

Belknap County Personnel Committee Public Hearing Minutes for the Non-Public Session on October 10, 2014 regarding Appeal of Matthew Logue

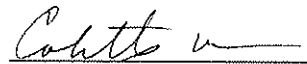
At the Public Meeting held on October 10, 2014, the Personnel Committee voted to go into non-public session pursuant to RSA 93-A:3, II(a) to discuss and vote on the content of the Personnel Committee's written decision for the Appeal of Matthew Logue.

Present at the non-public session were: Personnel Committee Members Colette Worsman and Robert Greemore.


The Personnel Committee reviewed and discussed the draft Decision and voted 2-0 to accept it as the Personnel Committee's written decision.

The Personnel Committee voted 2-0 to go back into public session.

Respectfully Submitted



Colette Worsman-Chair



Date

DECISION OF BELKNAP COUNTY PERSONNEL COMMITTEE
APPEAL OF MATTHEW LOGUE

By letter dated August 27, 2014, The Belknap County Commissioners gave Matthew Logue notice that his employment as Nursing Home Administrator was being terminated, effective September 13, 2014. Mr. Logue requested a hearing pursuant to RSA 28:10-a. A public hearing was posted and held before the Personnel Committee (as defined by RSA 28:10-a) on October 6, 2014. The public hearing was recorded by the public access television station.

Present at the hearing were: Matthew Logue (proceeding *pro se*), Attorney Mark Broth (representing the Belknap County Commissioners), County Administrator Debra Shackett, Human Resources Generalist Deb LaFlamme, Personnel Committee Members Colette Worsman, Richard Burchell, and Robert Greemore, Attorney Lauren Irwin (serving as legal counsel to the Personnel Committee), Commissioners Stephen Nedeau and John Thomas, and members of the public. The following individuals testified under oath at the Hearing: County Administrator Debra Shackett, Employee A¹, Human Resources Generalist Deb LaFlamme, and Matthew Logue.

While in public meeting before the hearing commenced, the Personnel Committee voted to adopt procedures for the hearing. There were no objections to the procedures. During the hearing, Mr. Logue raised a question as to whether the Commissioners had provided him with requested emails in a timely fashion before the hearing but upon the Personnel Committee's inquiry, Mr. Logue stated that he wished to proceed with the hearing and was not raising an objection based on a lack of timely discovery.

The Personnel Committee accepted without objection a binder of documents with 27 tabs as Commissioner's Exhibit A, documents relating to Staffing Analysis as Logue Exhibit 1, Emails relating to Mr. Logue's request for documents for the hearing as Logue Exhibit 2, and 30 pages of documents relating to Mr. Logue's employment as Logue Exhibit 3. Pursuant to RSA 91-A:3, II(a), the Personnel Committee voted to go into non-public session for deliberations without objection. The Personnel Committee was in non-public session for approximately 2.5 hours on October 6, 2014 in order to deliberate. The Personnel Committee posted and held another non-public meeting on October 10, 2014 in order to consider and vote on the content of this written decision.

Pursuant to RSA 28:10-a, III, the Personnel Committee was charged with determining whether there was good cause for the dismissal of Mr. Logue. RSA 28:10-a, II lists cause for discharge to include: dishonesty, intoxication, immoral behavior or other misconduct, neglect of duty, negligence, willful insubordination, lack of cooperation, inefficiency, incapacity or unfitness to

¹ The Personnel Committee voted to go into non-public session during the afternoon session of the hearing pursuant to RSA 91-A:3, II(c) in order to discuss another employee's performance review and alleged meetings held to discuss her performance. That employee ("Employee A") was permitted to testify in non-public session and to submit 2 exhibits (Tab 16 and Tab 24 of the Commissioner's Exhibit A) under seal. The Personnel Committee voted to seal the minutes and exhibits of this non-public session indefinitely. There was no objection to this procedure.

perform his duties, or for the good of the institution to which he is assigned. The Personnel Committee used a preponderance of the evidence standard.

The Personnel Committee considered the evidence relating to each of the causes for discharge listed above. The Personnel Committee focused particularly on the issues of dishonesty, neglect of duty, willful insubordination, and lack of cooperation, as those were the focus of the evidence.

The Commissioners presented evidence on the issue of dishonesty, including allegations that Mr. Logue was dishonest when he told Ms. Shackett: (1) that he had completed all but one employee evaluation in February of 2014 and (2) that he was conducting bi-weekly meetings with Employee A to go over the performance issues outlined in her performance review. Mr. Logue credibly and persuasively testified on the issue. For example, Mr. Logue testified that he delayed submitting some of his employee evaluations to Human Resources because: (1) some were due soon after he began his employment and he did not think it was appropriate for him to evaluate employees without sufficient knowledge of their performance; and (2) some were delayed so that he could speak with the employees in an effort to improve performance and to allow the employees extra time to provide employee input on the evaluation before it was submitted to Human Resources. In addition, while Employee A did not view the meetings she had with Mr. Logue and the Nursing Manager as meetings to address her performance review, Mr. Logue credibly testified that he viewed these informal meetings as his effort to remedy the communication and teamwork issues noted in Employee A's evaluation. Mr. Logue also credibly testified that because Employee A's attendance dramatically improved after she received her evaluation, the communication and teamwork issues were the only issues that needed to be addressed. The Personnel Committee discussed and concluded that Mr. Logue was not dishonest and there was no good cause for discharge on this basis.

Although the Commissioners presented credible evidence that Mr. Logue neglected important duties when he failed to submit his budget, staff analysis, and employee evaluations in a timely manner, the Personnel Committee found Mr. Logue's testimony credible and more persuasive. For example, Mr. Logue credibly testified that he had difficulty completing a budget that would cut the requested funds in a timely manner mostly because he believed that cutting any additional patient-care positions would be inappropriate.² Similarly, Mr. Logue testified that he submitted a 2010 staffing analysis (along with other documents) because he did not think it was appropriate to cut patient-care staff any further. Mr. Logue did cut at least two non-patient-care positions. Finally, Mr. Logue credibly testified that he delayed submitting some of his employee evaluations to Human Resources for the legitimate reasons outlined above. The Personnel Committee finds that although Mr. Logue's responsibilities included performing budget and managerial duties, and he did not perform all of those duties in a timely fashion, his delay was caused by his sincerely held beliefs regarding the appropriate administration of the nursing home. Although the Personnel Committee discussed the fact that Mr. Logue could have and should have communicated these reasons for delay and his opinions on staffing in a clearer and more timely fashion, the Committee discussed and concluded that Mr. Logue's failures do not constitute neglect of duty or good cause for discharge.

² Mr. Logue also testified that he was delayed because he did not have timely access to the budget software and other documents and that it was not fair to ask him to simply use a calculator instead.

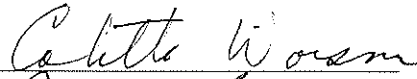

The Personnel Committee defined willful insubordination to be intentional refusal to obey the employer's licit orders. As described above, the Personnel Committee accepted Mr. Logue's credible testimony that he delayed performing his budget, staffing analysis, and employee evaluations because of his sincerely held beliefs regarding the appropriate administration of the nursing home. Therefore, the Personnel Committee discussed and concluded that these failures do not constitute willful insubordination. In addition, the Commissioners presented evidence including allegations that Mr. Logue's failure to impose discipline for tardiness on an employee he supervised was willful insubordination. However, Mr. Logue provided persuasive testimony that he objected to issuing the discipline because the policy manual did not set forth clear consequences for tardiness, because the employee was late due to childcare responsibilities, because the employee had not been tardy for many months, and because his research of the issue led him to believe that discipline was not consistently imposed for tardiness when the employee called his/her supervisor in a timely fashion. Although Mr. Logue should have communicated his concerns on this issue in a clearer fashion and should have consulted with Human Resources on this issue, the Personnel Committee discussed and concluded that his refusal to sign that disciplinary letter was not willful insubordination or good cause for discharge.

The Commissioners presented evidence that Mr. Logue failed to cooperate with the County Administrator, the Human Resources Generalist, and the Finance Director on several occasions during his employment. However, Mr. Logue also provided evidence that he often communicated with the Administration regarding the status of issues. In addition, Mr. Logue testified that he delayed performing some of his duties because of his sincerely held beliefs regarding the appropriate administration of the nursing home. Mr. Logue testified that when he voiced his concerns about the proper administration of the nursing home, it was viewed as a lack of cooperation. Mr. Logue persuasively testified that he was in a no-win situation and this damaged his relationship with the Administration. Although the Personnel Committee discussed the fact that Mr. Logue did fail to cooperate in some respects, the Committee discussed and concluded that this failure does not rise to the level of constituting good cause for discharge.

Therefore, after considering each category in RSA 28:10-a concerning the potential grounds for termination, based on a preponderance of the evidence, we find there was no good cause for termination of Mr. Logue. The vote was 3-0. Therefore, pursuant to RSA 28:10-a, Mr. Logue must be reinstated to his position without loss of pay.

Date: 10/10/14

Belknap County Personnel Committee

Cc: Matthew Logue
Mark Broth, Esq.