

**HEARING OFFICER, CAREER SERVICE BOARD
CITY AND COUNTY OF DENVER, COLORADO**

Appeal No. 139-03

FINDINGS AND ORDER

IN THE MATTER OF THE APPEAL OF:

WILLIAM E. WALESKI, Appellant,

v.

Agency: Department of Environmental Health, Environmental Services Division,
and the City and County of Denver, a municipal corporation.

INTRODUCTION

For purposes of these Findings and Order, William E. Waleski shall be referred to as "Appellant." Department of Environmental Health, Environmental Services Division shall be referred to as "Department." The City and County of Denver shall be referred to as the "City". They will be referred to collectively as the "Agency." The Rules of the Career Service Authority shall be abbreviated as "CSR" with a corresponding numerical citation.

A hearing on this appeal was held November 18 and 19, 2003, before Robin R. Rossenfeld, Hearing Officer for the Career Service Board. Appellant was present and was represented by Joel Cantrick, Esq. The Agency was represented by Richard A. Stubbs, Esq., Assistant City Attorney, with Steve Foute serving as the advisory witness.

The Hearing Officer has considered the following evidence in this decision:

The following witnesses were called by and testified on behalf of the Agency:

Appellant, Roger Peterson, Michael Davison, Anthony Rolfe, Cassie Robinson, P.O. Robert Fitzgibbons, Captain Mike Horner, Steve Foute

The following witnesses were called by and testified on behalf of the Appellant:

Appellant, Dr. Marilyn Meyers

The following exhibits were offered and admitted into evidence on behalf of the Agency:

1-4, 6-9, 11

The following exhibits were offered and admitted into evidence on behalf of the Appellant:

A, C, D, E, F, G, H, I, J, K, L

The following exhibits were admitted into evidence by stipulation:

1, 3, 6, 7, 8, 9,

The following exhibits were offered but not admitted into evidence and therefore not considered in this decision:

None

NATURE OF APPEAL

Appellant is appealing his disciplinary termination for alleged violations of various provisions of CSR §§16-50 and 16-51. He claims that termination is unwarranted given the nature of the offending behavior and his past employment history. Appellant is requesting reinstatement and back pay and benefits.

ISSUES ON APPEAL

Whether Appellant violated CSR §§16-50-A. 8), 17), 18), and 20) and 16-51 A. 2), 4), and 11)?

If Appellant violated any provisions of CSR §§16-50 or 16-51, was termination warranted or should a lesser discipline have been imposed?

PRELIMINARY MATTERS

None

FINDINGS OF FACT

1. Appellant worked as an Engineer for the Department for thirteen years. Had he not been terminated on August 28, 2003, his title would have been changed to Environmental Scientist II, pay grade 811-E, effective September 16, 2003. (Exhibit J) He is married and has two grown sons. He has a degree in geology from Arizona State University. He has done graduate work in soil mechanics and mechanical engineering.

2. Appellant's March 2003 Performance Enhancement Program Report was rated "below expectations." (Exhibit I). He received a PEPR rating of "exceeds expectations" in 1999. (Exhibit E) The rest of his evaluations were "meets expectations." (Exhibits F, G, H.)

3. Appellant had no disciplinary history prior the incident that forms the basis of this case.

4. Prior to June 30, 2003, Appellant exhibited angry behaviors towards co-workers that he attributed to stress.

5. Appellant owns nine guns, four of which are in Colorado, but he has not fired any of them for twenty to twenty-five years.

6. The Department of Environmental Health is located on the tenth floor of the Wellington Webb building.

7. On June 30, 2003, Appellant was having what he described as a "good day." Around 11:55 a.m., he returned to the Wellington Webb Municipal Building from lunch. He came in the Court Street entrance. It was the third time he came into the building that day. Each time he had to clear security.

8. There was a line of five or six persons at the security station at the time.

9. Appellant did not empty his pockets into the containers provided while waiting his turn. When Appellant went through security, he set off the metal alarm. Security Officer Roger Peterson used the hand-held metal detector and "wanded" Appellant. The metal detector showed there was metal in Appellant's pockets. Appellant was asked to empty his pockets and go back through the security gateway. He removed his wallet, coins, keys, Swiss Army card (with a pocket knife and other tools), Chap Stick, and nasal inhaler. This time Appellant did not set off the alarm.

10. After Appellant passed security, he replaced the items into his pockets. As he was doing so, he made a comment that was overheard by Security Officer Peterson. Appellant testified he said, "One of these days I'm going to bring my nine-milli's in here and shoot the whole goddamn bunch of you." Security Officer Peterson testified Appellant said, "I should come in here someday with my mag(num) and take you guys out."

11. Appellant did not believe he was loud when he made the statement, but Security Officer Peterson remembered that Appellant was agitated, impatient and angry throughout the entire time and the tone and volume of his voice was consistent with these behaviors.

12. Appellant remembers thinking as he walked away towards the elevator back, "What would these boys do if someone walked in with a gun." He testified that he made the statement out of frustration from being searched three or four times that day, not anger. He was embarrassed by his behavior at the time. He also recalled feeling "pity" for the security guards because they performed a thankless job.

13. Security Officer Peterson was in shock from such a "bold" statement. He took it to be a serious threat and not a joke. He also thought Appellant was serious and the incident needed to be reported before it became more dangerous.

14. After Appellant walked away, Security Officer Peterson contacted Michael Davison, his supervisor, and told him what happened. Mr. Davison indicated the authorities needed to be contacted.

15. Security Officer Peterson went to the surveillance room on the first floor of the Webb Building, where he met with Joe Smiley, the head of Barton Security assigned to the Webb Building. Security Officer Peterson knew Appellant was a City employee. He reviewed access badge pictures and identified Appellant and his office location. Security Officer Peterson also wrote out an account of the incident. He spoke with Denver Police Officer Robert Fitzgibbons. He told the Officer he felt threatened by Appellant's comment.

16. Michael Davison, daytime supervisor for Barton Security at the Webb Building, testified he met Security Officer Peterson in the command center. According to him, Security Officer Peterson had a scared, deer-in-the-headlights look. He characterized Security Officer Peterson as normally levelheaded. He has handled himself well when there have been other

security breaches. Mr. Davison contacted Joe Smiley, his supervisor at Barton Security. Mr. Smiley contacted Anthony Rolfe, Assistant Property Manager for Wilson Thorn Co, managing agent for the Webb Building. Mr. Rolfe contacted the Denver Police Department.

17. Police Officer Robert Fitzgibbons responded to the call from Mr. Rolfe. He spoke with Security Officer Peterson, who indicated that he felt threatened and indicated that he wanted to make a complaint. Officer Fitzgibbons had building personnel get Appellant from his office since he did not want to embarrass Appellant in front of his co-workers. Appellant was brought into the conference room by the Court Street entrance. Officer Fitzgibbons asked him if he wanted to make a statement. Appellant replied, "No." Officer Fitzgibbons then arrested Appellant, handcuffed him, placed him in the police car and took him to the District 6 police station. Officer Fitzgibbons described Appellant's behavior as cooperative throughout.

18. Appellant was arrested about an hour after the initial incident.

19. Appellant was issued a summons and complaint (Exhibit 2, p. 33 and Ex. 11, p. 3). Appellant was charged with disturbing the peace (Municipal Ordinance 35-89) and Threat to Injure Person or Damage Property (Municipal Ordinance 38-92(a)).

20. Appellant agreed to enter the Denver City Attorney's Alternative Resolution Program on August 4, 2003. In order to be accepted into the program, Appellant had to sign a statement that included, among other things, that he "accept(s) responsibility for the actions that resulted in these charges as indicated by the police report and/or witness statements." (Exhibit 11, p. 7)

21. Appellant successfully completed the program and the charges were dismissed on October 21, 2003. (Exhibit 11, p. 8)

22. Appellant took an anger management course as part of the Alternative Resolution Program.

23. Steve Foute, Deputy Manager for the Department of Environmental Health, placed Appellant on investigatory leave on June 30. (Exhibit 1) He then asked Captain Mike Horner of the Denver Sheriff's Department to conduct an investigation of the incident for the Department. Captain Horner spoke with Appellant, Security Officer Peterson and others involved in the incident. Their stories to Captain Horner are consistent with their testimony at the hearing.

24. After Captain Horner completed his investigation, Mr. Foute sent Appellant notification of contemplation of discipline on July 21, 2003. (Exhibit 2). The notice warned Appellant discipline was being contemplated for alleged violation of CSR §16-50 A.) 8), 17), 18) and 20) and §16-51 A. 2), 4), 5), and 11). The predisciplinary hearing was scheduled for July 29, 2003.

25. The predisciplinary meeting occurred as scheduled. In addition to Mr. Foute and Appellant, Bill Benerman, and Joel Cantrick (Appellant's attorney) were present. Appellant's statement at the predisciplinary meeting was consistent with his testimony before the Hearing Officer. He stated that he was very sorry for what his statement did. He said that he hadn't been sleeping well prior to June 30 due to shoulder pain that had been bothering him for some time. He indicated he had no intention of carrying out the threat. He admitted, as he had to Captain Horner and during the hearing, that he had been having a "pretty good day" because he was getting a lot of things taken care of. He said he "just lost control momentarily. I knew even

before I had finished stating what I did that I shouldn't have said it." Appellant was very apologetic for the entire incident. (Exhibit 4)

26. Appellant's investigatory leave was extended on August 12, 2003, pending the completion of the investigation into the allegations and another predisciplinary letter was issued. (Exhibits 6 and 7).

27. On August 18, Appellant's attorney contacted the Department and indicated Appellant would not attend the scheduled August 20 predisciplinary meeting nor present any information at the meeting. Appellant indicated he voluntarily chose to have the information provided at the earlier meeting be used in consideration of the allegations. *Exhibit 8, p. 5)

28. Appellant was terminated from employment on August 28, 2003, for violations of CSR §16-50 A. 8), 17), 18), and 20), and §16-51 A. 2), 4), 5) and 11). (Exhibit 8)

29. Appellant filed his appeal with the Hearing Officer in a timely manner.

30. Marilyn J. Meyers, Psy. D., testified on Appellant's behalf. Dr. Meyers was qualified as an expert witness in the area of violence assessment and fitness for duty.

31. Dr. Meyers met with Appellant on September 30, 2003. She met with him for approximately two and a half hours. She reviewed his personnel files and Captain Horner's investigation. She gave Appellant the MMPI-2 (Minnesota Multiphasic Personality Inventory 2) (Exhibit K) and MCMI-III (Millon Clinical Multiaxial Inventory - III) (Exhibit L). She also spoke with Joanne Hudson, who conducted the anger management class Appellant attended as part of his criminal disposition. She was also present during the hearing in order to observe Appellant.

32. According to Dr. Meyers, the Department should have conducted a threat assessment of Appellant in order to make a better decision. She was unaware whether Dr. John Nicoletti, whom she trained with and acknowledged as an expert in the risk assessment field, had been consulted by the Department prior to taking the disciplinary action.

33. The MMPI-2 and MCMI-III are computer-scored tests and interpretive records are produced.

34. The symptomatic patterns indicated by the MMPI-2 are common to passive-aggressive personalities. More specifically:

...The client is a somewhat conventional, nonassertive man who presents the picture that "life is fine." He tends to deny problems by glossing over them or avoiding confrontation. He has a great deal of difficulty openly expressing anger, and he may be somewhat naïve and suggestible at times. Under conditions of stress he has a tendency to develop physical problems. Individuals with this pattern are often viewed by others as somewhat self-centered and attention seeking.

In addition, the following description is suggested by the content of the client's item responses. He appears to have very good social skills and tends to deny that he has any problems interacting with other people.

The treatment considerations provide:

Because men with this profile tend to be overly optimistic and show little insight into the psychological causes of their problems, they see little need for therapy or personal change. They often seek support and reassurance and may respond to it, but they will resist confrontation or insight-oriented therapies. Their overuse of denial needs to be address if therapy is initiated.

Appellant's scores for hostility and aggressiveness are very low; his scores concerning authority problems are high. Dr. Meyers also indicated that the MMPI-2 score for histrionics was also high. (Exhibit K)

35. The MCMI-III indicates that Appellant might be suffering from depressive personality features and generalized anxiety disorder.

Therapeutic Considerations

This patient characteristically expresses troublesome emotions: he often feels troubled and forlorn. He may lose stability under stress, resulting in depressive moodiness, and a preoccupation with pessimistic and self-demeaning thoughts. A genuine attitude of concern, conveyed with consistency and empathetic interest, may help counteract some of these troubling attitudes and depressive feelings.

Axis II Personality Patterns

* * *

Most suggestive in this man's MCMI-III profile are his apprehension and mistrust of others, his marked deprecation of his self-worth, and his willingness to be demeaned and placed in an inferior light. Although he may permit others to exploit and mistreat him, he persists in desiring closeness and affection and he achieves the latter through acts of self-abasement and self-sacrifice. This troubled man also experiences recurrent anxieties and extended periods of depression. His thinking is typically self-denigrating and pessimistic, and his concern with rejection and feelings of worthlessness is often intensified by his tendency to elicit rejections.

Characteristic traits may include a lack of self-esteem. Persistent self-deprecation and a general tendency to undermine constructive opportunities. He exhibits a conciliatory submission to others and a propensity for becoming involved in troublesome situations and abusive relationships. Despite his mixed desire to depend on others, he may impulsively deny these needs and turn away from positive personal relations. More typically, he assumes a passive role in which he inadvertently provokes difficulties and then feels mistreated. Although seeking controlling persons or directive institutions, he often vacillates in this desire. He withdraws protectively into a peripheral social role and then sabotages constructive opportunities. It is this vacillation and its destructive consequences that his clinician may wish to reflect on and devise a more constructive coping pattern.

This man's self-image of worthlessness and ineffectuality often makes ordinary stresses and responsibilities seem excessively demanding. Moreover, he may spend time recollecting past misfortunes and anticipating future difficulties. His

air of martyrdom may be a deceptive facade, however; it may override a dysphonic mixture of inhibited resentment and anxiety. Consequently, self-destructive acts, such as periodic drug or alcohol abuse, may occur.

This man is frequently self-absorbed. He may report being distracted by thought that intrude on his social communication. In line with his self-defeating tendencies, he may stir up fractious encounters in which his failures and shortcomings are exposed, a rather perverse form of expiation. Such discordant acts preclude a socially rewarding and consistent lifestyle, and together with his characteristic affective dissonance, do little to promote favorable attention and constructive interest from others. As a consequence, he may drift further into a self-sabotaging and ineffectual life pattern.

AXIS I: CLINICAL SYNDROMS

* * *

Frequently dejected or agitated under ordinary circumstances, this man appears to be experiencing a more intense level of dysphoria than usual, suggesting the presence of a clinical anxiety disorder. Hesitant and unsure of himself, filled with a measure of both self-pity and resentment, he is likely to exhibit symptoms such as indecisiveness, headaches, distractibility, and fatigue. Fearful of rebuke and rejection, he vacillates between restraining his discontent and disappointment and discharging these feelings. Negative feelings may not be expressed with impunity. Restraining these feelings builds up further tension and dejection; yet venting them undermines his security by provoking those on whom he depends.

(Exhibit L)

36. Appellant admitted to an episode several years ago when he punched a hole in a wall in anger over something that occurred at work.

37. Dr. Meyers stated that Appellant usually is not direct with his anger. He is passive-aggressive. His anger is exhibited by being late for work, taking long lunches, and complaining about his bosses.

38. Dr. Meyers also considered the fact that Appellant has a solid family base, his alcohol use is low, has outside interests, and is not isolating himself. She said he was open to the process and what had happened. She found him to be remorseful and he had immediately owned that he had made a serious mistake. Her example of this was that, while he was in jail, Appellant thought, "I must really hate this job to do something this stupid."

39. Dr. Meyers stated the wanding wasn't the stimulus for the conduct. It was a buildup over time pertaining to issues Appellant was having in the workplace with his supervisors. The buildup on the day in question was the fact Appellant had been wanded three times that day and he had to wait for six people to go through in front of him in line. His frustration with the workplace was more of the cause of his making the statement than the actual wanding situation.

40. Dr. Meyers agreed that others were rightly concerned about Appellant's ability to control his temper. Her notes reflect the comment, "[Appellant] may lose stability under stress" and that he could say something out of line.

41. Dr. Meyers agreed a great majority of persons who engage in violent acts (around 90%) have made prior threats. However, not all people who make threats engage in violent conduct.

42. Dr. Meyers concluded, based upon the information before her, Appellant's risk of acting out on the threat to be low.

43. Appellant's Performance Enhancement Plan for the period ending June 1, 2003, for which Appellant received an overall "Below Expectations" evaluation, includes the following items:

PEP Item 16 Routine Assignments – Working Relations; Internal

It is expected that Employee will conduct themselves (sic) in a professional, polite and courteous manner in all dealings with all personnel of the DEH, any other agency of the city....

PEP Item 17 Routine Assignments – Working Relations; External

Similar to internal conduct but as it relates to consultants, contractors, the public or other outside business....

PEP Item 28 Professional Demeanor

The Employee must present a consistent professional image to peers, management and community; including behavior that is positive, diplomatic, constructive and responsive. The Employee will strive to motivate others to improve performance through teamwork, presenting a positive image and by conducting themselves (sic) in a professional manner at all times. The Employee will conform to the Department code and all other policies.

(See, Exhibit I, pp. 4-6) These are also incorporated in the PEP Plan developed for Appellant for the year commencing March 1, 2003, as Areas V (Working Relations Internal and External) and Area XII (Professional Demeanor) (see, Exhibit 3, pp. 26-30).

DISCUSSION AND CONCLUSIONS OF LAW

The City Charter C5.25 (4) requires the Hearing Officer to determine the facts in this matter "de novo." This has been determined to mean an independent fact-finding hearing considering evidence submitted at the de novo hearing and resolution of factual disputes. *Turner v. Rossmiller*, 35 Co. App. 329, 532 P.2d 751 (Colo. Ct. of App., 1975)

This is an appeal of a disciplinary action, Appellant's termination. Therefore, the Agency has the burden of proof.

The gravamen of this case involves Appellant's statements on June 30, 2003, at the security area at the Court Street entrance to the Wellington Webb Building and the consequences of that statement.

The evidence clearly establishes that Appellant made an inappropriate statement, whether he was referring to "nine-milli's" or "a mag," and Security Officer Peterson perceived the statement as a threat. The question is whether this behavior is a violation of CSR §16-50 A. 8) (threatening, fighting with, intimidating, or abusing employees or officer of the City and County of Denver), CSR

§16-50 A. 17) (conduct that violates the Revised Municipal Code, to wit: Sec. 38-89, Disturbance of the Peace, and Sec. 38-92, Threats), CSR §16-50 A. 18) (conduct in violation of an Executive Order which has been adopted by the CSA, to wit: Executive Order No. 112 regarding workplace violence), CSR §16-50 A. 20) (conduct not otherwise specified, to wit: violation of CSR 15-110, Preventing Violence in the Workplace). CSR §16-51 A. 2) (failure to meet established standards of performance, to wit: Performance Enhancement Program Plan standards for working relations, both internal and external, and professional demeanor), and/or CSR §16-51 A. 4) (failure to maintain satisfactory working relationships with members of the public).

Security Officer Peterson is not a City employee. He works for Barton Security, which has a contract with the City. But CSR §16-50 A. 8) pertains to threats against City employees or officers, not to contractors or members of the general public. There is no violation of CSR §16-50 A. 8) *vis à vis* Security Officer Peterson.

The Agency presented another argument to support this allegation: some unknown City employees might have been in the vicinity at the time Appellant made the statement and overheard him. While this might be possible, there is no direct evidence to support this scenario. The Hearing Officer will not find a violation of this provision based upon some hypothetical City employee who might have been passing by at the time of the incident. The violation under CSR §16-50 A. 8) is dismissed.

Appellant's conduct, however, does violate Executive Order No. 112 on violence in the workplace, as well as the CSR provisions concerning violence in the workplace (CSR §15-110, *et seq.*) as both the Executive Order and the CSR speak about violence or the threat of violence in any City work locations. The fact Appellant's statement was not made to a City employee or in the Department's offices is irrelevant. Appellant's threat of violence was made inside the Webb Building, a City work location. The admonition against workplace violence in the Executive Order and CSR §15-110 applies. The violations under CSR §16-50 A. 18) (conduct violating an Executive Order) and CSR §16-50 A. 20) (conduct not otherwise specified, to wit: violation of the CSR rule regarding workplace violence) have been established.

Appellant's conduct also violates CSR § 16-50 A. 17) in that he violated two provisions of the Revised Municipal Code: Sec. 38-89, Disturbance of the Peace, and Sec. 38-92, Threats. While the charges were dismissed in October, the dismissal occurred only upon Appellant's successful completion of the Alternative Resolution Program under a plea agreement. Under the terms for acceptance into the Program, Appellant had to admit responsibility for the actions forming the basis of the charges brought under the Revised Municipal Code. This admission is sufficient to sustain the violation of CSR §16-50 A. 17).

Appellant's conduct violates CSR §16-51 A. 2) insofar as his PEP plan requires him to maintain satisfactory working relationships with contractors and members of the public and to carry himself in a professional manner. Similarly, he violated CSR §16-51 A. 4) by his failure to maintain a satisfactory working relationship with the public.

The violation of CSR §16-51 A. 11) is dismissed as Appellant's conduct was covered by specifically enunciated provisions of Rule 16.

The next issue before the Hearing Officer is the appropriateness of the discipline. The Agency argues that termination is appropriate. Appellant argues that termination is not appropriate based upon Dr. Meyers' assessment he is a low risk for further violent behavior.

CSR §16-20 2) encourages progressive discipline "[w]herever practicable." The Rule goes on to state:

However, any measure or level of discipline may be used in any given situation as appropriate. This rule should not be interpreted to mean that progressive discipline must be taken before an employee may be dismissed.

In this case, the Agency has established Appellant made an inappropriate statement about using a gun to a security guard which the security guard perceived as a threat. This statement, as set out above, violates many provisions of the CSR, several of which fall under CSR §16-50 A., "Causes for Dismissal." The Agency argues that violence, or the threat of violence, is sufficient grounds to terminate the employee, even one who does not have an extensive disciplinary history. The Agency also produced evidence Appellant had lost his temper at work on at least one other occasion and punched a hole in a wall.

In support of his contention that he is a low risk for violence and should not be terminated, Appellant presented testimony from an expert witness, Dr. Meyers. She testified extensively about her assessment of Appellant and the meaning of the two tests (MMPI-2 and MCMI-III) she gave him. She discussed Appellant's completion of the anger management class he took as a requirement of the Alternative Resolution Program, an absence of violence in his past, notwithstanding the wall-punching incident and a barroom fight in Appellant's youth, his remorse, his stable family life, and the absence of a drug or alcohol problem. Dr. Meyers concluded, based upon her training and expertise, Appellant is a low risk for violence. However, she also admitted that she could not be certain Appellant would not strike out inappropriately again.

While the Hearing Officer found Dr. Meyers' testimony informative, she is not bound by Dr. Meyers' conclusions.

The Hearing Officer is most concerned about the nature of the threat, the use of a specific gun, which cannot be minimized.

Another concern is Appellant acted out on a day he describes as a "good one," as compared to a longstanding pattern of frustrating or "bad" days at work.

The Hearing Officer is also troubled by the fact Appellant appears to have foisted his reaction to going through security on himself, evidence of the self-destructive tendencies described in the MCMI-III analysis. Appellant had been working at the Webb Building for several months having to clear security at least once each day. On June 30, he was going through security for the third time that day. Instead of emptying out his pockets while he waited for the five or six persons in front of him to go through, he just stood there and then was more than annoyed that he had to remove the metal items from his pockets and be wanded. He then lashed out at Security Officer Peterson. Instead of apologizing on the spot, he walked away, knowing what he said was wrong and even thinking about the abuse the security officers take. It appears to the Hearing Officer that Appellant's remorse is only about getting caught and having to face consequences, not for making the statement itself.

The Hearing Officer finds that Appellant's completion of a one-day anger management course to be commendable. However, it would have been more significant if Appellant had taken the course on his own and not as part of the Alternative Resolution Program requirements necessary for the criminal charges to be dismissed.

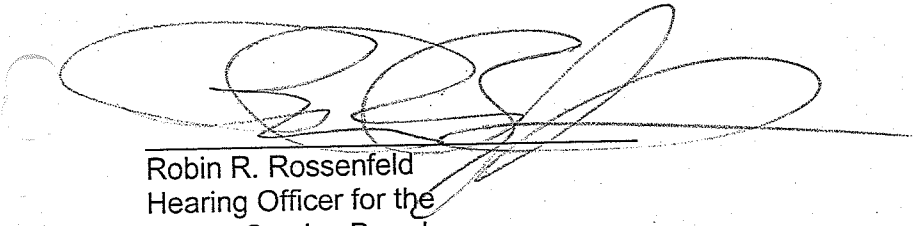
Unlike Dr. Meyers, the Hearing Officer is concerned about Appellant's prior aggressive behaviors in the workplace. Appellant admittedly has a gruff voice, but his PEP rating indicates that he has a habit of speaking angrily to his co-workers, persons who, one must assume, can distinguish between Appellant's usual gruffness and more aggressive tones. The Hearing Officer is also concerned that Appellant was once so angry with his supervisor that he punched a hole in a wall. Appellant fixed the wall, but, more importantly, he did not seek assistance with his anger at that time.

Looking at all the evidence, the Hearing Officer concludes that termination is appropriate given the severity of the conduct, the nature of the threat, and the Agency's concern for the safety of its employees and members of the public. Appellant's termination from employment is sustained.

ORDER

Therefore, for the foregoing reasons, the Hearing Officer MODIFIES the appeal as follows: the violations of CSR §§16-50 A. 17), 18) and 20) and 16-51 A. 2) and 4) are SUSTAINED; the violations of CSR §§16-50 A. 8) and 16-51 A. 11) are REVERSED. The discipline of termination is SUSTAINED. The appeal is DISMISSED with prejudice.

Dated this 24th day of February 2004.



Robin R. Rossenfeld
Hearing Officer for the
Career Service Board

CERTIFICATE OF MAILING

I hereby certify that I have forwarded a true and correct copy of the foregoing FINDINGS AND ORDER by depositing the same in the U.S. mail, this ~~25~~²⁵ day of February 2004, addressed to:

William Waleski
3226 S. Xenia Street
Denver, CO 80231

Joel Cantrik, Esq.
1560 Broadway, Suite 1400
Denver, CO 80202

I further certify that I have forwarded a true and correct copy of the foregoing FINDINGS AND ORDER by depositing the same in interoffice mail, this ~~25~~²⁵ day of February 2004, addressed to:

Richard Stubbs, Esq.
Office of the City Attorney
Employment Law Section

Steve Foute
Department of Environmental Health

