

BEFORE THE MISSISSIPPI EMPLOYEE APPEALS BOARD

MICHAEL HARDEN

FILED

APPELLANT

VS.

DEC 23 2014

NO. 14-046

STATE VETERANS AFFAIRS BOARD

EMPLOYEE APPEALS BOARD

APELLEE

ORDER

This cause came on for hearing on November 18, 2014, in Jackson, Mississippi. The Appellant, Michael Harden, appeared pro se, and Alicia Ainsworth represented The State Veterans Affairs Board ("SVAB").

SUMMARY

Michael Harden was employed as a Maintenance Supervisor at The Jackson Veterans Nursing Home ("JVNH"), which is a facility operated by SVAB. On September 5, 2014, Harden was terminated for a Group III, No. 14 offense of, "an act or acts of conduct occurring on or off the job which are plainly related to the job performance and are of such a nature that to continue the employee in the assigned position could constitute negligence in regard to the agency's duties to the public or to other State employees." Specifically, SVAB charged Harden with failure "to maintain mandatory paperwork concerning life safety issues, as is required by applicable federal and state regulations." SVAB alleged that because of

Harden's "failure to maintain adequate documentation of. . . life safety requirements, there [was] no way to know whether those duties [had] been performed and residents' and employees' lives could [have been] at risk."

This tribunal finds that SVAB's termination of Harden was supported by the evidence, and Harden's termination is affirmed.

FINDINGS

Harden worked at JVNH, a nursing facility, since 1998, and as the Maintenance Supervisor at JVNH since 2006. Harden's duties included overseeing the JVNH facility to make sure that all equipment was running properly. Harden's position required him to insure that the fire alarm and sprinkler system were operational, and that the grease traps in the kitchen were clean.

Periodically JVNH is subject to inspections, called surveys, by the Veteran's Administration ("VA") to insure that it is safe, and providing appropriate care to the residents. Prior to the actual VA survey, the SVAB conducts a mock survey to try to correct any problems or address any issues at the facility. A mock survey at JVNH was conducted on August 18, 2014. Harden acknowledged that he had at least a month's notice prior

to the mock survey at JVNH. At the time that the survey was conducted the appropriate documentation, reflecting that Harden's department had conducted required tests on equipment and inspected specific areas of the building, was not complete. One of the primary issues was that there was no evidence that the emergency generator had been checked. Harden was counseled and given one week to properly complete the required tests and documentation. Harden agreed to the one week timeline, and did not ask for any help with his duties. Harden did not complete the required documentation within the allotted time frame.

Prior to the August 18, 2014, mock survey Harden had never previously "failed" a survey. Prior to the time of that mock survey, the maintenance department had been short staffed by 2 people for several months.

OPINION

MEAB Rule XX provides 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. " Harden could not meet his burden of proof.

The evidence showed that, at the time of the mock survey, Harden had neither documented a number of safety tests nor addressed a number of safety issues. When he was given an additional week to complete

the required tests and documentation he failed to do so. In Harden's position as Maintenance Supervisor such a failure is "of such nature that to continue the employee in the assigned position could constitute negligence in regard to the agency's duties to the public or to other State employees." The potential consequences of any significant failure of safety equipment at a nursing facility are obviously horrific.

For the foregoing reasons Harden's termination from SVAB is affirmed.

SO ORDERED THIS THE 23rd DAY OF December, 2014.

MISSISSIPPI EMPLOYEE APPEALS BOARD

BY:



INGRID DAVE WILLIAMS
Hearing Officer