is not to be interpreted in a vacuum. Rather,
29 the phrase should be interpreted in the context of the legal authority described in SMC 4.04.260 as appellate authority
30 regarding a violation of SMC Chapter 4.04 “or rules passed pursuant thereto.” Therefore, the Commission reads the
31 Rule 5.01’s reference to “administration of the personnel system” to mean a violation of the Personnel Rules.

⁵ The email chain that was part of the record also reflected four additional violations submitted in an appeal the
Appellant attempted to file on April 10, 2020. Those four violations were recognized in the Executive Director’s
dismissal order, but the Commission does not review or address those violations here because they do not change the
Commission’s findings regarding appellate jurisdiction.

1 8. SMC 4.04.070 Fair and Equal Treatment

2 To determine whether the violations are within the Commission’s appellate jurisdiction,
3 the Commission asks two questions based on its appellate authority described in SMC 4.04.260
4 and the first and third bases for appeal in CSC Rule 5.01. If the answer to either question is “yes,”
5 then appellate jurisdiction is established if the Appellant has exhausted the interdepartmental
6 grievance remedies.

7 • ***Was the employee demoted, suspended or terminated?***

8 No. The employee was not demoted, suspended, or terminated.

9 • ***Does the employee allege violations of Article XVI of the Charter, the Personnel
10 Ordinance (SMC Chapter 4.04), or the Personnel Rules?⁶***

11 ○ Regarding Items 1 through 5 in the list of violations above: No. The Appellant
12 did not allege a violation of the Charter, SMC 4.04, or the Personnel Rules.

13 ○ Regarding Item 6: No. Although the Appeal listed Personnel Rule 1.5 as a rule
14 that was violated, the Appeal did not allege a violation of Personnel Rule 1.5.
15 Personnel Rule 1.5 authorizes the City to assign training to employees. Training
16 was assigned to the Appellant. In the Appeal, the Appellant disputes the benefit
17 of the training and the Respondent’s reasons for assigning training but does not
18 allege a violation of Personnel Rule 1.5 other than listing the Rule along with
19 seven other violations on the Appeal form. Perhaps the Appellant disputes the
20 language of Personnel Rule 1.5 because the Rule does not include provisions
21 that would have changed or prevented the assigned training. However, the
22 Commission does not have the authority to amend the Personnel Rules, so a
23 dispute over what the Personnel Rules *should* say is not within this
24 Commission’s appellate authority.

25 ○ Regarding Items 7 and 8: No. Although the Appeal lists SMC 4.04.070.B as a
26 section that was violated, the Appeal does not allege a violation of the
27 employee’s right to timely resolution of grievances. In addition, although the
28 Appeal lists SMC 4.04.070 regarding “fair and equal treatment” (presumably
29 SMC 4.04.070.D regarding the right to fair and equal treatment as provided in
30

31 ⁶ See Footnote 4 for the Commission interpretation of appellate jurisdiction over “the administration of the personnel system” as appellate jurisdiction over violations of Personnel Rules.

1 the City’s Fair Employment Practices Ordinance at SMC Chapter 14.04), the
2 Appeal does not allege unfair employment practices in violation of SMC
3 Chapter 14.04. SMC Chapter 14.04 prohibits Unfair Employment Practices
4 described in SMC 14.04.040, through discrimination in the form of disparate
5 treatment based on “race, color, age, sex, marital status, sexual orientation,
6 gender identity, genetic information, political ideology, creed, religion,
7 ancestry, national origin, honorably discharged veteran or military status, or the
8 presence of any disability” or any other protected class.⁷ The Appeal did not
9 describe or allege discrimination based on membership of a protected class. The
10 Appeal disputed the assignment of training and the type of training. Disputing
11 the assignment of specific training, however, does not amount to an allegation
12 of discrimination in violation of SMC 4.04.070.D and SMC Chapter 14.04.
13

14 **IV. CONCLUSION**

15 The Appeal did not involve a suspension, demotion, or termination, nor did the Appeal
16 allege violations of the Charter, SMC Chapter 4.04, or the Personnel Rules. Five of the eight listed
17 violations in the Appeal are not involving violations of standards within the Commission’s
18 purview. The remaining three items were not presented with any allegations of how those sections
19 or rules were violated. For these reasons, the Commission finds that the subject matter of the
20 Appeal does not fall within the Commission’s appellate jurisdiction.

21 The Commission recognizes that the Seattle Municipal Code and Civil Service
22 Commission Rules on the appeals process may be challenging to interpret. The authority granted
23 to the Civil Service Commission in the Charter and Seattle Municipal Code is not intended to allow
24 the Commission to make sweeping or comprehensive changes to the City’s Personnel System. The
25 Appeal process is meant to address specific circumstances or specific violations. While the
26 Commission is sympathetic to the Appellant’s expressions of frustration and confusion regarding
27 the Appellant’s experience with the Personnel System, the Appellant’s relief sought in the Appeal
28 and comments before the Commission indicate that the Appellant seeks remedies that are more
29

30 ⁷ SMC 14.04.040 expressly recognizes a list of “Unfair Employment Practices” such as discrimination in employment
31 conditions, policies that deny employment opportunities, publications, and job classifications. The Commission also
notes that violations of SMC Chapter 14.04 are with the purview of the Seattle Office of Civil Rights.

1 appropriately addressed at the department level (whether the Respondent's department or by the
2 rulemaking process for Personnel Rules).

3
4 **V. ORDER**

5 IT IS HEREBY ORDERED that the Executive Director's Order dismissing the Appeal is
6 AFFIRMED.

7
8 DATED April 8, 2021.

9
10 **Amy Bonfrisco**

11 _____
12 Amy Bonfrisco, Commission Chair

13 *Mary Wideman-Williams*

14 _____
15 Mary Wideman-Williams, Commissioner

Signature: Amy Bonfrisco
Amy Bonfrisco (Apr 8, 2021 13:56 PDT)

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