

BEFORE THE MISSISSIPPI EMPLOYEE APPEALS BOARD

LAVITA SCOTT

VS.

MISSISSIPPI DEPARTMENT OF
CORRECTIONS

FILED

JUL 12 2013

EMPLOYEE APPEALS BOARD

APPELLANT

NO.13-036

APPELLEE

ORDER

This cause came on for hearing on July 3, 2013, in Jackson, Mississippi. The Appellant, Lavita Scott appeared pro se and David Scott represented the Central Mississippi Correctional Facility ("CMCF"), a facility operated by the Mississippi Department of Corrections ("MDOC").

SUMMARY

Scott was employed as a Correctional Officer I at CMCF. Scott was on leave from January 15, 2013 until April 12, 2013. Scott received intermittent medical excuses from her doctor for the time she was off, and turned all of those excuses into CMCF in a timely manner. Scott's final excuse was for the period from March 29, 2013 through April 12, 2013. Due to a malfunction of the fax machine at her Doctor's office CMCF did not receive that excuse. When Scott failed to report for work from March 30, 2013 through April 9, 2013 she was cited for a Group Three number 1 Offense of failure to report to work without the required notification and was suspended for five working days. Scott provided sufficient proof that she had attempted to notify CMCF of the extension of her medical excuse, and that the failure to notify CMCF was not her fault. The five day suspension is reversed and MDOC is ordered to reimburse Scott back pay and benefits for the five day suspension.

OPINION

This tribunal finds as follows: Lavita Scott was employed as a Correctional Officer I at CMCF. On January 15, 2013, Scott received an excuse from her Doctor stating that she would be unable to return to work for "at least 4-6 weeks." This excuse was provided to the CMCF Personnel Office on January 16, 2013. After CMCF requested that Scott provide them with a more specific return to work date, Scott had her doctor fax an excuse to MDOC on January 16, 2013, stating that she would be unable to return to work until February 15, 2013. On February 13, 2013, Scott was still under her doctor's care and needed additional time off to continue physical therapy. Consequently, Scott's doctor faxed an excuse to CMCF stating that Scott could not return to work until March 1, 2013. After a visit with her doctor on February 20, 2013, Scott's doctor faxed a new excuse to CMCF extending Scott's medical excuse to March 30, 2013. Following a visit to her doctor on March 29, 2013, Scott's excuse was extended again, to April 12, 2013. The Doctor's office faxed this excuse to MDOC. Scott's doctor confirmed that his fax was malfunctioning on March 29, 2012. Per her medical excuse Scott returned to work on April 12, 2013.

On May 24, 2013, Scott was suspended from duty for five working days, effective June, 10, 11, 14, 15, and 16, 2013, for committing a Group Three number 1 offense of "unauthorized absence or leave in excess of three (3) consecutive working days without required notification and satisfactory explanation to the supervisor or the appointing authority in a timely manner." CMCF claimed that Scott failed to notify her supervisor, or the Personnel Office, that she had received a Doctor's excuse to extend her leave from March 30, 2013, to April 14, 2013.

MEAB Rule XX B specifies that "[a]n appealing party shall have the

burden of proving that the reasons stated in the notice of the agency's final decision are not true or are not sufficient grounds for the action taken."

Scott provided evidence that she had attempted to notify CMCF that her leave had been extended to April 14, 2012. Scott's prompt notice to CMCF of her medical excuses from January 15, 2015 through March 29, 2013 clearly show that she was following the requirement that she notify CMCF of her leave requirements. The fact that CMCF did not receive the final medical excuse was not due to a failure to act on Scott's part. Scott proved that the reasons for the five day suspension, as stated in the agency's final decision, were not true.

For the foregoing reasons MDOC's decision to suspend Lavita Scott for five days is reversed and Scott is awarded back pay and benefits for those days.

SO ORDERED THIS THE 12th DAY OF July 2013.

MISSISSIPPI EMPLOYEE APPEALS BOARD

BY: 
INGRID DAVE WILLIAMS
Hearing Officer