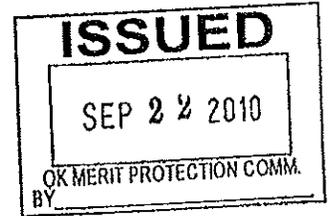


BEFORE THE OKLAHOMA MERIT PROTECTION COMMISSION
STATE OF OKLAHOMA

CAROLYN WRIGHT,)
)
 Appellant,)
)
 v.)
)
 OKLAHOMA HEALTH CARE)
 AUTHORITY,)
 Appellee.)

Case No. MPC 08-122



FINAL ORDER

This matter comes on for hearing on June 2, 2010 and September 8, 2010 before the undersigned Administrative Law Judge at the offices of the Oklahoma Merit Protection Commission, Oklahoma City, Oklahoma. The Appellant, Carolyn Wright (hereinafter "Wright"), appears by and through her counsel, Daniel Gamino. The Appellee, Oklahoma Health Care Authority (hereinafter "OHCA"), appears by and through counsel, Nicole Nantois and Christopher Bergin.

Appellant Wright was an unclassified employee of OHCA. This hearing was limited to alleged violations of 74 O.S. §§840-2.9, 840-6.6 and 954, and OAC Title 455, Chapter 10, Subchapter 3. Whereupon the hearing began and the sworn testimony of one witness was presented, along with exhibits. Regarding the exhibits, the Appellant and the Appellee submitted a Joint Exhibit Book, containing stipulated exhibits admitted into the record. Accordingly, the Joint Exhibits presented and admitted are incorporated herein and made a part hereof.

After careful consideration of the record, including all relevant evidence, testimony, and exhibits, the undersigned Administrative Law Judge issues the following findings of fact, conclusions of law, and order.

FINDINGS OF FACT

Background of Case

Appellant, Carolyn Wright was an unclassified employee of the Appellee, Oklahoma Health Care Authority. She filed an appeal with the Merit Protection Commission alleging

discrimination, retaliation and hostile work environment resulting in her demotion in November, 2007 and her subsequent termination of employment in January, 2008.

OHCA responds that they properly terminated Wright after she failed to report to work and failed to properly request leave for her absence. Wright had been previously disciplined for her leave violations.

This appeal was originally dismissed by the Executive Director. Wright appealed the dismissal to Oklahoma County District Court. On October 22, 2009, Judge Bryan Dixon entered a Journal Entry Remanding Cause for Evidentiary Hearing. The Order of Judge Dixon specifically directed that an evidentiary hearing be held.

The first day of the evidentiary hearing was held on June 2, 2010. Following objections by OHCA, the matter was continued to September 8, 2010. An Order was entered regarding Discovery requirements. Subsequently, an Order was entered on August 24, 2010 dismissing a number of Wright's allegations, leaving only the alleged violations based upon discrimination relating to the termination of employment.

Discussion of Evidence

Wright offered only her own testimony in support of her allegations of discrimination. Wright testified that she became ill and was unable to return to work after January 6, 2008 due to back pain. She testified that she didn't have the proper leave requests forms but had her doctor's office fax a form to OHCA. She was unable to return to work and spoke with her supervisors. She acknowledges that she received a letter from OHCA informing her that she had no leave and requesting that she submit a proper leave request form. Wright admits that she did not do so.

The exhibits regarding Wright's medical problems do not contain any diagnosis or specific indication of the nature of her illness. There was conflicting evidence about which, if any, medical information was actually provided to OHCA.

Wright alleged that other employees were allowed to complete leave forms when they returned to work or that at least one employee's supervisor completed the forms for her. She was unable to remember the names of any of these employees or the dates that these incidents occurred. She was unable to provide any credible evidence that she was treated differently from any other employees.

Wright alleged that the retaliation and discrimination was demonstrated by OHCA changing her telephone extension number when she returned from leave in 2007. She fails to provide evidence to support this allegation.

Wright claimed that she was discriminated against because of her race, however, both of her supervisors are of the same race. She provided no evidence to support her allegations and could provide no specific acts of discrimination.

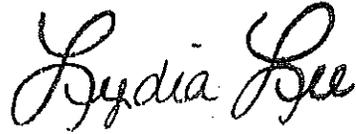
CONCLUSIONS OF LAW

1. The Oklahoma Merit Protection Commission has jurisdiction over the parties and the subject matter in this cause.
2. Any finding of fact which is properly a conclusion of law is so incorporated herein as a conclusion of law.
3. This is an alleged violation appeal, which means "an appeal in which an allegation is made that a violation of law or rules over which the Commission has jurisdiction has occurred." *See* OAC 455:10-1-2. OAC 455:10-9-2 (f) states that the Appellant Wright has the burden of proof in an alleged violation appeal and must prove by a preponderance of the evidence that a violation did occur.
4. 74 O.S. § 840-5.1A, provides that persons appointed to a position in the unclassified service serve at the pleasure of the appointing authority and such unclassified employees may be terminated at any time with or without cause.
5. Appellant Wright has failed to meet her burden to prove, by a preponderance of the evidence, that any violation of law or merit rule has occurred.
6. Appellant Wright has failed to meet her burden to prove, by a preponderance of the evidence, that OHCA discriminated or retaliated against her.
7. Appellant Wright has failed to meet her burden to prove, by a preponderance of the evidence, that her termination was based upon improper motives or causes.
8. As a result of Appellant Wright's failure to prove that any violation did occur, no corrective action is warranted or necessary.

ORDER

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED by the undersigned Administrative Law Judge that the petition of Appellant Carolyn Wright, MPC 08-122 be DENIED and the appeal is hereby dismissed.

This Order entered this 20th day of September, 2010.

A handwritten signature in cursive script that reads "Lydia Lee".

Lydia Lee
Administrative Law Judge