



TOWN OF
NORTH KINGSTOWN, RHODE ISLAND

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MINUTES OF THE MEETING OF THE PERSONNEL HEARING BOARD HELD ON
OCTOBER 1, 2018 AT THE MUNICIPAL OFFICES COURT/MEETING ROOM, 100
FAIRWAY DRIVE

The Personnel Hearing Board convened at 4:35 p.m.

PRESENT: David DeJesus, Jr.
Thomas Reilly
Christine Marinello

ALSO PRESENT:

For the Personnel Board James Callaghan, Assistant Town Solicitor
For the Town Timothy Cavazza, Assistant Town Solicitor - Labor
For Employee Jared Lepore, 1033 Field Representative

An audio recording of this meeting was made to supplement the written record.

1. Call to Order

The meeting of the Personnel Hearing Board was called to order.

2. Pursuant to RIGL 42-46-6(c), notice of this meeting was posted on the Secretary of State's website
3. Hearing to consider the personnel matter in accordance with Section 14-18 of the Revised Ordinances of the Town of North Kingstown (The Board may vote to convene this matter into Executive Session pursuant to 42-46-5(a)(1) and Sec. 14-18(a) of the Ordinances of the Town of North Kingstown) – continued from July 19, 2018

Introduction by Assistant Solicitor Callaghan: Mr. Callaghan stated that the employee has been dismissed/demoted by the Town. The Town has provided the employee with written notification containing a statement of the substantial reasons for the action. That notice has also been provided to the Personnel Board. This hearing has been convened as the result of the request of the employee, Ms. Almeida, involved in this matter. The Town and the employee will present its respective case to the Board. The hearing proceedings shall be informal. It shall be assumed that the action complained of was taken in good faith unless proven otherwise in accordance with 14-18 (b).

If the Personnel Board finds that the action taken by the appointing authority was based on political, religious, or racial prejudice, or that the appointing authority/Town failed to follow proper procedure, then the employee shall be reinstated to the former position without loss of pay. In other cases where the Personnel Board does not sustain the action of the appointing authority, the Personnel Board's findings and recommendation shall be advisory in nature

Timothy Cavazza, Esq. calls Ralph Mollis, Town of North Kingstown Town Manager.

Mr. Mollis placed under oath.

Attorney Cavazza enters Town Exhibit #12: Letter to Shari Almeida dated September 11, 2018.

Mr. Mollis explained letter to Ms. Almeida detailing continuance date of October 1, 2018. In the letter, Ms. Almeida was advised she could have meeting in public or private session. Mr. Mollis stated he was familiar with Shari Almeida and that he is the appointing authority for the Town of North Kingstown.

Attorney Cavazza presents Town Exhibit #2 to Mr. Mollis. Mr. Mollis recognized that document as a letter to Ms. Almeida as a follow up to a disciplinary hearing conducted with Ms. Almeida. As a result of the disciplinary hearing, Ms. Almeida was terminated. The letter outlines the reasons for the termination and the appeal period. Mr. Mollis testified the letter was dated May 30, 2018. Mr. Mollis also detailed an incident involving Ms. Almeida on March 21, 2018 and her prior employment history. Three years prior Ms. Almeida was presented with a letter indicating that any further disciplinary action would result in termination. Mr. Mollis indicated that Ms. Almeida was on notice as to her employment due to prior actions. The Town suspended her with pay initially. We then had a meeting or hearing with Ms. Almeida in an attempt to work out any issues and listen to any explanations Ms. Almeida may have had. That meeting did not result in any explanations by Ms. Almeida. As a result of that meeting and the lack of a potential corrective plan, the Town moved forward with the termination. There was no admission by Ms. Almeida and no corrective action could be taken. This was a fairly obvious decision. Lying, insubordination, drinking when she was not supposed to, were all considerations. Also, Mr. Mollis indicated that Ms. Almeida drove a significant distance into a residential yard and struck a rather large statue. This is a town resident and an individual hired to drive and her actions resulted in the striking of a statue. Those factors did play a role in the consideration of the issue. Aside from the actual incident, there was damage to the truck, evidence of drinking, and insubordination, including not following department head direction and not punching out all would be grounds for termination. Those factors along with prior history made this an overwhelming case.

No questions from Mr. Lepore.

Question from Ms. Marinello:

Do you know Ms. Almeida's political affiliation if any or her religious preferences?

Mr. Mollis: No

Do you know what religion Ms. Almeida practices?

Mr. Mollis: No

Questions from Mr. Reilly:

In terms of town policy, how long does a term of probation last?

Mr. Mollis: We give final warnings. A lot of times the letter of warning has a term. For example, some letters include a 12-18-24 month term. This was written as a final warning by Town Manager Embury. He had terms at his disposal, but in my professional opinion, he used this as a final warning to last to retirement.

So basically, she was on probation for the rest of her career?

Mr. Mollis: Yes. That was basically a service for the employee. Because I believe that a final warning could have resulted in termination. This option gave the employee another chance. In effect, to please turn this around. This earlier situation should have resulted in termination. This gave her another chance. Please know on my end, this incident, short of the fact that there was no admission and no chance to provide for corrective action, this was misleading and coupled with the fact that this letter was a final warning and an obvious decision.

Reference to Town personnel rules and policy. Is this in the form of a book?

Mr. Mollis: No. However, when someone is employed they are instructed to review this document and they are employed under its rules and regulations. Copies are available throughout town offices. It is the obligation of the employee to understand the handbook. However, the rules and regulations are much more comprehensive and we are in the process of updating.

Ms. Marinello: Are policies available online?

Mr. Mollis: I don't believe so. They may be, but I am not aware.

Town Rests through Mr. Cavazza.

Mr. Lepore calls the employee – Shari Almeida

Ms. Almeida does not respond to call to appear before the PHB.

Mr. Lepore states that he does not observe Ms. Almeida and that she is not present.

Mr. Lepore rests on behalf of the employee.

Mr. Callaghan explains the deliberation phase of the proceeding.

Phase One – Was the action of the appointing authority based on political, religious, or racial preference? If the answer is yes, then the employee shall be reappointed. If the answer is no, then the Personnel Board's findings shall be advisory in nature and the appointing authority may affirm the original action or modify it pursuant to the Personnel Board's recommendations.

Phase Two – Was termination of the employee, the action of the appointing authority, taken in good faith based on the evidence presented? Yes or No.

And the definition of good faith is a state of mind consisting of honesty of belief or purpose, faithfulness to duty or obligation, absence of intent to defraud.

Your deliberations shall be conducted in public and should contain a factual basis for the decision.

Mr. Reilly asks if the deliberations shall be conducted now. Mr. Callaghan answers in affirmative.

Mr. Reilly suggested that they discuss whether there was evidence of religious, political, and racial prejudice.

Ms. Marinello states she did not hear any evidence of that. I asked Mr. Mollis and another employee whether they were aware of Ms. Almeida's preferences. Mr. DeJesus states that Mr. Bergeron was asked that question. Ms. Marinello indicates both witnesses testified that they did not have any knowledge of Ms. Almeida's racial, religious, or political preferences. The information that was helpful to determine that the termination was in good faith.

Mr. DeJesus states we seem to agree that the termination was not based on religious, racial or political preference. Ms. Marinello and Mr. Reilly agree. Ms. Marinello notes that defense was not raised.

Mr. DeJesus then asks about good faith. Mr. Reilly states that the town's actions appeared to be in good faith based on evidence and witnesses. Ms. Marinello states that this was a collective decision made by the Town Manager and Department Heads. It was a deliberative decision, not made in a split second, and I see no reason that it was not taken in good faith. Mr. DeJesus agrees. There was no proof that the actions were taken in anything but good faith. The facts were straightforward. Mr. Reilly agrees. Ms. Marinello states it is not up to us to substitute our decision for the Town Manager as the appointing authority. Mr. DeJesus states we are not here to interpret the contract. We are here to determine if the town acted in accordance with town law.

Votes:

First Question: Was the action of the Town to terminate Shari Almeida based on religious, political or racial prejudice?

Mr. DeJesus: NO

Ms. Marinello: NO

Mr. Reilly: NO

Second Question: Was the action of the Town to terminate Shari Almeida taken in good faith?

Mr. DeJesus: YES

Ms. Marinello: YES

Mr. Reilly: YES

Third Question: Did the Town follow proper notification procedure as outlined in Town Ordinances?

Mr. DeJesus: YES

Ms. Marinello: YES

Mr. Reilly: YES

Anything further from Mr. Lepore or Mr. Cavazza. Both answer in the negative.

Hearing adjourned at 5:01 p.m.

Prepared by:

James Callaghan
Assistant Town Solicitor