

FULL BOARD OF THE MISSISSIPPI EMPLOYEE APPEALS BOARD

LARRY LEWIS

VS.

MISSISSIPPI DEPARTMENT OF CORRECTIONS

FILED

MAY 06 2015

EMPLOYEE APPEALS BOARD

APPELLANT

NO.14-053

RESPONDENT

ORDER OF EAB BOARD, EN BANC

Appellant, Larry Lewis, filed an appeal with the Employee Appeals Board, *en banc*. Lewis appealed the Order entered by Hearing Officer B. Ray Therrell on February 19, 2015. The EAB, *en banc*, has reviewed the brief of the Respondent, Mississippi Department of Corrections ("MDOC") and the record in this matter. The EAB, *en banc*, affirms the decision of Hearing Officer Therrell and affirms the termination of Lewis by the MDOC. The reasons for the EAB, *en banc*, opinion are set forth below:

FACTS

On October 24, 2014, Lewis was terminated for travelling to Marshall County without prior approval, transferring property without permission, and failing to notify his supervisor of anticipated extended medical leave. MDOC also based the termination on a prior disciplinary action issued March 25, 2014 – a written reprimand for insubordination. Lewis appealed his termination to the EAB, and a hearing was held on January 20, 2015. The EAB Order was issued on February 19, 2015, and Lewis filed an appeal to the EAB, *en banc*, on March 6, 2015.

The Hearing Officer found as follows: Lewis was employed as a Systems Administrator I at MDOC. Prior to his termination, Lewis was acting in the capacity of System Administrator II. In that capacity, Lewis was required to travel to different MDOC locations to assess and maintain computers. Lewis was required to obtain permission for any non routine travel. On April 24, 2014, Lewis traveled to the Marshall County Correctional Facility, which was considered non routine travel. Lewis did not get prior approval for his trip to Marshall County from his supervisor, Audrey McAfee. McAfee was unaware that Lewis had traveled to the Marshall County Facility until after Lewis arrived at that facility. Additionally, on April 15, 2014, without his supervisor's permission, Lewis transferred a number of items of state property, for which he was responsible, to Lester Moon, a newly employed System Administrator I.

The Hearing Officer concluded that Lewis had failed to meet his burden of proving that the reasons for his termination were untrue. The Hearing Officer found that Lewis' actions of failing to obtain permission to travel to Marshall County and failing to follow proper procedures on transferring property constituted a Group Two Offense of Insubordination. The Hearing Officer further found that Lewis had committed two group two offenses within a one year period and was thus subject to dismissal.

OPINION

Lewis did not file a brief in this matter, therefore the EAB, *en banc*, reviews the Hearing Officer's order in accordance with EAB Rule 25, which states that the EAB may review the Hearing Officer's Order to determine "whether the: 1. Findings are in error; 2. Decision is contrary to the law; or, 3. Procedural decisions were in error." The EAB, *en banc*, having reviewed the Hearing Officer's Order, and the evidence and testimony presented at the hearing, concludes that the Hearing Officer's findings were not in error, his decision was not contrary to law, and that there were no erroneous procedural decisions.

For the foregoing reasons the EAB Order, in the instant matter, is affirmed.

SO ORDERED this the **6th day** of **May, 2015**.

MISSISSIPPI EMPLOYEE APPEALS BOARD
FULL BOARD

BY: 
INGRID DAVE WILLIAMS
Hearing Officer