

FULL BOARD OF THE MISSISSIPPI EMPLOYEE APPEALS BOARD

JEFFREY GUY DAVIS

FILED

APPELLANT

VS.

AUG 24 2016

NO. 15-049

MISSISSIPPI DEPARTMENT OF REVENUE

EMPLOYEE APPEALS BOARD

APPELLEE

**ORDER OF MEAB, EN BANC**

Jeffrey Guy Davis (“Mr. Davis”), appealed the Order entered by Chief Hearing Officer Michael N. Watts on June 1, 2016. The Mississippi Employee Appeals Board, *en banc*, has reviewed and considered the appeal Mr. Davis filed in this matter. The Mississippi Employee Appeals Board, *en banc*, affirms the June 1, 2016, Order.

FACTS

On September 30, 2015, Mr. Davis received a written reprimand for insubordination from his employer, the Mississippi Department of Revenue (“MDOR”). A written reprimand is a Group Two offense pursuant to the Mississippi State Employee Handbook. Following receipt of the September 30, 2015, written reprimand, Mr. Davis filed an inter-agency grievance of the reprimand. Mr. Davis' inter-agency grievance was denied. Mr. Davis timely appealed the written reprimand to the Mississippi Employee Appeals Board (“MEAB”) on December 3, 2015. Hearings were held on Mr. Davis' appeal on March 16, 2016, and May 26, 2016. This tribunal entered an Order dismissing the appeal and upholding the written reprimand on June 1, 2016. On June 24, 2016, Mr. Davis requested a hearing before the full board. For the reasons set forth below, the MEAB, *en banc*, affirms Chief Hearing Officer Michael N. Watts’s June 1, 2016, Order.

OPINION OF THE MEAB, EN BANC

PROCEDURAL ISSUE

On June 24, 2016, Mr. Davis sent an email to the EAB requesting a hearing before the Full Commission. This email provided:

*To whom it may concern:*

*Please accept this message as my written request for review by the full EAB in the matter of Jeffrey Guy*

*Davis vs. MDOR Docket No. 15-049.*

*Regards*

*/jgd*

Mr. Davis provided no additional information relating to his appeal.

MSPB Policy and Procedures Manual, Rule 10.7.25 requires that any such request “include specific reasons, including whether the:

1. Findings are in error;
2. Decision is contrary to the law; or,
3. Procedural decisions were in error.”

While his email was timely to perfect the appeal, Mr. Davis failed to comply with the procedural requirements as to the content of his appeal. For this reason, the EAB lacks jurisdiction to consider Davis’s request for appeal.

SUBSTANTIVE ISSUES

Assuming arguendo, that Mr. Davis had properly perfected his appeal and that EAB had jurisdiction to hear the appeal, Mr. Davis’s appeal is not well founded substantively. The MEAB, *en banc*, reviewed the Hearing Officer’s Order in accordance with MEAB Rule 25, which states that the MEAB 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 MEAB, *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 correct. For this reason, the MEAB affirms MDOR's September 30, 2015 written reprimand to Mr. Davis.

The evidence demonstrates that Mr. Davis was not improperly reprimanded. Mr. Davis's written reprimand was a Group Two reprimand for insubordination. Kristin Gann, Mr. Davis's supervisor alleged that Mr. Davis failed to delete tax payer information from his computer at the conclusion of the work day. This is a violation of MDOR's policies and procedures. Mr. Davis allegedly violated the MDOR policy and procedure which set forth the following:

At the end of each day, after work papers have been checked back into MARS from the mobile device(s), the device downloads and trash folders shall be purged, as follows:

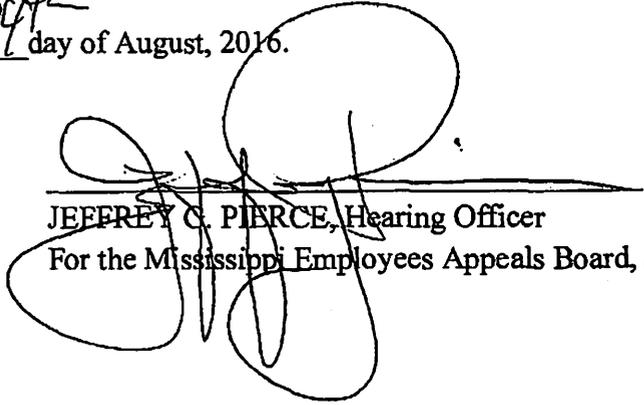
- Open Windows Explorer.
- Click the Downloads location.
- Press CTRL-A to select all items in the Downloads location, and press DELETE to delete the items.
- Close the Windows Explorer.
- On the Desktop, RIGHT CLICK the Recycle Bin and select Empty Recycle Bin

This policy and procedure is contained on page 4, MDOR "Use of Communication and Computing Technologies Policies and Procedures," Amended 11/20/2014. Mr. Davis acknowledged in writing his receipt of this policy on December 1, 2014. The Hearing Officer found that Mr. Davis did not follow established MDOR policy and this failure constituted insubordination within the meaning of 9.1(B)(1) of the Mississippi State Personnel Board Policy and Procedures Manual. Furthermore, the Hearing Officer did not, under the facts of this case, find that the punishment of a written reprimand too severe for Mr. Davis's failure to follow policy, especially since Mr. Davis had been previously admonished on March 17, 2015 for a similar offense.

Therefore, the MEAB, *en banc*, affirms Chief Hearing Officer Michael N. Watts's June 1, 2016 Order.

For the foregoing reasons Chief Hearing Officer Michael N. Watts's June 1, 2016 Order is affirmed.

SO ORDERED, this the 29<sup>th</sup> day of August, 2016.



A large, stylized handwritten signature in black ink, consisting of several loops and a long horizontal stroke, is written over the printed name and title.

JEFFREY C. PIERCE, Hearing Officer  
For the Mississippi Employees Appeals Board, *en banc*