

BEFORE THE MISSISSIPPI EMPLOYEE APPEALS BOARD

VERGANELL T. CRAIG

FILED

APPELLANT

VS.

AUG 11 2014

DOCKET NO.: 14-018

MISSISSIPPI DEPARTMENT OF
HUMAN SERVICES

EMPLOYEE APPEALS BOARD

RESPONDENT

ORDER

The appeal of this matter came on for hearing before Hearing Officer, B. Ray Therrell, II, on July 9, 2014, at the Mississippi Department of Human Services Offices located in Meridian, Mississippi. The Appellant, Verganell T. Craig, (hereafter "Craig"), appeared pro se, and Kathy Caldwell represented the Mississippi Department of Human Services, (hereafter "MDHS").

Craig was employed as a family protection specialist with MDHS. On May 15, 2014, Craig was terminated for a Group Three, Number One offense of "unauthorized absence of 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." Craig was also charged with a Group Three, Number Fourteen offense of "[a]n act or acts of conduct occurring on or off the job which are plainly related to 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."

Craig was placed on leave under the Family and Medical Leave Act (FMLA), effective November 6, 2013, through January 28, 2014, due to a medical condition relating to a workers compensation injury Craig suffered on or about April 3, 2013. Prior to being placed on FMLA, Craig was released to return to work with restrictions. These restrictions hampered her ability to carry out her normal job duties. MDHS made several attempts to accommodate Craig by offering her a different position that would fit her restrictions. Craig refused the position, and was eventually

placed on FMLA on November 6, 2013. Her FMLA leave was exhausted on January 28, 2014. On March 18, 2014, MDHS informed her that no more leave would be approved for her as of March 21, 2014. She was further informed that she was expected to report to work on March 25, 2014. She failed to report to work and was terminated. Craig submitted numerous medical statements to MDHS regarding her medical condition, but failed to provide documentation that would warrant her continued absence from work.

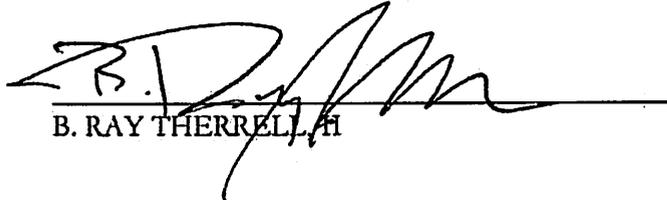
The rules and regulations of the Mississippi State Personal Board clearly allocate the burden of proof to the Appellant to show by a preponderance of the evidence that the reasons stated in her termination notices are not true or sufficient for the actions taken by Mississippi Department of Human Services. Mississippi State Personnel Board Policy and Procedures Manual provides “the presiding hearing officer shall hear or receive evidence on only those reasons and allegations contained in the responding party’s final disciplinary notice to the employee of such action.” See Section 10.7.18 Mississippi State Policy & Procedures Manual.

Based on the testimony and evidence presented, the Hearing Officer finds that MDHS’s termination of Craig was supported by the evidence and Craig’s termination is affirmed. Craig failed to provide a satisfactory explanation to MDHS for her failure to return to work, even though MDHS attempted to accommodate the restrictions outlined in her medical documentation. Moreover, MDHS has an obligation to the public to provide services. If an employee fails to report to work for an extended period of time, it is evident that the employee’s absence affect’s MDHS’s ability to provide the services to which the public is entitled. When an employee fails to provide an adequate reason for a continual absence MDHS is bound to terminate that employee so that it can provide necessary services, and failure to do so could constitute negligence in regard to the Agency’s duties to the public.

For the above reasons, Craig's termination from MDHS is affirmed.

SO ORDERED, this the 5th day of August, 2014.

MISSISSIPPI EMPLOYEE APPEALS BOARD



B. RAY THERRELL, II